TEXAS REGISTER

Volume 50 Number 52 *December 26, 2025* *Pages 8415 – 8660*

In This Issue

RULE REVIEW

IN ADDITION

THE GOVERNOR

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

Appointments

Appointments for December 8, 2025

Appointed to the Texas Crime Stoppers Council for a term to expire September 1, 2029, Charles P. "Perry" Gilmore III, Ph.D. of Amarillo, Texas (Mr. Gilmore III Ph.D. is being reappointed).

Appointed to the Texas Crime Stoppers Council for a term to expire September 1, 2029, Sergeant Jeffrey P. Jordan of Kyle, Texas (replacing Carlo G. Hernandez whose term expired).

Appointments for December 12, 2025

Appointed to the University of Houston Board of Regents for a term to expire August 31, 2029, Bryan F. Clark of Houston, Texas (replacing Tammy Denton Murphy whose term expired).

Appointed to the University of Houston Board of Regents for a term to expire August 31, 2031, Guadalupe "Alonzo" Cantu of McAllen, Texas (Mr. Cantu is being reappointed).

Appointed to the University of Houston Board of Regents for a term to expire August 31, 2031, Thomas A. "Tommy" Lucas Jr. O.D. of Killeen, Texas (replacing John A. McCall whose term expired).

Appointed to the University of Houston Board of Regents for a term to expire August 31, 2031, Lyden B. Rose, Sr. of Houston, Texas (replacing Durga D. Agrawal, Ph.D. whose term expired).

Appointment for December 17, 2025

Appointed to be the Texas State Historian for a term to expire December 17, 2027, Richard B. "Rick" McCaslin Ph.D. of Denton, Texas (replacing Monte L. Monroe, Ph.D. of Lubbock whose term expired).

Greg Abbott, Governor

TRD-202504686

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Budget Execution Order

I am in receipt of the Legislative Budget Board's proposal dated December 15, 2025. In the proposal, you propose a budget execution order, pursuant to Section 317.002 of the Texas Government Code, and recommend the suspension of appropriation authority for certain transactions at Texas Southern University, as shown below.

Pursuant to Section 317.005(b) of the Government Code, I am ratifying the proposal. The Texas State Auditor identified deficiencies in oversight, contracting, processes and reporting, totaling hundreds of millions in state funds. Texans deserve to know that our institutions of higher education are operating as responsible stewards of state funds.

Therefore, it is ordered that:

• All appropriation authority provided to Texas Southern University during the 2026-2027 state fiscal biennium relating to contracts or contract extensions signed after the effective date of this order is suspended effective immediately;

• All appropriation authority to Texas Southern University is limited to existing operational commitments, including salaries and benefits, existing debt service, scholarships, utilities, and general operational costs;

• No new contracts or contract extensions may be signed until the legislature has reviewed the final report of the State Auditor and the concluded investigation by the Texas Rangers, and any needed correctional issues are resolved; and

• Nothing in this order is intended to preclude the ongoing education services of the institution and this order does not apply to existing operational commitments such as contracts necessary to support and maintain educational and general activities; perform routine operations regarding utilities, facilities, and equipment; or respond to emergencies.

I hereby certify that this order has been reviewed by legal counsel and found to be within my authority.

Issued in Austin, Texas, on December 15, 2025.

Greg Abbott, Governor

TRD-202504675

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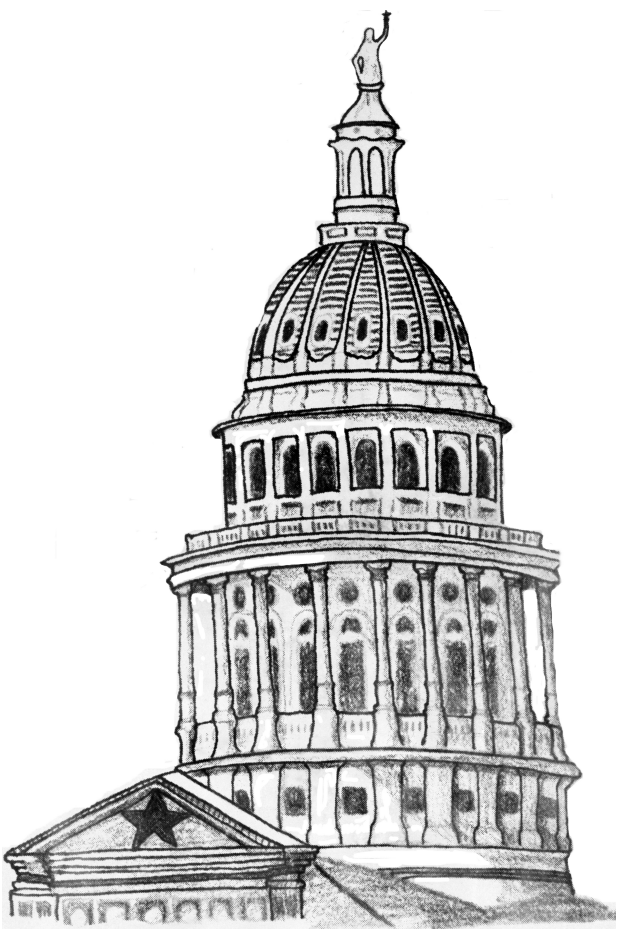

TEXAS ETHICS COMMISSION

The Texas Ethics Commission is authorized by the Government Code, §571.091, to issue advisory opinions in regard to the following statutes: the Government Code, Chapter 302; the Government Code, Chapter 305; the Government Code, Chapter 572; the Election Code, Title 15; the Penal Code, Chapter 36; and the Penal Code, Chapter 39.

Requests for copies of the full text of opinions or questions on particular submissions should be addressed to the Office of the Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711-2070, (512) 463-5800.

Ethics Advisory Opinion

EAO-631: Whether members of the State Employee Charitable Campaign Policy Committee are appointed officers required to file a Personal Financial Statement? (AOR-731).

SUMMARY

The State Employee Charitable Campaign Policy Committee is a voluntary committee comprised of state employees who do not exercise authority and do not have discretion to exercise government functions and are not required to file a Personal Financial Statement.

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

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

Issued in Austin, Texas, on December 10, 2025.

TRD-202504552
Amanda Arriaga
General Counsel
Texas Ethics Commission
Filed: December 11, 2025

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EAO-632: Whether a current State Board of Education (SBOE) member can provide continuing professional development to educators in return for compensation during their SBOE service. (AOR-734).

SUMMARY

Public servants may accept an honorarium for performing services if the public servant's official status was not a deciding factor in the decision to request the public servant to perform those services.

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

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

Issued in Austin, Texas, on December 10, 2025.

TRD-202504553
Amanda Arriaga
General Counsel
Texas Ethics Commission
Filed: December 11, 2025

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EAO-633: Whether the TEC has authority to assess a civil penalty for a late personal financial statement filed by a director of the Harris County-Houston Sports Authority. (AOR-735).

SUMMARY

An HCHSA director must file a PFS with the Texas Ethics Commission and is subject to a civil penalty imposed by the TEC for an untimely filed PFS as if the director were a state officer.

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

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

Issued in Austin, Texas, on December 10, 2025.

TRD-202504554
Amanda Arriaga
General Counsel
Texas Ethics Commission
Filed: December 11, 2025

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EAO-634: Whether an officeholder may use political contributions to pay for the purchase or rental of business or formal attire typically associated with official duties. (AOR-736).

SUMMARY

An officeholder may not use political contributions to buy or rent clothing that is adaptable to ordinary use, including business attire. However, an officeholder may purchase or rent clothing for officeholder activities if: 1) the clothing is of a type appropriate for the performance of duties or activities of the office held, 2) the clothing is not adaptable to general usage as ordinary clothing, and 3) the clothing is not so worn.

The Texas Ethics Commission is authorized by section 571.091 of the Government Code to issue advisory opinions in regard to the following

statutes: (1) Chapter 572, Government Code; (2) Chapter 302, Government Code; (3) Chapter 303, Government Code; (4) Chapter 305, Government Code; (5) Chapter 2004, Government Code; (6) Title 15, Election Code; (7) Chapter 159, Local Government Code; (8) Chapter 36, Penal Code; (9) Chapter 39, Penal Code; (10) Section 2152.064, Government Code; and (11) Section 2155.003, Government Code.

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

Issued in Austin, Texas, on December 10, 2025.

TRD-202504555
Amanda Arriaga
General Counsel
Texas Ethics Commission
Filed: December 11, 2025

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EAO-635: Whether a former state employee may accept a job with a company when he participated in a procurement involving that same company during his state service without violating Section 572.069 of the Government Code if he recuses himself from state projects. (AOR-737).

SUMMARY

The requestor may not accept employment from the company at issue before the second anniversary of the date the contract was signed or the procurement is terminated or withdrawn.

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

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

Issued in Austin, Texas, on December 10, 2025.

TRD-202504556
Amanda Arriaga
General Counsel
Texas Ethics Commission
Filed: December 11, 2025

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EAO-636: Whether a public servant may accept admission to the Microsoft Most Valuable Professionals Program. (AOR-738).

SUMMARY

Public servants may accept an honorarium for performing services if the public servant's official status was not a deciding factor in the decision to request the public servant to perform those services.

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

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

Issued in Austin, Texas, on December 10, 2025.

TRD-202504557
Amanda Arriaga
General Counsel
Texas Ethics Commission
Filed: December 11, 2025

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EAO-637: Whether representing a party before the State Office of Administrative Hearings (SOAH) in a contested matter against a state agency of previous employment constitutes an appearance before that state agency for the purposes of Texas Government Code § 572.054(a). (AOR-739).

SUMMARY

A former commissioner may not argue a contested matter referred by the TCEQ to SOAH because the final decision maker in the matter is the TCEQ.

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

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

Issued in Austin, Texas, on December 10, 2025.

TRD-202504558
Amanda Arriaga
General Counsel
Texas Ethics Commission
Filed: December 11, 2025

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

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

TITLE 1. ADMINISTRATION

PART 2. TEXAS ETHICS COMMISSION

CHAPTER 18. GENERAL RULES CONCERNING REPORTS

1 TAC §18.10

The Texas Ethics Commission (the TEC) proposes an amendment to Texas Ethics Commission Rule §18.10 (relating to Guidelines for Substantial Compliance for a Corrected/Amended 8-day Pre-election Report).

State law requires state agencies to "review and consider for readoption each of its rules … not later than the fourth anniversary of the date on which the rule takes effect and every four years after that date." Tex. Gov't Code §2001.039. The law further requires agencies to "readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule under this section." *Id*.

The TEC is continuing its comprehensive review with a review of the TEC's rules regarding reporting contributions and expenditures, which are codified in Chapter 20. Part of that review involves the repeal of the following existing rules: §§20.213(d), 20.325(e), and 20.425(d) (relating to Pre-election Reports by a candidate, specific-purpose committee, or general-purpose committee). Therefore, that language needs to be deleted from existing rule 18.10.

Amanda Arriaga, General Counsel, has determined that for the first five-year period the proposed amended rule is in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the proposed amended rule.

The General Counsel has also determined that for each year of the first five years the proposed amended rule is in effect, the public benefit will be consistency and clarity in the Commission's rules regarding pre-election reports. There will not be an effect on small businesses, microbusinesses or rural communities. There is no anticipated economic cost to persons who are required to comply with the proposed amended rule.

The General Counsel has determined that during the first five years that the proposed amended rule is in effect, they will not: create or eliminate a government program; require the creation of new employee positions or the elimination of existing employee positions; require an increase in future legislative appropriations to the agency; require an increase or decrease in fees paid to the agency; expand, limit, or repeal an existing regulation; create a new regulation; increase or decrease the number of individuals subject to the rules' applicability; or positively or adversely affect this state's economy.

The Commission invites comments on the proposed amended rule from any member of the public. A written statement should be emailed to public_comment@ethics.state.tx.us, or mailed or delivered to James Tinley, Executive Director, Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711-2070. A person who wants to offer spoken comments to the Commission concerning the proposed amended rule may do so at any Commission meeting during the agenda item relating to the proposed amended rule. Information concerning the date, time, and location of Commission meetings is available by telephoning (512) 463-5800 or on the Commission's website at www.ethics.state.tx.us.

The amended rule is proposed under Texas Government Code §571.062, which authorizes the Commission to adopt rules to administer Title 15 of the Election Code and Chapter 571 of the Government Code.

The proposed amended rule affects Title 15 of the Election Code.

§18.10. Guidelines for Substantial Compliance for a Corrected/Amended 8-day Pre-election Report.

(a) A corrected/amended 8-day pre-election report substantially complies with the applicable law and will not be assessed a late fine under §18.9 of this title (relating to Corrected/Amended Reports) if:

(1) The original report was filed in good faith and the corrected/amended report was filed not later than the 14th business day after the date the filer learned of the errors or omissions; and

(2) The only corrections/amendments needed were to correct the following types of errors or omissions:

(A) a technical, clerical, or de minimis error, including a typographical error, that is not misleading and does not substantially affect disclosure;

(B) an error in or omission of information that is solely required for the commission's administrative purposes, including a report type or filer identification number;

(C) an error that is minor in context and that, upon correction/amendment, does not result in changed monetary amounts or activity disclosed, including a descriptive change or a change to the period covered by the report;

(D) one or more errors in disclosing contributions that, in total:

(i) do not exceed $7,500; or

(ii) do not exceed the lesser of 10% of the total contributions on the corrected/amended report or $20,000;

(E) one or more errors in disclosing expenditures that, in total:

(i) do not exceed $7,500; or

(ii) do not exceed the lesser of 10% of the total expenditures on the corrected/amended report or $20,000;

(F) one or more errors in disclosing loans that, in total:

(i) do not exceed $7,500; or

(ii) do not exceed the lesser of 10% of the amount originally disclosed or $20,000; or

(G) an error in the amount of total contributions maintained that:

(i) does not exceed $7,500; or

(ii) does not exceed the lesser of 10% of the amount originally disclosed or $20,000.

(H) The only correction/amendment by a candidate or officeholder was to add to or delete from the outstanding loans total an amount of loans made from personal funds;

(I) The only correction/amendment by a political committee was to add the name of each candidate supported or opposed by the committee, when each name was originally disclosed on the appropriate schedule for disclosing political expenditures;

(J) The only correction/amendment was to disclose the actual amount of a contribution or expenditure, when:

(i) the amount originally disclosed was an overestimation;

(ii) the difference between the originally disclosed amount and the actual amount did not vary by more than the greater of $7,500 or 10%; and

(iii) the original report clearly included an explanation of the estimated amount disclosed and the filer's intention to file a correction/amendment as soon as the actual amount was known; or

(K) The only correction/amendment was to delete a duplicate entry.

(b) If a corrected/amended 8-day pre-election report does not meet the substantial complies criteria under subsection (a) the executive director shall determine whether there is reason to believe the report was originally filed in bad-faith, with the purpose of evading disclosure, or otherwise substantially defeated the purpose of disclosure and therefore was filed as of the date of correction.

(c) A filer may seek a waiver or reduction of a civil penalty assessed under this subsection as provided for by this chapter.

(d) In this section, "8-day pre-election report" means a report due eight days before an election filed in accordance with the requirements of [~~§20.213(d), 20.325(c), or 20.425(d) of this title (relating to a candidate, a specific-purpose committee, or a general-purpose committee, respectively) and~~] §254.064(c), 254.124(c), or 254.154(c) of the Election Code (relating to a candidate, a specific-purpose committee, or a general-purpose committee, respectively).

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

Filed with the Office of the Secretary of State on December 11, 2025.

TRD-202504530

Amanda Arriaga
General Counsel
Texas Ethics Commission
Earliest possible date of adoption: January 25, 2026
For further information, please call: (512) 463-5800

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CHAPTER 20. REPORTING POLITICAL CONTRIBUTIONS AND EXPENDITURES

The Texas Ethics Commission (the TEC) proposes the repeal of all existing rules in Texas Ethics Commission Chapter 20, regarding Reporting Political Contributions and Expenditures.

Specifically, the Commission proposes the repeal of all rules in Subchapter A of Chapter 20 (relating to General Rules), including §20.1 regarding Definitions, §20.3 regarding Reports Filed with the Commission, §20.5 regarding Reports Filed with a County Filing Authority, §20.7 regarding Reports Filed with Other Local Filing Authority, §20.9 regarding Filing Option for Certain Specific-Purpose Committees, §20.11 regarding Federal Candidates and Officeholders, §20.13 regarding Out-of-State Committees, §20.15 regarding Change of Address, §20.16 regarding Notices by Electronic Mail, §20.18 regarding Recordkeeping Required, §20.19 regarding Reports Must Be Filed on Official Forms, §20.20 regarding Timeliness of Action by Electronic Filing, §20.21 regarding Due Dates on Holidays and Weekends, §20.23 regarding Timeliness of Action by Mail, §20.29 regarding Information About Out-of-State Committees, §20.33 regarding Termination of Campaign Treasurer Appointment By Commission, and §20.35 regarding. Notice of Proposed Termination of Campaign Treasurer Appointment.

The TEC also proposes the repeal of all rules in Subchapter B of Chapter 20 (relating to General Reporting Rules), including §20.50 regarding Total Political Contributions Maintained, §20.51 regarding Value of In-Kind Contribution, §20.52 regarding Description of In-Kind Contribution for Travel, §20.53 regarding Disclosure of True Source of Contribution or Expenditure, §20.54 regarding Reporting a Pledge of a Contribution, §20.55 regarding Time of Accepting Contribution, §20.56 regarding Expenditures to Vendors, §20.57 regarding Time of Making Expenditure, §20.58 regarding Disclosure of Political Expenditure, §20.59 regarding Reporting Expenditure by Credit Card, §20.60 regarding Reporting Political Expenditures for Processing Fees, §20.61 regarding Purpose of Expenditure, §20.62 regarding Reporting Staff Reimbursement, §20.63 regarding Reporting the Use and Reimbursement of Personal Funds, §20.64 regarding Reporting the Forgiveness of a Loan or Settlement of a Debt, §20.65 regarding Reporting No Activity, §20.66 regarding Discounts, and §20.67 regarding Reporting after the Death or Incapacity of a Filer.

The TEC also proposes the repeal of all rules in Subchapter C of Chapter 20 (relating to Reporting Requirements for a Candidate), including §20.201 regarding Required Appointment of Campaign Treasurer, §20.203 regarding Candidates for State Party Chair, §20.205 regarding Contents of Candidate's Campaign Treasurer Appointment, §20.206 regarding Transfer of Campaign Treasurer Appointment, §20.207 regarding Termination of Campaign Treasurer Appointment, §20.209 regarding Reporting Obligations Imposed on Candidate, Not Campaign Treasurer, §20.211 regarding Semiannual Reports, §20.213 regarding Pre-election Reports, §20.215 regarding Runoff Report, §20.217 regarding Modified Reporting, §20.219

regarding Content of Candidate's Sworn Report of Contributions and Expenditures, §20.220 regarding Additional Disclosure for the Texas Comptroller of Public Accounts, §20.221 regarding Special Pre-Election Report by Certain Candidates, §20.223 regarding Form and Contents of Special Pre-Election Report, §20.225 regarding Special Session Reports, §20.227 regarding Contents of Special Session Report, §20.229 regarding Final Report, §20.231 regarding Contents of Final Report, §20.233 regarding Annual Report of Unexpended Contributions, §20.235 regarding Contents of Annual Report, §20.237 regarding Final Disposition of Unexpended Contributions, §20.239 regarding Report of Final Disposition of Unexpended Contributions, §20.241 regarding Contents of Report of Final Disposition of Unexpended Contributions, and §20.243 regarding Contribution of Unexpended Political Contributions to Candidate or Political Committee.

The TEC also proposes the repeal of all rules in Subchapter D of Chapter 20 (relating to Reporting Requirements for an Officeholder Who Does Not Have a Campaign Treasurer Appointment on File), including §20.271 regarding Officeholders Covered, §20.273 regarding Semiannual Reports of Contributions and Expenditures, §20.275 regarding Exception from Filing Requirement for Certain Local Officeholders, §20.277 regarding Appointment by Officeholder of Campaign Treasurer, §20.279 regarding Contents of Officeholder's Sworn Report of Contributions and Expenditures, §20.281 regarding Special Session Report by Certain Officeholders, §20.283 regarding Contents of Special Session Report, §20.285 regarding Annual Report of Unexpended Contributions by Former Officeholder, §20.287 regarding Contents of Annual Report, §20.289 regarding Disposition of Unexpended Contributions, §20.291 regarding Report of Final Disposition of Unexpended Contributions, §20.293 regarding Contents of Report of Final Disposition of Unexpended Contributions, and §20.295 regarding Contribution of Unexpended Political Contributions to Candidate or Political Committee.

The TEC also proposes the repeal of all rules in Subchapter E of Chapter 20 (relating to Reports by a Specific-Purpose Committee), including §20.301 regarding Thresholds for Campaign Treasurer Appointment, §20.303 regarding Appointment of Campaign Treasurer, §20.305 regarding Appointing an Assistant Campaign Treasurer, §20.307 regarding Name of Specific-Purpose Committee, §20.309 regarding Contents of Specific-Purpose Committee Campaign Treasurer Appointment, §20.311 regarding Updating Certain Information on the Campaign Treasurer Appointment, §20.313 regarding Converting to a General-Purpose Committee, §20.315 regarding Termination of Campaign Treasurer Appointment, §20.317 regarding Termination Report, §20.319 regarding Notice to Candidate or Officeholder, §20.321 regarding Involvement in More Than One Election by Certain Specific-Purpose Committees, §20.323 regarding Semiannual Reports, §20.325 regarding Pre-election Reports, §20.327 regarding Runoff Report, §20.329 regarding Modified Reporting, §20.331 regarding Contents of Specific-Purpose Committee Sworn Report of Contributions and Expenditures, §20.333 regarding Special Pre-Election Report by Certain Specific-Purpose Committees, §20.335 regarding Form and Contents of Special Pre-Election Report by a Specific-Purpose Committee Supporting or Opposing Certain Candidates, §20.337 regarding Special Session Reports by Specific-Purpose Committees, §20.339 regarding Contents of the Special Session Report, §20.341 regarding Dissolution Report, and §20.343 regarding Contents of Dissolution Report.

The TEC also proposes the repeal of all rules in Subchapter F of Chapter 20 (relating to Reporting Requirement for a General Purpose Committee), including §20.401 regarding Thresholds for Appointment of Campaign Treasurer by a General-Purpose Committee, §20.403 regarding Reporting Requirements for Certain General-Purpose Committees, §20.405 regarding Campaign Treasurer Appointment for a General-Purpose Political Committee, §20.407 regarding Appointing an Assistant Campaign Treasurer, §20.409 regarding Name of General-Purpose Committee, §20.411 regarding Contents of General-Purpose Committee Campaign Treasurer Appointment, §20.413 regarding Updating Information on the Campaign Treasurer Appointment, §20.415 regarding Termination of Campaign Treasurer Appointment, §20.417 regarding Termination Report, §20.419 regarding Converting to a Specific-Purpose Committee, §20.421 regarding Notice to Candidate or Officeholder, §20.423 regarding Semiannual Reports, §20.425 regarding Pre-election Reports, §20.427 regarding Runoff Report, §20.429 regarding Option To File Monthly, §20.431 regarding Monthly Reporting, §20.433 regarding Contents of General-Purpose Committee Sworn Report of Contributions and Expenditures, §20.434 regarding Alternate Reporting Requirements for General-Purpose Committees, §20.435 regarding Special Pre-Election Reports by Certain General-Purpose Committees, §20.437 regarding Form and Contents of Special Pre-Election Report, §20.439 regarding Dissolution Report, and §20.441 regarding Contents of Dissolution Report.

The TEC also proposes the repeal of all rules in Subchapter G of Chapter 20 (relating to Rules Applicable to a Principal Political Committee of a Political Party), including §20.501 regarding Designation of Principal Political Committee, and §20.503. Exceptions from Certain Notice Requirements.

The TEC also proposes the repeal of all rules in Subchapter H of Chapter 20 (relating to Rules Applicable to a Political Party Accepting Contributions from Corporations or Labor Organizations), including §20.521 regarding Restrictions on Use of Contributions from Corporations or Labor Organizations, §20.523 regarding Separate Account Required, §20.525 regarding Record of Contributions and Expenditures and Contents of Report, §20.527 regarding Form of Report, §20.529 regarding Reporting Schedule for Political Party Accepting Corporate or Labor Organization Contributions, and §20.531 regarding Restrictions on Contributions before General Election.

The TEC also proposes the repeal of all rules in Subchapter I of Chapter 20 (relating to Rules Applicable to a Political Party's County Executive Committee), including §20.551 regarding Obligation To Maintain Records, §20.553. Campaign Treasurer Appointment Not Required for County Executive Committee Accepting Contributions or Making Expenditures Under Certain Amount, §20.555. County Executive Committee Accepting Contributions or Making Expenditures That Exceed Certain Amount, §20.557 regarding Exceptions from Certain Restrictions, §20.559 regarding Exception from Notice Requirement, and §20.561 regarding County Executive Committee Accepting Contributions from Corporations and/or Labor Organizations.

The TEC also proposes the repeal of all rules in Subchapter J of Chapter 20 (relating to Reports by a Candidate for State or County Party Chair), including §20.571 regarding Definitions, §20.573 regarding Rules Applicable to Candidate for State Chair of a Political Party, §20.575 regarding Contributions to and Expenditures by Candidate for State Chair of a Political Party, §20.577 regarding Reporting Schedule for a Candidate

for State Chair, and §20.579 regarding Candidates for County Chair in Certain Counties.

The TEC also proposes the repeal of all rules in Subchapter K of Chapter 20 (relating to Reports by Political Committees Supporting or Opposing a Candidate for State or County Chair of a Political Party), including §20.591 regarding Appointment of Campaign Treasurer by Political Committee Supporting or Opposing Candidate for State Chair of a Political Party, §20.593. Contributions and Expenditures by Political Committee Supporting or Opposing Candidate for State Chair of a Political Party, §20.595. Reporting Schedule for a Political Committee Supporting or Opposing Candidate for State Chair of a Political Party, and §20.597. Political Committees Supporting or Opposing Candidates for County Chair in Certain Counties.

State law requires state agencies to "review and consider for readoption each of its rules … not later than the fourth anniversary of the date on which the rule takes effect and every four years after that date." Tex. Gov't Code §2001.039. The law further requires agencies to "readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule under this section." *Id*.

The TEC is continuing its comprehensive review with a review of the TEC's rules regarding reporting political contributions and expenditures, which are codified in Chapter 20. The repeal of these rules and adoption of new rules seek to shorten, simplify, and reorganize the rules to eliminate surplusage and improve clarity on these reporting requirements.

Amanda Arriaga, General Counsel, has determined that for the first five-year period the proposed repealed rules are in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the proposed repealed rules.

The General Counsel has also determined that for each year of the first five years the proposed repealed rules are in effect, the public benefit will be consistency and clarity in the TEC's rules regarding reporting political contributions and expenditures. There will not be an effect on small businesses, microbusinesses or rural communities. There is no anticipated economic cost to persons who are required to comply with the proposed repealed rules.

The General Counsel has determined that during the first five years that the proposed repealed rules are in effect, they will not: create or eliminate a government program; require the creation of new employee positions or the elimination of existing employee positions; require an increase in future legislative appropriations to the agency; require an increase or decrease in fees paid to the agency; expand, limit, or repeal an existing regulation; create a new regulation; increase or decrease the number of individuals subject to the rules' applicability; or positively or adversely affect this state's economy.

The TEC invites comments on the proposed repealed rules from any member of the public. A written statement should be emailed to public_comment@ethics.state.tx.us, or mailed or delivered to James Tinley, Executive Director, Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711-2070. A person who wants to offer spoken comments to the Commission concerning the proposed repealed rules may do so at any Commission meeting during the agenda item relating to the proposed repealed rules. Information concerning the date, time, and location of Commission meetings is available by telephoning (512) 463-5800 or on the Commission's website at www.ethics.state.tx.us.

SUBCHAPTER A. GENERAL RULES

1 TAC §§20.1, 20.3, 20.5, 20.7, 20.9, 20.11, 20.13, 20.15, 20.16, 20.18 - 20.21, 20.23, 20.29, 20.33, 20.35

The repealed rules are proposed under Texas Government Code §571.062, which authorizes the Commission to adopt rules to administer Title 15 of the Election Code and Chapter 571 of the Government Code.

The proposed repealed rules affect Title 15 of the Election Code.

§20.1. Definitions.
§20.3. Reports Filed with the Commission.
§20.5. Reports Filed with a County Filing Authority.
§20.7. Reports Filed with Other Local Filing Authority.
§20.9. Filing Option for Certain Specific-Purpose Committees.
§20.11. Federal Candidates and Officeholders.
§20.13. Out-of-State Committees.
§20.15. Change of Address.
§20.16. Notices by Electronic Mail.
§20.18. Recordkeeping Required.
§20.19. Reports Must Be Filed on Official Forms.
§20.20. Timeliness of Action by Electronic Filing.
§20.21. Due Dates on Holidays and Weekends.
§20.23. Timeliness of Action by Mail.
§20.29. Information About Out-of-State Committees.
§20.33. Termination of Campaign Treasurer Appointment By Commission.
§20.35. Notice of Proposed Termination of Campaign Treasurer Appointment.

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

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Amanda Arriaga
General Counsel
Texas Ethics Commission
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For further information, please call: (512) 463-5800

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SUBCHAPTER B. GENERAL REPORTING RULES

1 TAC §§20.50 - 20.67

The repealed rules are proposed under Texas Government Code §571.062, which authorizes the Commission to adopt rules to administer Title 15 of the Election Code and Chapter 571 of the Government Code.

The proposed repealed rules affect Title 15 of the Election Code.

§20.50. Total Political Contributions Maintained.
§20.51. Value of In-Kind Contribution.
§20.52. Description of In-Kind Contribution for Travel.
§20.53. Disclosure of True Source of Contribution or Expenditure.
§20.54. Reporting a Pledge of a Contribution.
§20.55. Time of Accepting Contribution.

§20.56. Expenditures to Vendors.
§20.57. Time of Making Expenditure.
§20.58. Disclosure of Political Expenditure.
§20.59. Reporting Expenditure by Credit Card.
§20.60. Reporting Political Expenditures for Processing Fees.
§20.61. Purpose of Expenditure.
§20.62. Reporting Staff Reimbursement.
§20.63. Reporting the Use and Reimbursement of Personal Funds.
§20.64. Reporting the Forgiveness of a Loan or Settlement of a Debt.
§20.65. Reporting No Activity.
§20.66. Discounts.
§20.67. Reporting after the Death or Incapacity of a Filer.

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

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Amanda Arriaga
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SUBCHAPTER C. REPORTING REQUIREMENTS FOR A CANDIDATE

1 TAC §§20.201, 20.203, 20.205 - 20.207, 20.209, 20.211, 20.213, 20.215, 20.217, 20.219 - 20.221, 20.223, 20.225, 20.227, 20.229, 20.231, 20.233, 20.235, 20.237, 20.239, 20.241, 20.243

The repealed rules are proposed under Texas Government Code §571.062, which authorizes the Commission to adopt rules to administer Title 15 of the Election Code and Chapter 571 of the Government Code.

The proposed repealed rules affect Title 15 of the Election Code.

§20.201. Required Appointment of Campaign Treasurer.
§20.203. Candidates for State Party Chair.
§20.205. Contents of Candidate's Campaign Treasurer Appointment.
§20.206. Transfer of Campaign Treasurer Appointment.
§20.207. Termination of Campaign Treasurer Appointment.
§20.209. Reporting Obligations Imposed on Candidate, Not Campaign Treasurer.
§20.211. Semiannual Reports.
§20.213. Pre-election Reports.
§20.215. Runoff Report.
§20.217. Modified Reporting.
§20.219. Content of Candidate's Sworn Report of Contributions and Expenditures.
§20.220. Additional Disclosure for the Texas Comptroller of Public Accounts.
§20.221. Special Pre-Election Report by Certain Candidates.
§20.223. Form and Contents of Special Pre-Election Report.
§20.225. Special Session Reports.
§20.227. Contents of Special Session Report.
§20.229. Final Report.
§20.231. Contents of Final Report.
§20.233. Annual Report of Unexpended Contributions.
§20.235. Contents of Annual Report.
§20.237. Final Disposition of Unexpended Contributions.
§20.239. Report of Final Disposition of Unexpended Contributions.
§20.241. Contents of Report of Final Disposition of Unexpended Contributions.
§20.243. Contribution of Unexpended Political Contributions to Candidate or Political Committee.

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

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Amanda Arriaga
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SUBCHAPTER D. REPORTING REQUIREMENTS FOR AN OFFICEHOLDER WHO DOES NOT HAVE A CAMPAIGN TREASURER APPOINTMENT ON FILE

1 TAC §§20.271, 20.273, 20.275, 20.277, 20.279, 20.281, 20.283, 20.285, 20.287, 20.289, 20.291, 20.293, 20.295

The repealed rules are proposed under Texas Government Code §571.062, which authorizes the Commission to adopt rules to administer Title 15 of the Election Code and Chapter 571 of the Government Code.

The proposed repealed rules affect Title 15 of the Election Code.

§20.271. Officeholders Covered.
§20.273. Semiannual Reports of Contributions and Expenditures.
§20.275. Exception from Filing Requirement for Certain Local Officeholders.
§20.277. Appointment by Officeholder of Campaign Treasurer.
§20.279. Contents of Officeholder's Sworn Report of Contributions and Expenditures.
§20.281. Special Session Report by Certain Officeholders.
§20.283. Contents of Special Session Report.
§20.285. Annual Report of Unexpended Contributions by Former Officeholder.
§20.287. Contents of Annual Report.
§20.289. Disposition of Unexpended Contributions.
§20.291. Report of Final Disposition of Unexpended Contributions.
§20.293. Contents of Report of Final Disposition of Unexpended Contributions.
§20.295. Contribution of Unexpended Political Contributions to Candidate or Political Committee.

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

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Amanda Arriaga
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SUBCHAPTER E. REPORTS BY A SPECIFIC-PURPOSE COMMITTEE

1 TAC §§20.301, 20.303, 20.305, 20.307, 20.309, 20.311, 20.313, 20.315, 20.317, 20.319, 20.321, 20.323, 20.325, 20.327, 20.329, 20.331, 20.333, 20.335, 20.337, 20.339, 20.341, 20.343

The repealed rules are proposed under Texas Government Code §571.062, which authorizes the Commission to adopt rules to administer Title 15 of the Election Code and Chapter 571 of the Government Code.

The proposed repealed rules affect Title 15 of the Election Code.

§20.301. Thresholds for Campaign Treasurer Appointment.

§20.303. Appointment of Campaign Treasurer.

§20.305. Appointing an Assistant Campaign Treasurer.

§20.307. Name of Specific-Purpose Committee.

§20.309. Contents of Specific-Purpose Committee Campaign Treasurer Appointment.

§20.311. Updating Certain Information on the Campaign Treasurer Appointment.

§20.313. Converting to a General-Purpose Committee.

§20.315. Termination of Campaign Treasurer Appointment.

§20.317. Termination Report.

§20.319. Notice to Candidate or Officeholder.

§20.321. Involvement in More Than One Election by Certain Specific-Purpose Committees.

§20.323. Semiannual Reports.

§20.325. Pre-election Reports.

§20.327. Runoff Report.

§20.329. Modified Reporting.

§20.331. Contents of Specific-Purpose Committee Sworn Report of Contributions and Expenditures.

§20.333. Special Pre-Election Report by Certain Specific-Purpose Committees.

§20.335. Form and Contents of Special Pre-Election Report by a Specific-Purpose Committee Supporting or Opposing Certain Candidates.

§20.337. Special Session Reports by Specific-Purpose Committees.

§20.339. Contents of the Special Session Report.

§20.341. Dissolution Report.

§20.343. Contents of Dissolution Report.

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

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Amanda Arriaga
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SUBCHAPTER F. REPORTING REQUIREMENT FOR A GENERAL PURPOSE COMMITTEE

1 TAC §§20.401, 20.403, 20.405, 20.407, 20.409, 20.411, 20.413, 20.415, 20.417, 20.419, 20.421, 20.423, 20.425, 20.427, 20.429, 20.431, 20.433 - 20.435, 20.437, 20.439, 20.441

The repealed rules are proposed under Texas Government Code §571.062, which authorizes the Commission to adopt rules to administer Title 15 of the Election Code and Chapter 571 of the Government Code.

The proposed repealed rules affect Title 15 of the Election Code.

§20.401. Thresholds for Appointment of Campaign Treasurer by a General-Purpose Committee.

§20.403. Reporting Requirements for Certain General-Purpose Committees.

§20.405. Campaign Treasurer Appointment for a General-Purpose Political Committee.

§20.407. Appointing an Assistant Campaign Treasurer.

§20.409. Name of General-Purpose Committee.

§20.411. Contents of General-Purpose Committee Campaign Treasurer Appointment.

§20.413. Updating Information on the Campaign Treasurer Appointment.

§20.415. Termination of Campaign Treasurer Appointment.

§20.417. Termination Report.

§20.419. Converting to a Specific-Purpose Committee.

§20.421. Notice to Candidate or Officeholder.

§20.423. Semiannual Reports.

§20.425. Pre-election Reports.

§20.427. Runoff Report.

§20.429. Option To File Monthly.

§20.431. Monthly Reporting.

§20.433. Contents of General-Purpose Committee Sworn Report of Contributions and Expenditures.

§20.434. Alternate Reporting Requirements for General-Purpose Committees.

§20.435. Special Pre-Election Reports by Certain General-Purpose Committees.

§20.437. Form and Contents of Special Pre-Election Report.

§20.439. Dissolution Report.

§20.441. Contents of Dissolution Report.

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

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Amanda Arriaga
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SUBCHAPTER G. RULES APPLICABLE TO A PRINCIPAL POLITICAL COMMITTEE OF A POLITICAL PARTY

1 TAC §20.501, §20.503

The repealed rules are proposed under Texas Government Code §571.062, which authorizes the Commission to adopt rules to administer Title 15 of the Election Code and Chapter 571 of the Government Code.

The proposed repealed rules affect Title 15 of the Election Code.

§20.501. Designation of Principal Political Committee.
§20.503. Exceptions from Certain Notice Requirements.

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

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Amanda Arriaga
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SUBCHAPTER H. RULES APPLICABLE TO A POLITICAL PARTY ACCEPTING CONTRIBUTIONS FROM CORPORATIONS OR LABOR ORGANIZATIONS

1 TAC §§20.521, 20.523, 20.525, 20.527, 20.529, 20.531

The repealed rules are proposed under Texas Government Code §571.062, which authorizes the Commission to adopt rules to administer Title 15 of the Election Code and Chapter 571 of the Government Code.

The proposed repealed rules affect Title 15 of the Election Code.

§20.521. Restrictions on Use of Contributions from Corporations or Labor Organizations.
§20.523. Separate Account Required.
§20.525. Record of Contributions and Expenditures and Contents of Report.
§20.527. Form of Report.
§20.529. Reporting Schedule for Political Party Accepting Corporate or Labor Organization Contributions.
§20.531. Restrictions on Contributions before General Election.

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

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Amanda Arriaga
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Texas Ethics Commission
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For further information, please call: (512) 463-5800

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SUBCHAPTER I. RULES APPLICABLE TO A POLITICAL PARTY'S COUNTY EXECUTIVE COMMITTEE

1 TAC §§20.551, 20.553, 20.555, 20.557, 20.559, 20.561

The repealed rules are proposed under Texas Government Code §571.062, which authorizes the Commission to adopt rules to administer Title 15 of the Election Code and Chapter 571 of the Government Code.

The proposed repealed rules affect Title 15 of the Election Code.

§20.551. Obligation To Maintain Records.
§20.553. Campaign Treasurer Appointment Not Required for County Executive Committee Accepting Contributions or Making Expenditures Under Certain Amount.
§20.555. County Executive Committee Accepting Contributions or Making Expenditures That Exceed Certain Amount.
§20.557. Exceptions from Certain Restrictions.
§20.559. Exception from Notice Requirement.
§20.561. County Executive Committee Accepting Contributions from Corporations and/or Labor Organizations.

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

Filed with the Office of the Secretary of State on December 11, 2025.

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Amanda Arriaga
General Counsel
Texas Ethics Commission
Earliest possible date of adoption: January 25, 2026
For further information, please call: (512) 463-5800

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SUBCHAPTER J. REPORTS BY A CANDIDATE FOR STATE OR COUNTY PARTY CHAIR

1 TAC §§20.571, 20.573, 20.575, 20.577, 20.579

The repealed rules are proposed under Texas Government Code §571.062, which authorizes the Commission to adopt rules to administer Title 15 of the Election Code and Chapter 571 of the Government Code.

The proposed repealed rules affect Title 15 of the Election Code.

§20.571. Definitions.

§20.573. Rules Applicable to Candidate for State Chair of a Political Party.

§20.575. Contributions to and Expenditures by Candidate for State Chair of a Political Party.

§20.577. Reporting Schedule for a Candidate for State Chair.

§20.579. Candidates for County Chair in Certain Counties.

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

Filed with the Office of the Secretary of State on December 11, 2025.

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Amanda Arriaga
General Counsel
Texas Ethics Commission
Earliest possible date of adoption: January 25, 2026
For further information, please call: (512) 463-5800

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SUBCHAPTER K. REPORTS BY POLITICAL COMMITTEES SUPPORTING OR OPPOSING A CANDIDATE FOR STATE OR COUNTY CHAIR OF A POLITICAL PARTY

1 TAC §§20.591, 20.593, 20.595, 20.597

The repealed rules are proposed under Texas Government Code §571.062, which authorizes the Commission to adopt rules to administer Title 15 of the Election Code and Chapter 571 of the Government Code.

The proposed repealed rules affect Title 15 of the Election Code.

§20.591. Appointment of Campaign Treasurer by Political Committee Supporting or Opposing Candidate for State Chair of a Political Party.

§20.593. Contributions and Expenditures by Political Committee Supporting or Opposing Candidate for State Chair of a Political Party.

§20.595. Reporting Schedule for a Political Committee Supporting or Opposing Candidate for State Chair of a Political Party.

§20.597. Political Committees Supporting or Opposing Candidates for County Chair in Certain Counties.

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

Filed with the Office of the Secretary of State on December 11, 2025.

TRD-202504541
Amanda Arriaga
General Counsel
Texas Ethics Commission
Earliest possible date of adoption: January 25, 2026
For further information, please call: (512) 463-5800

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CHAPTER 20. REPORTING POLITICAL CONTRIBUTIONS AND EXPENDITURES

The Texas Ethics Commission (the TEC) proposes new Chapter 20 in TEC Rules, regarding Reporting Contributions and Expenditures.

Specifically, the TEC proposes new rules in Subchapter A of Chapter 20 (relating to General Rules), including §20.1 regarding Definitions, §20.7 regarding Reports filed with Other Local Filing Authority, §20.13 regarding Out-of-State Committees, §20.14 regarding Information About Out-of-State Committees, §20.16 regarding Notices by Electronic Mail, §20.21 regarding Due Date on Holidays and Weekends, §20.33 regarding Termination of Campaign Treasurer Appointment by Commission, and §20.35 regarding Notice of Proposed Termination of Campaign Treasurer Appointment.

The TEC also proposes new rules in Subchapter B of Chapter 20 (relating to General Reporting Rules), including §20.50 regarding Total Political Contributions Maintained, §20.51 regarding Value of In-Kind Contribution, §20.52 regarding Description of In-Kind Contribution for Travel, §20.54 regarding Reporting a Pledge of a Contribution, §20.55 regarding Time of Accepting Contribution, §20.56 regarding Expenditures to Vendors, §20.58 regarding Disclosure of Political Expenditure, §20.59 regarding Reporting Expenditure by Credit Card, §20.60 regarding Reporting Political Expenditures for Processing Fees, §20.61 regarding Purpose of Expenditure, §20.62 regarding Reporting Staff Reimbursement, §20.63 regarding Reporting the Use and Reimbursement of Personal Funds, §20.64 regarding Reporting the Forgiveness of a Loan or Settlement of a Debt, §20.65 regarding Reporting No Activity, §20.66 regarding Discounts, and §20.67 regarding Reporting after the Death or Incapacity of a Filer.

The TEC also proposes new rules in Subchapter C of Chapter 20 (relating to Reporting Requirements), including §20.201 regarding Definitions, §20.203 regarding Required Appointment of Campaign Treasurer, §20.205 regarding Modified Reporting, §20.207 regarding Reporting Political Contributions to a Business in Which the Candidate or Officeholder Has a Participating Interest, §20.209 regarding Reporting Contributions, §20.211 regarding Reporting Pledges, §20.213 regarding Reporting Loans, §20.215 regarding Reporting Expenditures of Personal Funds, §20.220 regarding Additional Disclosure for the Texas Comptroller of Public Accounts, §20.221 regarding Special Pre-Election Report by Certain Candidates, §20.223 regarding Form and Contents of Special Pre-election Report, 20.225 regarding Special Session Reports for Candidates and Certain Officeholders, §20.227 regarding Contents of Special Session Report, §20.235 regarding Contents of Annual Report, and 20.243 regarding Contribution of Unexpended Political Contributions to Candidate or Political Committee.

The TEC also proposes new rules in Subchapter D of Chapter 20 (relating to Reporting Requirements for an Officeholder Who

Does Not Have a Campaign Treasurer Appointment on File), including §20.271 regarding Officeholders Covered, and 20.295 regarding Contribution of Unexpended Political Contributions to Candidate or Political Committee.

The TEC also proposes new rules in Subchapter E of Chapter 20 (relating to Reports by a General-Purpose or Specific-Purpose Committee), including §20.303 regarding Appointment of Campaign Treasurer, §20.305 regarding Appointing an Assistant Campaign Treasurer, §20.307 regarding Name of Specific-Purpose Committee, §20.308 regarding Name of General-Purpose Committee, §20.311 regarding Updating Certain Information on the Campaign Treasurer Appointment, §20.313 regarding Converting to a Different Committee Type, §20.319 regarding Notice to Candidate of Officeholder, §20.333 regarding Special Pre-Election Report by Certain Specific-Purpose Committees, §20.343 regarding Contents of Dissolution Report, and §20.403 regarding Reporting Requirements for Certain General-Purpose Committees.

The TEC also proposes a new rule in Subchapter F of Chapter 20 (relating to Rules Applicable to a Principal Political Committee of a Political Party), including §20.503 regarding Exceptions from Certain Notice Requirements.

The TEC also proposes new rules in Subchapter G of Chapter 20 (relating to Rules Applicable to a Political Party Accepting Contributions From Corporations and/or Labor Organizations), including §20.523 regarding Separate Account Required, §20.527 regarding Form of Report, and §20.529 regarding Reporting Schedule for Political Party Accepting Corporate and/or Labor Organization Contributions.

The TEC also proposes new rules in Subchapter H of Chapter 20 (relating to Rules Applicable to a Political Party's County Executive Committee), including §20.555 regarding County Executive Committee Accepting Contributions or Making Expenditures That Exceed Certain Amount, §20.557 regarding Exceptions from Certain Restrictions, 20.559 regarding Exception from Notice Requirement, and §20.561 regarding County Executive Committee Accepting Contributions From Corporations and/or Labor Organizations.

The TEC also proposes new rules in Subchapter I of Chapter 20 (relating to Reports by a Candidate or a Committee Supporting or Opposing a Candidate for State or County Party Chair), including §20.571 regarding Definitions, §20.577 regarding Reporting Schedule for a Candidate for State Chair, and §20.579 regarding Candidates and Committees Supporting or Opposing Candidates for County Chair in Certain Counties.

The TEC also proposes new rules in Subchapter J of Chapter 20 (relating to Reports by a Legislative Caucus), including §20.601 regarding Reporting Obligations Imposed on Caucus Chair, and §20.602 regarding Reporting Schedule for a Legislative Caucus.

This proposal, along with the contemporaneous proposal of the repeal of all existing rules in Chapter 20, amends the rules used in reporting contributions and expenditures in campaign finance reports.

State law requires state agencies to "review and consider for readoption each of its rules … not later than the fourth anniversary of the date on which the rule takes effect and every four years after that date." Tex. Gov't Code § 2001.039. The law further requires agencies to "readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule under this section." *Id.*

The TEC is continuing its comprehensive review with a review of the TEC's rules regarding reporting contributions and expenditures, which are codified in Chapter 20. The repeal of existing rules and adoption of new rules seek to shorten, simplify, and reorganize the rules to eliminate surplusage and improve clarity on procedures for reporting contributions and expenditures in campaign finance reports.

Amanda Arriaga, General Counsel, has determined that for the first five-year period the proposed rules are in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the proposed rules.

The General Counsel has also determined that for each year of the first five years the proposed rules are in effect, the public benefit will be consistency and clarity in the TEC's rules regarding procedures for reporting contributions and expenditures in campaign finance reports. There will not be an effect on small businesses, microbusinesses or rural communities. There is no anticipated economic cost to persons who are required to comply with the proposed rules.

The General Counsel has determined that during the first five years that the proposed rules are in effect, they will not: create or eliminate a government program; require the creation of new employee positions or the elimination of existing employee positions; require an increase in future legislative appropriations to the agency; require an increase or decrease in fees paid to the agency; expand, limit, or repeal an existing regulation; create a new regulation; increase or decrease the number of individuals subject to the rules' applicability; or positively or adversely affect this state's economy.

The TEC invites comments on the proposed rules from any member of the public. A written statement should be emailed to public_comment@ethics.state.tx.us, or mailed or delivered to James Tinley, Executive Director, Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711-2070. A person who wants to offer spoken comments to the Commission concerning the proposed rules may do so at any Commission meeting during the agenda item relating to the proposed rules. Information concerning the date, time, and location of Commission meetings is available by telephoning (512) 463-5800 or on the TEC's website at www.ethics.state.tx.us.

SUBCHAPTER A. GENERAL RULES

1 TAC §§20.1, 20.7, 20.13, 20.14, 20.16, 20.21, 20.33, 20.35

The new rules are proposed under Texas Government Code §571.062, which authorizes the Commission to adopt rules to administer Title 15 of the Election Code and Chapter 571 of the Government Code.

The proposed rules affect Title 15 of the Election Code.

§20.1. Definitions.

The following words and terms, when used in Title 15 of the Election Code, in this chapter, Chapter 22 of this title (relating to Restrictions on Contributions and Expenditures), and Chapter 24 of this title (relating to Restrictions on Contributions and Expenditures Applicable to Corporations and Labor Organizations), shall have the following meanings, unless the context clearly indicates otherwise.

(1) Campaign communication--The term does not include a communication made by e-mail.

(2) Campaign treasurer--Either the individual appointed by a candidate to be the campaign treasurer, or the individual responsible

for filing campaign finance reports of a political committee under Texas law or the law of any other state.

(3) Contribution--The term does not include a transfer for consideration of anything of value pursuant to a contract that reflects the usual and normal business practice of the vendor.

(4) Corporation--The term does not include professional corporations or professional associations.

(5) Election cycle--A single election and any related primary or runoff election.

(6) Identified measure--A question or proposal submitted in an election for an expression of the voters' will and includes the circulation and submission of a petition to determine whether a question or proposal is required to be submitted in an election for an expression of the voters' will.

(7) Non-political expenditure--An expenditure from political contributions that is not an officeholder expenditure or a campaign expenditure.

(8) Opposed candidate--A candidate who has an opponent whose name is to appear on the ballot. The name of a write-in candidate does not appear on the ballot.

(9) Pledge--A contribution in the form of an unfulfilled promise or unfulfilled agreement, whether enforceable or not, to provide a specified amount of money or specific goods or services. The term does not include a contribution made in the form of a check.

(10) Political advertising:

(A) A communication that supports or opposes a political party, a public officer, a measure, or a candidate for nomination or election to a public office or office of a political party, and:

(i) is published in a newspaper, magazine, or other periodical in return for consideration;

(ii) is broadcast by radio or television in return for consideration;

(iii) appears in a pamphlet, circular, flyer, billboard, or other sign, bumper sticker, or similar form of written communication; or

(iv) appears on an Internet website.

(B) The term does not include an individual communication made by e-mail but does include mass e-mails involving an expenditure of funds beyond the basic cost of hardware messaging software and bandwidth.

(11) Political subdivision--A county, city, or school district or any other governmental entity that:

(A) embraces a geographic area with a defined boundary;

(B) exists for the purpose of discharging functions of government; and

(C) possesses authority for subordinate self-government through officers selected by it.

(12) Report--Any document required to be filed by this title, including an appointment of campaign treasurer, any type of report of contributions and expenditures, and any notice.

(13) Special pre-election report--A shorthand term for a report filed in accordance with the requirements of §20.221 and §20.333 of this chapter (relating to Special Pre-Election Report by Certain Candidates; and Special Pre-Election Report by Certain Specific-Purpose Committees) and §254.038 and §254.039 of the Election Code.

(14) Unidentified measure--A question or proposal that is intended to be submitted in an election for an expression of the voters' will and that is not yet legally required to be submitted in an election, except that the term does not include the circulation or submission of a petition to determine whether a question or proposal is required to be submitted in an election for an expression of the voters' will. The circulation or submission of a petition to determine whether a question or proposal is required to be submitted in an election for an expression of the voters' will is considered to be an identified measure.

(15) Principal purpose--A group has as a principal purpose of accepting political contributions or making political expenditures, including direct campaign expenditures, when that activity is an important or a main function of the group.

(A) A group may have more than one principal purpose. When determining whether a group has a principal purpose of accepting political contributions or making political expenditures, the Commission may consider any available evidence regarding the activities by the group and its members, including, but not limited to:

(i) public statements,

(ii) fundraising appeals,

(iii) government filings,

(iv) organizational documents; and

(v) the amount of political expenditures made and political contributions accepted by the group and its members.

(B) A group does not have a principal purpose of making political expenditures if it can demonstrate that not more than 49% of its overall expenditures are political expenditures.

(C) The following shall be included for purposes of calculating the proportion of the group's political expenditures to all other spending:

(i) the amount of money paid in compensation and benefits to the group's employees for work related to making political expenditures;

(ii) the amount of money spent on political expenditures; and

(iii) the amount of money attributable to the proportional share of administrative expenses related to political expenditures. The proportional share of administrative expenses is calculated by comparing the political expenditures in clause (ii) of this subparagraph with non-political expenditures. (For example, if the group sends three mailings a year and each costs $10,000, if the first two are issue-based newsletters and the third is a direct advocacy sample ballot, and there were no other expenditures, then the proportion of the administrative expenses attributable to political expenditures would be 33%.) Administrative expenses include:

(I) fees for services to non-employees;

(II) advertising and promotion;

(III) office expenses;

(IV) information technology;

(V) occupancy;

(VI) travel expenses;

(VII) interest; and

(VIII) insurance.

(D) The group may maintain specific evidence of administrative expenses related only to political expenditures or only to non-political expenditures. Specifically identified administrative expenses shall not be included in the proportion established by subparagraph (C)(iii) of this paragraph but allocated by the actual amount of the expense.

(E) In this section, the term "political expenditures" includes direct campaign expenditures

(16) In connection with a campaign:

(A) An expenditure is made in connection with a campaign for an elective office if it is:

(i) made for a communication that expressly advocates the election or defeat of a clearly identified candidate by:

(I) using such words as "vote for," "elect," "support," "vote against," "defeat," "reject," "cast your ballot for," or "Smith for city council;" or

(II) using such phrases as "elect the incumbent" or "reject the challenger," or such phrases as "vote pro-life" or "vote pro-choice" accompanied by a listing of candidates described as "pro-life" or "pro-choice;"

(ii) made for a communication broadcast by radio, television, cable, or satellite or distributed by print or electronic media, including any print publication, mailing, Internet website, electronic mail, or automated phone bank, that:

(I) refers to a clearly identified candidate;

(II) is distributed within 30 days before a contested election for the office sought by the candidate;

(III) targets a mass audience or group in the geographical area the candidate seeks to represent; and

(IV) includes words, whether displayed, written, or spoken; images of the candidate or candidate's opponent; or sounds of the voice of the candidate or candidate's opponent that, without consideration of the intent of the person making the communication, are susceptible of no other reasonable interpretation than to urge the election or defeat of the candidate;

(iii) made by a candidate or political committee to support or oppose a candidate; or

(iv) a campaign contribution to:

(I) a candidate; or

(II) a group that, at the time of the contribution, already qualifies as a political committee.

(B) An expenditure is made in connection with a campaign on a measure if it is:

(i) made for a communication that expressly advocates the passage or defeat of a clearly identified measure by using such words as "vote for," "support," "vote against," "defeat," "reject," or "cast your ballot for;"

(ii) made for a communication broadcast by radio, television, cable, or satellite or distributed by print or electronic media, including any print publication, mailing, Internet website, electronic mail, or automated phone bank, that:

(I) refers to a clearly identified measure;

(II) is distributed within 30 days before the election in which the measure is to appear on the ballot;

(III) targets a mass audience or group in the geographical area in which the measure is to appear on the ballot; and

(IV) includes words, whether displayed, written, or spoken, that, without consideration of the intent of the person making the communication, are susceptible of no other reasonable interpretation than to urge the passage or defeat of the measure;

(iii) made by a political committee to support or oppose a measure; or

(iv) a campaign contribution to a group that, at the time of the contribution, already qualifies as a political committee.

(C) Any cost incurred for covering or carrying a news story, commentary, or editorial by a broadcasting station or cable television operator, Internet website, or newspaper, magazine, or other periodical publication, including an Internet or other electronic publication, is not a campaign expenditure if the cost for the news story, commentary, or editorial is not paid for by, and the medium is not owned or controlled by, a candidate or political committee.

(D) For purposes of this section:

(i) a candidate is clearly identified by a communication that includes the candidate's name, office sought, office held, likeness, photograph, or other apparent and unambiguous reference; and

(ii) a measure is clearly identified by a communication that includes the measure's name or ballot designation (such as "Proposition 1"), purposes, election date, or other apparent and unambiguous reference.

(17) Discount--The provision of any goods or services without charge or at a charge which is less than fair market value. A discount is an in-kind political contribution unless the terms of the transaction reflect the usual and normal practice of the industry and are typical of the terms that are offered to political and non-political persons alike, or unless the discount is given solely to comply with §253.041 of the Election Code. The value of an in-kind contribution in the form of a discount is the difference between the fair market value of the goods or services at the time of the contribution and the amount charged.

(18) School district--For purposes of §254.130 of the Election Code and §20.7 of this chapter (relating to Reports Filed with Other Local Filing Authority), the term includes a junior college district or community college district.

(19) Vendor--Any person providing goods or services to a candidate, officeholder, political committee, or other filer under this chapter. The term does not include an employee of the candidate, officeholder, political committee, or other filer.

(20) Hybrid committee--A political committee that, as provided by §252.003(a)(4) or §252.0031(a)(2) of the Election Code, as applicable, has filed a campaign treasurer appointment that includes an affidavit stating that:

(A) the committee is not established or controlled by a candidate or an officeholder; and

(B) the committee will not use any political contribution from a corporation or a labor organization to make a political contribution to:

(i) a candidate for elective office;

(ii) an officeholder; or

(iii) a political committee that has not filed an affidavit in accordance with this section.

(21) Direct campaign expenditure-only committee--A political committee, as authorized by §253.105 of the Election Code to accept political contributions from corporations and/or labor organizations, that:

(A) is not established or controlled by a candidate or an officeholder;

(B) makes or intends to make direct campaign expenditures;

(C) does not make or intend to make political contributions to:

(i) a candidate;

(ii) an officeholder;

(iii) a specific-purpose committee established or controlled by a candidate or an officeholder; or

(iv) a political committee that makes or intends to make political contributions to a candidate, an officeholder, or a specific-purpose committee established or controlled by a candidate or an officeholder; and

(D) has filed an affidavit with the Commission stating the committee's intention to operate as described by subparagraphs (B) and (C).

(22) Reportable Activity--For the purposes of filing a final report, this term includes an expenditure to pay a campaign debt.

(23) Statewide Measure--A measure to be voted on by all eligible voters in the state.

(24) District Measure--A measure to be voted on by the voters of a district.

§20.7. Reports Filed with Other Local Filing Authority.

Except as provided by Chapter 252 of the Election Code, the secretary of a political subdivision (or the presiding officer if the political subdivision has no secretary) is the appropriate filing authority for reports filed by:

(1) a candidate for an office of a political subdivision other than a county;

(2) a person holding an office of a political subdivision other than a county.

§20.13. Out-of-State Committees.

(a) An out-of-state political committee is required to file reports for each reporting period under Subchapter F, Chapter 254, Election Code, in which the out-of-state political committee accepts political contributions or makes political expenditures in connection with a state or local election in Texas. Section 254.1581 of the Election Code applies to a report required to be filed under this section. An out-of-state political committee that files reports electronically in another jurisdiction may comply with §254.1581 of the Election Code by sending a letter to the Commission within the time prescribed by that section specifying in detail where the electronic report may be found on the website of the agency with which the out-of-state political committee is required to file its reports. An out-of-state political committee that does not file reports electronically in another jurisdiction may comply with §254.1581 of the Election Code by sending to the Commission a copy of the cover sheets of the report and a copy of each page on which the committee reports a contribution or expenditure accepted or made in connection with a state or local election in Texas.

(b) A political committee must determine if it is an "out-of-state political committee" each time the political committee makes a political expenditure in Texas (other than an expenditure in connection with a campaign for a federal office or an expenditure for a federal officeholder). The determination is made as follows.

(1) When making the expenditure (other than an expenditure in connection with a campaign for a federal office or an expenditure for a federal officeholder), the committee must calculate its total political expenditures made during the 12 months immediately preceding the date of the expenditure. This total does not include the political expenditure triggering the calculation requirement.

(2) If 80% or more of the total political expenditures are in connection with elections not voted on in Texas, the committee is an out-of-state committee.

(3) If less than 80% of the total political expenditures are in connection with elections not voted on in Texas, the committee is no longer an out-of-state committee.

(c) An out-of-state political committee planning an expenditure in connection with a campaign for federal office voted on in Texas is not required to make the determination required by §20.14 of this chapter (relating to Information About Out-of-State Committees). However, an expenditure in connection with a campaign for federal office voted on in Texas must be included in the calculation for an out-of-state committee making an expenditure in connection with a non-federal campaign voted on in Texas.

§20.14. Information About Out-of-State Committees.

(a) A person who files a report with the Commission by electronic transfer and who accepts political contributions from an out-of-state political committee required to file its statement of organization with the Federal Election Commission shall either:

(1) enter the out-of-state committee's federal PAC identification number in the appropriate place on the report; or

(2) timely file a certified copy of the out-of-state committee's statement of organization that is filed with the Federal Election Commission.

(b) A person who files a report with the Commission by electronic transfer and who accepts political contributions from an out-of-state political committee that is not required to file its statement of organization with the Federal Elections Commission shall either:

(1) enter the information required by §253.032(a)(1) or (e)(1), Election Code, as applicable, on the report filed by electronic transfer; or

(2) timely file a paper copy of the information required by §253.032(a)(1) or (e)(1), Election Code, as applicable.

(c) Except as provided by subsection (d) of this section, §251.007, Election Code, applies to a document filed under subsection (a)(2) or (b)(2) of this section.

(d) A document filed under subsection (a)(2) or (b)(2) of this section for a pre-election report is timely filed if it is received by the Commission no later than the report due date. A pre-election report includes reports due 30-days and 8-days before an election, reports due before a runoff election, and special reports due before an election.

§20.16. Notices by Electronic Mail.

(a) A person required to file reports electronically with the Commission shall provide to the Commission an electronic mail address to which notices regarding filing requirements under Title 15 of the Election Code may be sent.

(b) A person required to file reports with the Commission and who qualifies for an exemption from electronic filing may provide to the Commission an electronic mail address to which notices regarding filing requirements under Title 15 of the Election Code may be sent.

§20.21. Due Dates on Holidays and Weekends.

If the deadline for a report falls on a Saturday, Sunday, or a legal state or national holiday, the report is due on the next regular business day.

§20.33. Termination of Campaign Treasurer Appointment by Commission.

(a) The Commission may terminate the campaign treasurer appointment of an inactive candidate or an inactive political committee.

(b) For purposes of subsection (a) of this section and §252.0131, Election Code, a candidate becomes "inactive" if the candidate files a campaign treasurer appointment with the Commission and more than one year has lapsed since the candidate has filed any required campaign finance reports with the Commission.

(c) For purposes of subsection (a) of this section and §252.0131, Election Code, a political committee becomes "inactive" if the political committee files a campaign treasurer appointment with the Commission and more than one year has lapsed since the campaign treasurer of the political committee has filed any required campaign finance reports with the Commission.

(d) This section does not apply to a candidate who holds an office specified by §§252.005(1) or (5), Election Code.

§20.35. Notice of Proposed Termination of Campaign Treasurer Appointment.

(a) Before the Commission may consider termination of a campaign treasurer appointment under §20.33 of this chapter (relating to Termination of Campaign Treasurer Appointment by Commission) and §252.0131, Election Code, the Commission shall send written notice to the affected candidate or political committee.

(b) The written notice must be given at least 30 days before the date of the meeting at which the Commission will consider the termination of campaign treasurer appointment and must include:

(1) The date, time, and place of the meeting;

(2) A statement of the Commission's intention to consider termination of the campaign treasurer;

(3) A reference to the particular sections of the statutes and rules that give the Commission the authority to consider the termination of the campaign treasurer; and

(4) The effect of termination of the campaign treasurer appointment.

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

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Amanda Arriaga
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Texas Ethics Commission
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SUBCHAPTER B. GENERAL REPORTING RULES

1 TAC §§20.50 - 20.52, 20.54 - 20.56, 20.58 - 20.67

The new rules are proposed under Texas Government Code §571.062, which authorizes the Commission to adopt rules to administer Title 15 of the Election Code and Chapter 571 of the Government Code.

The proposed rules affect Title 15 of the Election Code.

§20.50. Total Political Contributions Maintained.

(a) For purposes of Election Code §254.031(a)(8) and §254.0611(a)(1), the total amount of political contributions maintained in one or more accounts includes the following:

(1) The balance on deposit in banks, savings and loan institutions and other depository institutions;

(2) The present value of any investments that can be readily converted to cash, such as certificates of deposit, money market accounts, stocks, bonds, treasury bills, etc.; and

(3) The balance of political contributions accepted and held in any online fundraising account over which the filer can exercise control by making a withdrawal, expenditure, or transfer.

(b) For purposes of Election Code §254.031(a)(8) and §254.0611(a)(1), the total amount of political contributions maintained includes personal funds that the filer intends to use for political expenditures only if the funds have been deposited in an account in which political contributions are held as permitted by Election Code §253.0351(c).

(c) For purposes of Election Code §254.031(a-1), the difference between the total amount of political contributions maintained that is disclosed in a report and the correct amount is a de minimis error if the difference does not exceed:

(1) $7,500; or

(2) the lesser of 10% of the amount disclosed or $20,000.

§20.51. Value of In-Kind Contribution.

(a) For reporting purposes, the value of an in-kind contribution is the fair market value.

(b) If an in-kind contribution is sold at a political fundraiser, the total amount received for the item at the fundraiser must be reported. This reporting requirement is in addition to the requirement that the fair market value of the in-kind contribution be reported.

(c) If political advertising supporting or opposing two or more candidates is an in-kind contribution, each person benefiting from the contribution shall report the amount determined by dividing the full value of the political advertising by the number of persons benefited by the political advertising.

§20.52. Description of In-Kind Contribution for Travel.

The description of an in-kind contribution for travel outside of the state of Texas must provide the following:

(1) The name of the person or persons traveling on whose behalf the travel was accepted;

(2) The means of transportation;

(3) The name of the departure city or the name of each departure location;

(4) The name of the destination city or the name of each destination location;

(5) The dates on which the travel occurred;

(6) The campaign or officeholder purpose of the travel, including the name of a conference, seminar, or other event.

§20.54. Reporting a Pledge of a Contribution.

(a) The date of a pledge of a contribution is the date the pledge was accepted, regardless of when the pledge is received.

(b) Except as provided by subsection (c) of this section, a pledge of a contribution shall be reported on the appropriate pledge schedule for the reporting period in which the pledge was accepted and shall be reported on the appropriate receipts schedule for the reporting period in which the pledge is received.

(c) A pledge of a contribution that is received in the reporting period in which the pledge was accepted, shall be reported on the contribution schedule or the loan schedule, as applicable, and in accordance with subsection (a) of this section.

§20.55. Time of Accepting Contribution.

For the purposes of §254.034 of the Election Code, a determination to refuse a political contribution is a distinct act from returning a political contribution and may occur at a different time.

§20.56. Expenditures to Vendors.

(a) A political expenditure made by a vendor for a candidate, officeholder, political committee, or other filer, with the intent to seek reimbursement from the filer, shall be reported by the filer in accordance with this chapter as though the filer made the expenditure directly.

(b) A vendor of a candidate, officeholder, or specific-purpose committee may not, in providing goods or services for the candidate, officeholder, or committee, make an expenditure that, if made by the candidate, officeholder, or committee, would be prohibited by §§253.035, 253.038, or 253.041, Election Code.

(c) A candidate, officeholder, or specific-purpose committee may not use political contributions to pay or reimburse a vendor for an expenditure that, if made by the candidate, officeholder, or committee, would be prohibited by §§253.035, 253.038, or 253.041, Election Code.

§20.58. Disclosure of Political Expenditure.

(a) An expenditure that is not paid during the reporting period in which the obligation to pay the expenditure is incurred shall be reported on the Unpaid Incurred Obligations Schedule for the reporting period in which the obligation to pay is incurred.

(b) The use of political contributions to pay an expenditure previously disclosed on an Unpaid Incurred Obligations Schedule shall be reported on the appropriate disbursements schedule for the reporting period in which the payment is made.

(c) The use of personal funds to pay an expenditure previously disclosed on an Unpaid Incurred Obligations Schedule shall be reported on the Political Expenditure Made from Personal Funds Schedule for the reporting period in which the payment is made.

§20.59. Reporting Expenditure by Credit Card.

(a) A report of an expenditure charged to a credit card must be disclosed on the Expenditures Made to Credit Card Schedule and identify the vendor who receives payment from the credit card company.

(b) A report of a payment to a credit card company must be disclosed on the appropriate disbursements schedule and identify the credit card company receiving the payment.

(c) A political expenditure by credit card made during the period covered by a report required to be filed under §§254.064(b) or (c), 254.124(b) or (c), or 254.154(b) or (c) of the Election Code, must be included in the report for the period during which the charge was made, not in the report for the period during which the statement from the credit card company was received.

(d) A political expenditure by credit card made during a period not covered by a report listed under subsection (c) of this section, must be included in the report for the period during which:

(1) the charge was made; or

(2) the person receives the credit card statement that includes the expenditure.

§20.60. Reporting Political Expenditures for Processing Fees.

(a) Multiple political expenditures made to a single payee during a reporting period for fees to process political contributions may be itemized as a single expenditure, in an amount equal to the combined total amount of the expenditures, if all the expenditures are made to a single payee for the same purpose.

(b) The purpose of an expenditure reported under subsection (a) of this section must include the dates of the first and last of the multiple expenditures made to a single payee during the reporting period.

(c) For reporting purposes, the date of an expenditure reported under subsection (a) of this section is the date of the first expenditure made to the payee during the reporting period.

§20.61. Purpose of Expenditure.

(a) For reporting required under §254.031 of the Election Code, the purpose of an expenditure means:

(1) A description of the category of goods, services, or other thing of value for which an expenditure is made. Examples of acceptable categories include:

(A) advertising expense;

(B) accounting/banking;

(C) consulting expense;

(D) contributions/donations made by candidate/officeholder/political committee;

(E) event expense;

(F) fees;

(G) food/beverage expense;

(H) gifts/awards/memorials expense;

(I) legal services;

(J) loan repayment/reimbursement;

(K) office overhead/rental expense;

(L) polling expense;

(M) printing expense;

(N) salaries/wages/contract labor;

(O) solicitation/fundraising expense;

(P) transportation equipment and related expense;

(Q) travel in district;

(R) travel out of district;

(S) other political expenditures; and

(2) A brief statement or description of the candidate, officeholder, or political committee activity that is conducted by making the expenditure and an additional indication if the expenditure is an officeholder expenditure for living in Austin, Texas. The brief statement or description must include the item or service purchased and must be sufficiently specific, when considered within the context of the description of the category, to make the reason for the expenditure clear. Merely disclosing the category of goods, services, or other thing of value for which the expenditure is made does not adequately describe the purpose of an expenditure.

(3) For purposes of this section, "consulting" means advice and strategy. "Consulting" does not include providing other goods or services, including without limitation media production, voter contact, or political advertising.

(b) An expenditure other than a reimbursement to a person, including a vendor, for more than one type of good or service must be reported by the filer as separate expenditures for each type of good or service provided by the person in accordance with this rule.

(c) The description of a political expenditure for travel outside of the state of Texas must provide the following:

(1) The name of the person or persons traveling on whose behalf the expenditure was made;

(2) The means of transportation;

(3) The name of the departure city or the name of each departure location;

(4) The name of the destination city or the name of each destination location;

(5) The dates on which the travel occurred; and

(6) The campaign or officeholder purpose of the travel, including the name of a conference, seminar, or other event.

§20.62. Reporting Staff Reimbursement.

(a) Political expenditures made out of personal funds by a staff member of an officeholder, a candidate, or a political committee with the intent to seek reimbursement from the officeholder, candidate, or political committee that in the aggregate do not exceed the threshold amount as specified in §18.31 of this title (regarding adjustments to reporting thresholds) during the reporting period may be reported as follows IF the reimbursement occurs during the same reporting period that the initial expenditure was made:

(1) the amount of political expenditures that in the aggregate exceed the threshold amount and that are made during the reporting period, the full name and address of the persons to whom the expenditures are made and the dates and purposes of the expenditures; and

(2) included with the total amount or a specific listing of the political expenditures of the threshold amount or less made during the reporting period.

(b) Except as provided by subsection (a) of this section, a political expenditure made from personal funds by a staff member of an officeholder, a candidate, or a political committee with the intent to seek reimbursement from the officeholder, candidate, or political committee must be reported as follows:

(1) the aggregate amount of the expenditures made by the staff member as of the last day of the reporting period is reported as a loan to the officeholder, candidate, or political committee;

(2) the expenditure made by the staff member is reported as a political expenditure by the officeholder, candidate, or political committee; and

(3) the reimbursement to the staff member to repay the loan is reported as a political expenditure by the officeholder, candidate, or political committee.

§20.63. Reporting the Use and Reimbursement of Personal Funds.

(a) A candidate is required to report a campaign expenditure from his or her personal funds.

(b) An officeholder is not required to report an officeholder expenditure from his or her personal funds unless he or she intends to be reimbursed from political contributions.

(c) A candidate or officeholder must report a political expenditure from his or her personal funds using one of the following methods:

(1) As a political expenditure made from personal funds reported on the political expenditure made from personal funds schedule;

(2) As a loan without depositing the personal funds in an account in which political contributions are held. The amount reported as a loan may not exceed the total amount spent in the reporting period. A political expenditure made from these funds must also be reported as a political expenditure made from political funds, not as made from personal funds; or

(3) If the candidate or officeholder deposits personal funds in an account in which political contributions are held, he or she must report that amount as a loan with an indication that personal funds were deposited in that account. A political expenditure made from an account in which political contributions are maintained must be reported as a political expenditure made from political funds, not as made from personal funds.

(d) A candidate or officeholder who makes political expenditures from his or her personal funds may reimburse those personal funds from political contributions only if:

(1) the expenditures were fully reported using one of the methods in subsection (c) of this section on the report covering the period during which the expenditures were made; and

(2) if the method in subsection (c)(1) of this section was used, the report disclosing the expenditures indicates that the expenditures are subject to reimbursement.

(e) A candidate's or officeholder's failure to comply with subsection (d) of this section may not be cured by filing a corrected report after the report deadline has passed.

(f) A candidate or officeholder who has complied with subsection (d) of this section and whose personal funds have been reimbursed from political contributions must report the amount of the reimbursement as a political expenditure in the report covering the period during which the reimbursement was made.

(g) Section 253.042 of the Election Code sets limits on the amount of political expenditures from personal funds that a statewide officeholder may reimburse from political contributions.

§20.64. Reporting the Forgiveness of a Loan or Settlement of a Debt.

(a) The forgiveness of a loan to a candidate, officeholder, or political committee is a reportable in-kind political contribution unless the loan does not constitute a contribution under §251.001(2) of the Election Code, and the forgiveness of the loan was made in the due course of business.

(b) The settlement of a debt owed by a candidate, officeholder, or political committee is a reportable in-kind political contribution un-

less the creditor is a commercial vendor that has treated the settlement in a commercially reasonable manner that reflects the usual and normal practice of the industry, and is typical of the terms the commercial vendor offers to political and non-political persons alike.

§20.65. Reporting No Activity.

(a) As a general rule, a candidate or officeholder must file a report required by Subchapter C of this chapter (relating to Reporting Requirements) or Subchapter D of this chapter (relating to Reporting Requirements for an Officeholder Who Does Not Have a Campaign Treasurer Appointment on File) even if there has been no reportable activity during the period covered by the report.

(b) This general rule does not apply to:

(1) special pre-election reports;

(2) special session reports; or

(3) a local officeholder who does not have a campaign treasurer appointment on file and who does not accept more than the threshold amount in political contributions or make more than the threshold amount in political expenditures during the reporting period.

(c) If a required report will disclose that there has been no reportable activity during the reporting period, the filer shall submit only those pages of the report necessary to identify the filer and to swear to the lack of reportable activity.

§20.66. Discounts.

(a) A discount to a candidate, officeholder, or political committee is an in-kind political contribution unless the terms of the transaction reflect the usual and normal practice of the industry and are typical of the terms that are offered to political and non-political persons alike, or unless the discount is given solely in order to comply with §253.041 of the Election Code.

(b) The value of an in-kind contribution in the form of a discount is the difference between the fair market value of the goods or services at the time of the contribution and the amount charged.

§20.67. Reporting after the Death or Incapacity of a Filer.

(a) The responsibility to file reports required by this title survives the death or incapacity of a candidate or officeholder.

(b) The legal representative or the estate of a candidate or officeholder who has died, or the legal representative of a candidate who is incapacitated, shall file any reports due under Subchapter C of this chapter (relating to Reporting Requirements) or Subchapter D of this chapter (relating to Reporting Requirements for an Officeholder Who Does Not Have a Campaign Treasurer Appointment on File).

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

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SUBCHAPTER C. REPORTING REQUIREMENTS

1 TAC §§20.201, 20.203, 20.205, 20.207, 20.209, 20.211, 20.213, 20.215, 20.220, 20.221, 20.223, 20.225, 20.227, 20.235, 20.243

The new rules are proposed under Texas Government Code §571.062, which authorizes the Commission to adopt rules to administer Title 15 of the Election Code and Chapter 571 of the Government Code.

The proposed rules affect Title 15 of the Election Code.

§20.201. Definitions.

In this subchapter "filer" means a candidate, an officeholder with an active campaign treasurer appointment, a general-purpose committee, or a specific-purpose committee.

§20.203. Required Appointment of Campaign Treasurer.

A candidate must file a campaign treasurer appointment before accepting any campaign contributions or making or authorizing any campaign expenditures, including campaign expenditures from personal funds.

§20.205. Modified Reporting.

To file under the modified schedule, a candidate must file the declaration required under §254.182 of the Election Code no later than the 30th day before the first election to which the declaration applies. A declaration is valid for one election cycle only.

§20.207. Reporting Political Contributions to a Business in Which the Candidate or Officeholder Has a Participating Interest.

Reports must include the following information for each expenditure from political contributions made to a business in which the candidate or officeholder has a participating interest of more than 10%, holds a position on the governing body of the business, or serves as an officer of the business:

(1) the full name of the business to which the expenditure was made;

(2) the address of the person to whom the expenditure was made;

(3) the date of the expenditure;

(4) the purpose of the expenditure; and

(5) the amount of the expenditure.

§20.209. Reporting Contributions.

Reports must include for each person from whom the candidate accepted a political contribution (other than a pledge, loan, or a guarantee of a loan) of more than the threshold amount in value or political contributions (other than pledges, loans, or guarantees of loans) that total more than the threshold amount in value during the reporting period:

(1) the full name of the person making the contribution;

(2) the address of the person making the contribution;

(3) the total amount of contributions;

(4) the date each contribution was accepted; and

(5) a description of any in-kind contribution.

§20.211. Reporting Pledges.

Each report must include for each person from whom the candidate accepted a pledge or pledges to provide more than the threshold amount in money or goods or services worth more than the threshold amount:

(1) the full name of the person making the pledge;

(2) the address of the person making the pledge;

(3) the amount of each pledge;

(4) the date each pledge was accepted; and

(5) a description of any goods or services pledged; and

(6) the total of all pledges accepted during the period for the threshold amount and less from a person.

§20.213. Reporting Loans.

(a) Each report must include for each person making a loan or loans to the candidate for campaign purposes if the total amount loaned by the person during the reporting period is more than the threshold amount:

(1) the full name of the person or financial institution making the loan;

(2) the address of the person or financial institution making the loan;

(3) the amount of the loan;

(4) the date of the loan;

(5) the interest rate;

(6) the maturity date;

(7) the collateral for the loan, if any; and

(8) if the loan has guarantors:

(A) the full name of each guarantor;

(B) the address of each guarantor;

(C) the principal occupation of each guarantor;

(D) the name of the employer of each guarantor; and

(E) the amount guaranteed by each guarantor.

(b) the total amount of loans accepted during the period for the threshold amount and less from persons other than financial institutions engaged in the business of making loans for more than one year, except for a loan reported under subsection (a) of this section.

§20.215. Reporting Expenditures of Personal Funds.

Each report must include for each political expenditure of any amount made out of personal funds for which reimbursement from political contributions is intended:

(1) the full name of the person to whom each expenditure was made;

(2) the address of the person to whom the expenditure was made;

(3) the date of the expenditure;

(4) the purpose of the expenditure;

(5) a declaration that the expenditure was made out of personal funds;

(6) a declaration that reimbursement from political contributions is intended; and

(7) the amount of the expenditure.

§20.220. Additional Disclosure for the Texas Comptroller of Public Accounts.

(a) For purposes of this section and §2155.003(e) of the Government Code, the term "vendor" means:

(1) a person who, during the comptroller's term of office, bids on or receives a contract under the comptroller's purchasing authority that was transferred to the comptroller by §2151.004 of the Government Code; and

(2) an employee or agent of a person described by paragraph (1) of this subsection who communicates directly with the chief clerk, or an employee of the Texas Comptroller of Public Accounts who exercises discretion in connection with the vendor's bid or contract, about a bid or contract.

(b) Each report filed by the comptroller or a specific-purpose committee created to support the comptroller, shall include:

(1) for each vendor whose aggregate campaign contributions equal or exceed the threshold amount during the reporting period, a notation that:

(A) the contributor was a vendor during the reporting period or during the 12-month period preceding the last day covered by the report; and

(B) if the vendor is an individual, includes the name of the entity that employs or that is represented by the individual; and

(2) for each political committee directly established, administered, or controlled by a vendor whose aggregate campaign contributions equal or exceed $610 during the reporting period, a notation that the contributor was a political committee directly established, administered, or controlled by a vendor during the reporting period or during the 12-month period preceding the last day covered by the report.

(c) The comptroller, or a specific-purpose committee created to support the comptroller, is in compliance with this section if:

(1) each written solicitation for a campaign contribution includes a request for the information required by subsection (b) of this section; and

(2) for each contribution that is accepted for which the information required by this section is not provided, at least one oral or written request is made for the missing information. A request under this subsection:

(A) must be made not later than the 30th day after the date the contribution is received;

(B) must include a clear and conspicuous statement requesting the information required by subsection (b) of this section;

(C) if made orally, must be documented in writing; and

(D) may not be made in conjunction with a solicitation for an additional campaign contribution.

(d) The comptroller, or a specific-purpose committee created to support the comptroller, must report the information required by subsection (b) of this section that is not provided by the person making the political contribution and that is in the comptroller's or committee's records of political contributions or previous campaign finance reports required to be filed under Title 15 of the Election Code filed by the comptroller or committee.

(e) If the comptroller, or a specific-purpose committee created to support the comptroller, receives the information required by this section after the filing deadline for the report on which the contribution is reported, the comptroller or committee must include the missing information on the next required campaign finance report.

§20.221. Special Pre-Election Report by Certain Candidates.

(a) If, during the reporting period for special pre-election contributions, a candidate receives additional contributions from a person whose previous contribution or contributions have triggered the requirement to file a special pre-election report during that period, the candidate must file an additional special pre-election report for each such contribution. Except as provided in subsection (b) of this section, each such special pre-election report must be filed so that it is received by the Commission no later than the first business day after the candidate accepts the contribution.

(b) A candidate must file a special pre-election report that is exempt from electronic filing under §254.036(c), Election Code, so that the report is received by the Commission no later than 5 p.m. of the first business day after the candidate accepts a contribution from a person that triggers the requirement to file the special pre-election report.

(c) A candidate must file a special pre-election report for each person whose contribution or contributions made during the reporting period for special pre-election reports exceeds the threshold for special pre-election reports.

(d) A candidate must also report contributions reported on a special pre-election report on the next semiannual, pre-election, or runoff report filed, as applicable.

§20.223. Form and Contents of Special Pre-Election Report.

(a) A special pre-election report shall be filed electronically as required by §254.036, Election Code, unless the report is exempt from electronic filing. A special pre-election report that is exempt from electronic filing under §254.036(c), Election Code, is not required to be on a form prescribed by the Commission.

(b) In this subsection "filer" means the candidate, general-purpose committee, or specific-purpose committee filing the report.

(c) A special pre-election report shall include the following information:

(1) the name of the filer;

(2) either:

(A) the office sought by the filer; or

(B) the full name of the campaign treasurer;

(3) the name of the person making the contribution or contributions that triggered the requirement to file a special pre-election report;

(4) the address of the person making the contribution or contributions;

(5) the amount of each contribution;

(6) the date each contribution was accepted; and

(7) a description of any in-kind contribution.

(d) A general-purpose committee making direct campaign expenditures must also include:

(1) the full name and address of the person or persons to whom each direct campaign expenditure is made;

(2) the date of each direct campaign expenditure;

(3) a description of the goods or services for which each direct campaign expenditure was made; and

(4) the identification of the candidates or group of candidates benefiting from the direct campaign expenditure.

§20.225. Special Session Reports for Candidates and Certain Officeholders.

(a) A special session report is a report of contributions only, not expenditures. Expenditures made during the period covered by a special session report are required to be reported in the next applicable sworn report of contributions and expenditures.

(b) Contributions reported in a special session report are required to be reported in the next applicable sworn report of contributions and expenditures.

(c) A contribution that is refused under §254.0391(b) of the Election Code must be returned no later than the 30th day after the date of final adjournment. A contribution not returned by that date will be deemed accepted.

§20.227. Contents of Special Session Report.

A special session report shall include the following information:

(1) the filer's name;

(2) the filer's address;

(3) either:

(A) the office sought by the filer; or

(B) the full name of the campaign treasurer

(4) if the filer is a specific-purpose committee:

(A) for each candidate supported or opposed by the specific-purpose committee:

(i) the full name of the candidate;

(ii) the office sought by the candidate; and

(iii) an indication of whether the committee supports or opposes the candidate;

(B) for each officeholder supported or opposed by the committee:

(i) the full name of the officeholder;

(ii) the office held by the officeholder; and

(iii) an indication of whether the committee supports or opposes the officeholder;

(5) the date each contribution was accepted;

(6) the full name of each person making a contribution;

(7) the address of each person making a contribution;

(8) the amount of each contribution accepted during the reporting period;

(9) a description of any in-kind contribution accepted during the reporting period; and

(10) an affidavit, executed by the candidate, stating: "I swear, or affirm, that the accompanying report is true and correct and includes all information required to be reported by me under Title 15, Election Code."

§20.235. Contents of Annual Report.

In addition to the information required by §254.202 of the Election Code, an annual report of unexpended contributions shall include the following information:

(1) for each payment made by the candidate from unexpended political contributions, unexpended interest or other income earned from political contributions, or assets purchased with political contributions or interest or other income earned from political contributions during the previous year:

(A) the full name of each person to whom a payment was made;

(B) the address of each person to whom a payment was made;

(C) the date of each payment;

(D) the nature of the goods or services for which the payment was made; and

(E) the amount of each payment;

(2) the full name of each person to whom a payment from unexpended political contributions, unexpended interest or other income earned from political contributions, or assets purchased with political contributions or interest or other income earned from political contributions was made.

§20.243. Contribution of Unexpended Political Contributions to Candidate or Political Committee.

(a) A former candidate who has filed a final report and who contributes unexpended political contributions, unexpended interest or other income earned from political contributions, or assets purchased with political contributions or interest or other income earned from political contributions to a candidate or political committee must report the contribution on an annual report of unexpended contributions or on a report of final disposition of unexpended contributions, as applicable. The former candidate must also report the contribution under subsection (b) of this section.

(b) A former candidate who has filed a final report and who contributes unexpended political contributions, unexpended interest or other income earned from political contributions, or assets purchased with political contributions or interest or other income earned from political contributions to a candidate or political committee must report each contribution to the filing authority with whom the candidate or political committee receiving the contribution files reports.

(1) The contribution must be reported on the form used for reports of contributions and expenditures by a specific-purpose committees.

(2) The report should be filed by the due date for the report in which the candidate or political committee receiving the contribution must report the receipt of the contribution.

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SUBCHAPTER D. REPORTING REQUIREMENTS FOR AN OFFICEHOLDER WHO DOES NOT HAVE A CAMPAIGN TREASURER APPOINTMENT ON FILE

1 TAC §20.271, §20.295

The new rules are proposed under Texas Government Code §571.062, which authorizes the Commission to adopt rules to administer Title 15 of the Election Code and Chapter 571 of the Government Code.

The proposed rules affect Title 15 of the Election Code.

§20.271. Officeholders Covered.

An officeholder who has a campaign treasurer appointment on file is a candidate for filing purposes and shall file under Subchapter C of this chapter (relating to Reporting Requirements) rather than under this subchapter.

§20.295. Contribution of Unexpended Political Contributions to Candidate or Political Committee.

(a) A former officeholder who contributes unexpended political contributions, unexpended interest or other income earned from political contributions, or assets purchased with political contributions or interest or other income earned from political contributions to a candidate or political committee must report the contribution on an annual report of unexpended contributions or on a report of final disposition of unexpended contributions, as applicable. The former officeholder must also report the contribution under subsection (b) of this section.

(b) A former officeholder who contributes unexpended political contributions, unexpended interest or other income earned from political contributions, or assets purchased with political contributions or interest or other income earned from political contributions to a candidate or political committee must report each contribution to the filing authority with whom the candidate or political committee receiving the contribution files reports.

(1) The former officeholder must report such contributions on the form used for reports of contributions and expenditures by a specific-purpose committee.

(2) The former officeholder must file the report by the due date for the report in which the candidate or political committee receiving the contribution must report the receipt of the contribution.

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SUBCHAPTER E. REPORTS BY A GENERAL-PURPOSE COMMITTEE

1 TAC §§20.303, 20.305, 20.307, 20.308, 20.311, 20.313, 20.319, 20.333, 20.343, 20.403

The new rules are proposed under Texas Government Code §571.062, which authorizes the Commission to adopt rules to administer Title 15 of the Election Code and Chapter 571 of the Government Code.

The proposed rules affect Title 15 of the Election Code.

§20.303. Appointment of Campaign Treasurer.

(a) A committee may appoint a campaign treasurer at any time before exceeding the thresholds described in §253.031(b) of the Election Code.

(b) After a committee appoints a campaign treasurer, the campaign treasurer must comply with all the requirements of this subchapter, even if the committee has not yet exceeded the threshold in political contributions or expenditures.

(c) With the exception of the campaign treasurer appointment, the individual named as a committee's campaign treasurer is legally responsible for filing all reports of the committee, including a report following the termination of his or her appointment as campaign treasurer.

§20.305. Appointing an Assistant Campaign Treasurer.

(a) The assistant campaign treasurer has the same authority as the campaign treasurer. However, if the campaign treasurer appointment is terminated the assistant campaign treasurer no longer has authority to act as the campaign treasurer.

(b) The campaign treasurer, not the assistant campaign treasurer, is liable for any penalties assessed by the Commission for late reports or incomplete reports or for failure to file a report.

§20.307. Name of Specific-Purpose Committee.

The name of a specific-purpose committee that supports a candidate for or an officeholder of an office specified by §252.005(1), Election Code, must include the full name of that candidate or officeholder.

§20.308. Name of General-Purpose Committee.

For the purposes of §252.003(d) of the Election Code, a corporation, labor organization, or other association or legal entity that "directly establishes, administers, or controls" a general-purpose committee is one that has:

(1) the authority to actively participate in determining to whom the general-purpose committee makes political contributions or for what purposes the general-purpose committee makes political expenditures; or

(2) the authority to designate a person to a position of authority with the general-purpose committee, including that of an officer or director of the general-purpose committee.

§20.311. Updating Certain Information on the Campaign Treasurer Appointment.

(a) Except as provided by subsection (b) of this section, if any of the information required to be included in the committee's treasurer appointment changes, excluding changes in the campaign treasurer's address, the campaign treasurer shall file a corrected appointment with the Commission no later than the 30th day after the date the change occurs.

(b) If a candidate supported or opposed by a specific-purpose committee changes their office sought, or the committee changes the candidates that they support or oppose, the campaign treasurer must report that change within 24 hours of the change occurring.

§20.313. Converting to a Different Committee Type.

(a) A specific-purpose committee that changes its operation and becomes a general-purpose committee is subject to the requirements applicable to a general-purpose committee as of the date it files its campaign treasurer appointment as a general-purpose committee with the Commission.

(b) The notice required under §254.129 of the Election Code is in addition to the requirement that the new general-purpose committee file a campaign treasurer appointment with the Commission before it exceeds the threshold for registration as a general-purpose committee.

(c) A general-purpose committee that changes its operation and becomes a specific-purpose committee is subject to the requirements applicable to a specific-purpose committee as of the date it files its campaign treasurer appointment as a specific-purpose committee.

(d) As provided by §253.031(b)-(c) of the Election Code, a new specific-purpose committee involved in an election supporting or opposing a candidate for a statewide office, the state legislature, the State Board of Education, or a multi-county district office in a primary or general election may not accept political contributions exceeding the threshold and may not make or authorize political expenditures exceeding the threshold unless the committee's campaign treasurer appointment as a specific-purpose committee has been on file at least 30 days before the applicable election day.

§20.319. Notice to Candidate or Officeholder.

(a) This section does not apply to a committee that has not appointed a campaign treasurer in accordance with §20.303(b) of this chapter (relating to Appointment of Campaign Treasurer).

(b) The notice required by §254.128 of the Election Code shall be in writing and shall include:

(1) the full name of the committee;

(2) the address of the committee;

(3) the full name of the committee's campaign treasurer;

(4) the address of the committee's campaign treasurer;

(5) a statement that indicates that the committee is a political action committee; and

(6) a statement that the committee has accepted political contributions or has made political expenditures on behalf of the candidate or officeholder.

§20.333. Special Pre-Election Report by Certain Specific-Purpose Committees.

(a) If, during the reporting period for special pre-election contributions, a committee receives additional contributions from a person whose previous contribution or contributions have triggered the requirement to file a special pre-election report, the campaign treasurer for the committee must file an additional special pre-election report for each such contribution. Each such special pre-election report must be filed so that it is received by the Commission no later than the first business day after the committee accepts the contribution.

(b) The campaign treasurer of a specific-purpose committee must file a special pre-election report for each person whose contribution or contributions made during the period for special pre-election reports exceeds the threshold for special pre-election reports.

(c) A campaign treasurer of a specific-purpose committee must also report contributions reported on a special pre-election report on the next semiannual, pre-election, or runoff report filed, as applicable.

§20.343. Contents of Dissolution Report.

A dissolution report must contain:

(1) the information described in §254.121 of the Election Code; and

(2) the following sworn statement, signed by the specific-purpose committee's campaign treasurer, and properly notarized: "I,

the undersigned campaign treasurer, do not expect the occurrence of any further reportable activity by this specific-purpose committee for this or any other campaign or election for which reporting under the Election Code is required. I declare that all of the information required to be reported by me has been reported. I understand that designating a report as a dissolution report terminates the appointment of campaign treasurer. I further understand that a specific-purpose committee may not make or authorize political expenditures or accept political contributions without having an appointment of campaign treasurer on file."

§20.403. Reporting Requirements for Certain General-Purpose Committees.

(a) A general-purpose committee that is the principal political committee of a political party is subject to Subchapter F of this chapter (relating to Rules Applicable to a Principal Political Committee of a Political Party). Subchapter F of this chapter prevails over this subchapter in the case of conflict.

(b) A general-purpose committee that is established by a political party's county executive committee is subject to Subchapter H of this chapter (relating to Rules Applicable to a Political Party's County Executive Committee). Subchapter H of this chapter prevails over this subchapter in the case of conflict.

(c) A general-purpose committee that supports or opposes a candidate for state chair of a political party is subject to Subchapter I of this chapter (relating to Reports by a Candidate or a Committee Supporting or Opposing a Candidate for State or County Party Chair). Subchapter I of this chapter prevails over this subchapter in the case of conflict.

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SUBCHAPTER F. RULES APPLICABLE TO A PRINCIPAL POLITICAL COMMITTEE OF A POLITICAL PARTY

1 TAC §20.503

The new rule is proposed under Texas Government Code §571.062, which authorizes the Commission to adopt rules to administer Title 15 of the Election Code and Chapter 571 of the Government Code.

The proposed rule affects Title 15 of the Election Code.

§20.503. Exceptions from Certain Notice Requirements.

(a) The principal political committee for a political party in the state or in a county is exempted from complying with §20.319 of this chapter (relating to Notice to Candidate or Officeholder).

(b) The principal political committee for a political party in the state or in a county is not required to report a direct campaign expenditure that it makes on behalf of a slate of two or more nominees of the party.

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SUBCHAPTER G. RULES APPLICABLE TO A POLITICAL PARTY ACCEPTING CONTRIBUTIONS FROM CORPORATIONS AND/OR LABOR ORGANIZATIONS

1 TAC §§20.523, 20.527, 20.529

The new rules are proposed under Texas Government Code §571.062, which authorizes the Commission to adopt rules to administer Title 15 of the Election Code and Chapter 571 of the Government Code.

The proposed rules affect Title 15 of the Election Code.

§20.523. Separate Account Required.

(a) Interest and other income earned from contributions authorized by Chapter 253, Subchapter D of the Election Code must be maintained in an account separate from other contributions accepted by a political party.

(b) Proceeds from the sale or rent of assets purchased either with contributions authorized by Chapter 253, Subchapter D of the Election Code or with interest or other income earned from such contributions must be maintained in an account separate from other contributions accepted by a political party.

§20.527. Form of Report.

(a) The report required by this subchapter is separate from any other report a political party is required to file under this title.

(b) The report is filed by the chair of the state party or county executive committee, as applicable, and not by the treasurer of a general-purpose committee. Contributions and expenditures required to be reported under this subchapter should not be included on a report filed in accordance with Subchapter E of this chapter (relating to Reports by a General-Purpose or Specific-Purpose Committee).

(c) Except as provided by §254.036(c) of the Election Code, each report filed with the Commission under this subchapter and Chapter 257 of the Election Code must be filed by electronic transfer, using computer software provided by the Commission or computer software that meets Commission specifications for a standard file format.

§20.529. Reporting Schedule for Political Party Accepting Corporate and/or Labor Organization Contributions.

A political party that has accepted a contribution from a corporation and/or labor organization shall file the following reports until the political party is no longer accepting corporate and/or labor organization

contributions and the acceptance and expenditure of all such funds has been reported.

(1) A report shall be filed not earlier than July 1 and not later than July 15, covering the period that begins on either January 1 or the day after the last day included in a primary election report filed under paragraph (3) of this section, as applicable, and ends on June 30.

(2) A report shall be filed not earlier than January 1 and not later than January 15, covering the period that begins on either July 1 or the day after the last day included in a general election report filed under paragraph (4) of this section, as applicable, and ends on December 31.

(3) A report shall be filed for each primary election held by the political party. The report shall be filed not later than the eighth day before the primary election, covering the period that begins on January 1 and ends on the 10th day before the primary election.

(4) A report shall be filed for the general election for state and county officers. The report shall be filed not later than the 50th day before the general election, covering the period thatbegins on July 1 and ends on the 61st day before the general election for state and county officers.

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SUBCHAPTER H. RULES APPLICABLE TO A POLITICAL PARTY'S COUNTY EXECUTIVE COMMITTEE

1 TAC §§20.555, 20.557, 20.559, 20.561

The new rules are proposed under Texas Government Code §571.062, which authorizes the Commission to adopt rules to administer Title 15 of the Election Code and Chapter 571 of the Government Code.

The proposed rules affect Title 15 of the Election Code.

§20.555. County Executive Committee Accepting Contributions or Making Expenditures That Exceed Certain Amount.

(a) A county executive committee described by subsection (b) of this section is subject to the requirements of Subchapter E of this chapter (relating to Reports by a General-Purpose or Specific-Purpose Committee), except where those rules conflict with this subchapter. In the case of conflict, this subchapter prevails over Subchapter E of this chapter.

(b) A county executive committee that accepts political contributions or that makes political expenditures that, in the aggregate, exceeds the threshold in a calendar year shall file:

(1) a campaign treasurer appointment with the Commission no later than the 15th day after the date that amount is exceeded; and

(2) the reports required by Subchapter E of this chapter. The first report filed must include all political contributions accepted and all political expenditures made before the county executive committee filed its campaign treasurer appointment.

(c) Contributions accepted from corporations and/or labor organizations under §253.104 of the Election Code and reported under Subchapter G of this chapter (relating to Rules Applicable to a Political Party Accepting Contributions From Corporations and/or Labor Organizations) do not count against the thresholds described in subsection (b) of this section.

(d) A county executive committee that filed a campaign treasurer appointment may file a final report, which will notify the Commission that the county executive committee does not intend to file future reports unless it exceeds one of the thresholds. The final report may be filed:

(1) beginning on January 1 and by the January 15 filing deadline if the committee has exceeded one of the thresholds in the previous calendar year; or

(2) at any time if the committee has not exceeded one of the thresholds in the calendar year.

§20.557. Exceptions from Certain Restrictions.

A county executive committee is excepted from complying with §253.031(b)-(c) of the Election Code).

§20.559. Exception from Notice Requirement.

A county executive committee that accepts political contributions for or makes political expenditures on behalf of a candidate or officeholder is exempted from complying with §20.319 of this chapter (relating to Notice to Candidate or Officeholder).

§20.561. County Executive Committee Accepting Contributions from Corporations and/or Labor Organizations.

(a) A county executive committee that accepts contributions from corporations and/or labor organizations authorized by §253.104 of the Election Code is subject to the provisions set out in Subchapter G of this chapter (relating to Rules Applicable to a Political Party Accepting Contributions from Corporations and/or Labor Organizations).

(b) The chair of a county executive committee that accepts contributions from a corporation and/or labor organization must file the report required by §257.003 of the Election Code (regarding a county executive committee reporting contributions from corporations and/or labor organizations).

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SUBCHAPTER I. REPORTS BY A CANDIDATE OR A COMMITTEE SUPPORTING OR

OPPOSING A CANDIDATE FOR STATE OR COUNTY PARTY CHAIR

1 TAC §§20.571, 20.577, 20.579

The new rules are proposed under Texas Government Code §571.062, which authorizes the Commission to adopt rules to administer Title 15 of the Election Code and Chapter 571 of the Government Code.

The proposed rules affect Title 15 of the Election Code.

§20.571. Definitions.

The following terms, when used in this subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

(1) Candidate for state chair of a political party--A person who seeks election to serve as the chair of the state executive committee of a political party with a nominee on the ballot in the most recent gubernatorial general election. Candidacy may be evidenced by any one or more of the following actions:

(A) declaring candidacy;

(B) soliciting or accepting a campaign contribution or making or authorizing a campaign expenditure; or

(C) appointing a campaign treasurer as a candidate for state chair.

(2) Filer--Candidate for state or county chair, or a committee supporting or opposing a candidate for state or county chair.

§20.577. Reporting Schedule for a Candidate for State Chair.

(a) A filer is required to file only the reports listed in this section and is not required to file any other reports required by candidates for public office under Subchapter C of this chapter (relating to Reporting Requirements).

(b) A filer is required to file semiannual reports as provided by this subsection.

(1) One semiannual report is due no earlier than July 1 and no later than July 15.

(A) The period covered by a report under this paragraph begins on the later of the following dates, as applicable:

(i) January 1;

(ii) the first day after the period covered by the last report required by this subchapter; or

(iii) the day the state chair's campaign treasurer appointment was filed, if this is the first report filed under this subchapter.

(B) The period covered by the report under this paragraph ends on June 30.

(2) One semiannual report is due no earlier than January 1 and no later than January 15.

(A) The period covered by a report under this paragraph begins on the later of the following dates, as applicable:

(i) July 1;

(ii) the first day after the period covered by the last report required by this subchapter; or

(iii) the day the state chair's campaign treasurer appointment was filed, if this is the first report filed under this subchapter.

(B) The period covered by the report under this paragraph ends on December 31.

(3) One pre-election report not earlier than the 39th day before the convening of the state convention and not later than the 30th day before the convening of the state convention. The report shall cover the period that begins on either the day the filer filed a campaign treasurer appointment with the Commission or the first day after the period covered by the last report required to be filed, as applicable, and ends on the 40th day before the convening.

(4) One pre-election report not earlier than the ninth day before the convening of the state convention and not later than the eighth day before the convening of the state convention. The report must cover the period that begins on either the day after the filer filed a campaign treasurer appointment with the Commission or the first day after the period covered by the last report required to be filed, as applicable, and ends on the 10th day before the convening.

(c) A candidate for state chair of a political party who expects no further reportable activity in connection with his or her candidacy may file a final report at any time in accordance with §254.125 of the Election Code.

(d) A former candidate for state chair of a political party who retains unexpended political contributions, unexpended interest or other income from political contributions, or assets purchased with political contributions at the time of filing a final report is subject to the requirements of §254.065 of the Election Code.

(e) Except as provided by §254.036(c), Election Code, each report filed with the Commission under this section must be filed by electronic transfer, using computer software provided by the Commission or computer software that meets Commission specifications for a standard file format.

§20.579. Candidates and Committees Supporting or Opposing Candidates for County Chair in Certain Counties.

(a) In addition to the semiannual reports due to be filed with the Commission by January 15 and July 15 under §20.577(b) of this chapter (relating to Reporting Schedule for a Candidate for State Chair), a candidate for county chair covered by this section who has an opponent on the ballot in an election, or a committee supporting or opposing a candidate for county chair, shall file the following two reports with the Commission for each primary election except as provided by subsection (d) of this section.

(1) The first report shall be filed not later than the 30th day before primary election day. The report covers the period beginning the day the candidate's campaign treasurer appointment is filed or the first day after the period covered by the last report required to be filed under this subchapter, as applicable, and continuing through the 40th day before primary election day.

(2) The second report shall be filed not later than the eighth day before election day. The report covers the period beginning the 39th day before primary election day and continuing through the 10th day before primary election day.

(b) A candidate who has declared the intention to file reports in accordance with §20.205 of this chapter (relating to Modified Reporting) and who remains eligible to file under the modified schedule is not required to file special pre-election reports.

(c) In addition to other required reports, a filer covered by this section who is in a runoff election shall file one report with the Commission for the runoff election. The runoff election report shall be filed not later than the eighth day before runoff election day. The report covers the period beginning the ninth day before primary election day and continuing through the tenth day before runoff election day.

(d) Except as provided by §254.036(c) of the Election Code, each report filed with the Commission under this section must be filed by electronic transfer, using computer software provided by the Commission or computer software that meets Commission specifications for a standard file format.

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

Filed with the Office of the Secretary of State on December 11, 2025.

TRD-202504550
Amanda Arriaga
General Counsel
Texas Ethics Commission
Earliest possible date of adoption: January 25, 2026
For further information, please call: (512) 463-5800

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SUBCHAPTER J. REPORTS BY A LEGISLATIVE CAUCUS

1 TAC §20.601, §20.602

The new rules are proposed under Texas Government Code §571.062, which authorizes the Commission to adopt rules to administer Title 15 of the Election Code and Chapter 571 of the Government Code.

The proposed rules affect Title 15 of the Election Code.

§20.601. Reporting Obligations Imposed on Caucus Chair.

The caucus chair may designate a party responsible for filing reports required under §254.0311 of the Election Code.

§20.602. Reporting Schedule for a Legislative Caucus.

(a) A legislative caucus is required to file only the reports listed in this section.

(b) A caucus is required to file semiannual reports as provided by this subsection.

(1) One semiannual report is due no earlier than July 1 and no later than July 15.

(A) The period covered by a report under this paragraph begins on the later of the following dates, as applicable:

(i) January 1;

(ii) the first day after the period covered by the last report required by this subchapter; or

(iii) the day the state chair's campaign treasurer appointment was filed, if this is the first report filed under this subchapter.

(B) The period covered by the report under this paragraph ends on June 30.

(2) One semiannual report is due no earlier than January 1 and no later than January 15.

(A) The period covered by a report under this paragraph begins on the later of the following dates, as applicable:

(i) July 1;

(ii) the first day after the period covered by the last report required by this subchapter; or

(iii) the day the state chair's campaign treasurer appointment was filed, if this is the first report filed under this subchapter.

(B) The period covered by the report under this paragraph ends on December 31.

(c) A caucus chair for a legislative caucus who expects no further reportable activity, may terminate the caucus at any time by:

(1) sending written notice to the Commission that the caucus is terminating; and

(2) filing a final report in accordance with §254.125 of the Election Code.

(d) Except as provided by §254.036(c), Election Code, each report filed with the Commission under this section must be filed by electronic transfer, using computer software provided by the Commission or computer software that meets Commission specifications for a standard file format.

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

Filed with the Office of the Secretary of State on December 11, 2025.

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Amanda Arriaga
General Counsel
Texas Ethics Commission
Earliest possible date of adoption: January 25, 2026
For further information, please call: (512) 463-5800

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CHAPTER 34. REGULATION OF LOBBYISTS

SUBCHAPTER A. GENERAL PROVISIONS

1 TAC §34.1

The Texas Ethics Commission (the TEC) proposes an amendment to Texas Ethics Commission Rules in Chapter 34 (relating to Regulation of Lobbyists). Specifically, the TEC proposes an amendment to §34.1 regarding Definitions.

State law requires state agencies to "review and consider for readoption each of its rules … not later than the fourth anniversary of the date on which the rule takes effect and every four years after that date." Tex. Gov't Code §2001.039. The law further requires agencies to "readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule under this section." *Id*.

The TEC is continuing its comprehensive review with a review of the TEC's rules regarding regulation of lobbyists, which are codified in Chapter 34. This amendment seeks to shorten, simplify, and reorganize the rules to eliminate surplusage and improve clarity on these restrictions.

Amanda Arriaga, General Counsel, has determined that for the first five-year period the proposed amended rule is in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the proposed amended rule.

The General Counsel has also determined that for each year of the first five years the proposed amended rule is in effect, the public benefit will be consistency and clarity in the Commission's rules regarding regulation of lobbyists. There will not be

an effect on small businesses, microbusinesses or rural communities. There is no anticipated economic cost to persons who are required to comply with the proposed amended rule.

The General Counsel has determined that during the first five years that the proposed amended rule is in effect, it will not: create or eliminate a government program; require the creation of new employee positions or the elimination of existing employee positions; require an increase in future legislative appropriations to the agency; require an increase or decrease in fees paid to the agency; expand, limit, or repeal an existing regulation; create a new regulation; increase or decrease the number of individuals subject to the rule's applicability; or positively or adversely affect this state's economy.

The Commission invites comments on the proposed amended rule from any member of the public. A written statement should be emailed to public_comment@ethics.state.tx.us, or mailed or delivered to James Tinley, Executive Director, Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711-2070. A person who wants to offer spoken comments to the Commission concerning the proposed amended rule may do so at any Commission meeting during the agenda item relating to the proposed amended rule. Information concerning the date, time, and location of Commission meetings is available by telephoning (512) 463-5800 or on the Commission's website at www.ethics.state.tx.us.

The amended rule is proposed under Texas Government Code §571.062, which authorizes the Commission to adopt rules to administer Chapter 305 of the Government Code.

The proposed amended rule affects chapter 305 of the Government Code.

§34.1. Definitions.

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

~~[(1) Communicates directly with, or any variation of that phrase--In Government Code, Chapter 305, and in this chapter includes communication by facsimile transmission.]~~

(1) [~~(2)~~] Expenditure--In Government Code, Chapter 305, and in this chapter does not include a payment of less than $200 that is fully reimbursed by the member of the legislative or executive branch who benefits from the expenditure if the member of the legislative or executive branch fully reimburses the person making the payment before the date the person would otherwise be required to report the payment.

(2) [~~(3)~~] Lobby activity--Direct communication with and preparation for direct communication with a member of the legislative or executive branch to influence legislation or administrative action.

(3) [~~(4)~~] Registrants Government Code, Chapter 305, and in this chapter means a person who is required to register as well as a person who has registered regardless of whether that person's registration was required.

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

Filed with the Office of the Secretary of State on December 11, 2025.

TRD-202504529

Amanda Arriaga
General Counsel
Texas Ethics Commission
Earliest possible date of adoption: January 25, 2026
For further information, please call: (512) 463-5800

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CHAPTER 50. LEGISLATIVE SALARIES AND PER DIEM

1 TAC §50.3

The Texas Ethics Commission (the TEC) proposes a new Texas Ethics Commission Rule §50.3 relating to Equitable Adjustments to Pensions.

SB 293 from the 89th Legislative Session changed the way pensions for members of the "elected class" (non-judicial statewide elected officials, members of the legislature, and some district and criminal district attorneys) are calculated. Before the enactment of SB 293, the pension for members of the "elected class" was tied to the salary of a district court judge. This meant that if the legislature raised the salary of a district court judge it would also raise the pension of its own members. This linkage resulted in the salary of district court judges stagnating. SB 293 decoupled the link between judicial pay and legislators' and other non-judicial officeholders' pension.

Instead, SB 293 delegates to the TEC the ability to make "equitable adjustments" to the base amount used to calculate pensions for members of the "elected class". In effect, rather than voting for their own pension increase (and that of the governor, lt. governor and other statewide elected officials), the legislature has delegated that authority to the TEC. The law requires the TEC to develop, adopt, and make public a methodology for adjusting the dollar amount on which the standard service retirement annuity is computed by September 1, 2026.

Amanda Arriaga, General Counsel, has determined that for the first five-year period the proposed new rule is in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the proposed new rule.

The General Counsel has also determined that for each year of the first five years the proposed new rule is in effect, the public benefit will be consistency and clarity in the methodology used to calculate pensions for certain state officials. There will not be an effect on small businesses, microbusinesses or rural communities. There is no anticipated economic cost to persons who are required to comply with the proposed new rule.

The General Counsel has determined that during the first five years that the proposed new rule is in effect, they will not: create or eliminate a government program; require the creation of new employee positions or the elimination of existing employee positions; require an increase in future legislative appropriations to the agency; require an increase or decrease in fees paid to the agency; expand, limit, or repeal an existing regulation; create a new regulation; increase or decrease the number of individuals subject to the rules' applicability; or positively or adversely affect this state's economy.

The Commission invites comments on the proposed new rule from any member of the public. A written statement should be emailed to public_comment@ethics.state.tx.us, or mailed or delivered to James Tinley, Executive Director, Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711-2070. A person

who wants to offer spoken comments to the Commission concerning the proposed new rule may do so at any Commission meeting during the agenda item relating to the proposed new rule. Information concerning the date, time, and location of Commission meetings is available by telephoning (512) 463-5800 or on the Commission's website at www.ethics.state.tx.us.

The new rule is proposed under Texas Government Code §571.062, which authorizes the Commission to adopt rules to administer Title 15 of the Election Code and Chapter 571 of the Government Code.

The proposed new rule affects Section 814.103 of the Government Code.

§50.3. Equitable Adjustments to Pensions.

(a) This section applies to equitable adjustments to the dollar amount on which standard service annuity is based under §814.103(a) of the Government Code.

(b) The commission shall consider an equitable increase in the dollar amount on which the standard annuity is based beginning August 31, 2030, and every fifth anniversary of that date and increase the dollar amount as the commission considers appropriate.

(c) When making an equitable adjustment, the commission shall consider any increase in compensation for elected officials and officers for salaries included in the General Appropriations Act.

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

Filed with the Office of the Secretary of State on December 11, 2025.

TRD-202504524
Amanda Arriaga
General Counsel
Texas Ethics Commission
Earliest possible date of adoption: January 25, 2026
For further information, please call: (512) 463-5800

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TITLE 10. COMMUNITY DEVELOPMENT

PART 1. TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

CHAPTER 6. COMMUNITY AFFAIRS PROGRAMS

SUBCHAPTER B. COMMUNITY SERVICES BLOCK GRANT

10 TAC §6.204

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

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

Tex. Gov't Code §2001.0045(b) does not apply to the amendment proposed because there are no costs associated with the amendment.

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

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

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

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

2. The amendment does not require a change in work that creates new employee positions nor does it generate a reduction in work that would eliminate any employee positions.

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

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

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

6. The amendment is not considered to expand an existing regulation.

7. The amendment does not increase the number of individuals subject to the rule's applicability.

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

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

The Department has evaluated the amendment and determined that the amendment will not create an economic effect on small or micro-businesses or rural communities.

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

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

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

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

10 TAC §1.410 Determination of Alien Status for Program Beneficiaries. There will not be economic costs to individuals required to comply with the amended section.

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

REQUEST FOR PUBLIC COMMENT AND INFORMATION RELATED TO COST, BENEFIT OR EFFECT. The Department requests comments on the rule action and also requests information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research, or analysis from any person required to comply with the proposed rule or any other interested person. The public comment period will be held December 26, 2025, to January 26, 2026, to receive input on the proposed action. Comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Brooke Boston at brooke.boston@tdhca.texas.gov. ALL COMMENTS AND INFORMATION MUST BE RECEIVED BY 5:00 p.m., Austin local (Central) time, January 26, 2026.

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

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

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

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

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

(c) U.S. Citizen, U.S. National or Qualified Alien. Only U.S. Citizens, U.S. Nationals and Qualified Aliens are eligible to receive CSBG benefits. In accordance with §1.410(f) of this title (relating to Determination of Alien Status for Program Beneficiaries), Eligible Entities must document U.S. Citizen, U.S. National, and Qualified Alien status for each household member using the Department approved form. Qualified Alien status must also be verified and documented using SAVE. Household eligibility shall be determined as follows:

(1) Count income for all Household members eighteen years of age and older, including Unqualified Aliens; and

(2) Calculate Household size for determining eligibility or benefits to exclude all Unqualified Aliens.

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

Filed with the Office of the Secretary of State on December 12, 2025.

TRD-202504590
Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
Earliest possible date of adoption: January 25, 2026
For further information, please call: (512) 475-3959

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CHAPTER 7. HOMELESSNESS PROGRAMS SUBCHAPTER B. HOMELESS HOUSING AND SERVICES PROGRAM (HHSP)

10 TAC §7.28

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

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

Tex. Gov't Code §2001.0045(b) does not apply to the amendment proposed because there are no costs associated with the amendment.

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

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

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

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

2. The amendment does not require a change in work that creates new employee positions nor does it generate a reduction in work that would eliminate any employee positions.

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

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

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

6. The amendment is not considered to expand an existing regulation.

7. The amendment does not increase the number of individuals subject to the rule's applicability.

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

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

The Department has evaluated the amendment and determined that the amendment will not create an economic effect on small or micro-businesses or rural communities.

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

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

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

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

10 TAC §1.410 Determination of Alien Status for Program Beneficiaries. There will not be economic costs to individuals required to comply with the amended section.

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

REQUEST FOR PUBLIC COMMENT AND INFORMATION RELATED TO COST, BENEFIT OR EFFECT. The Department requests comments on the rule action and also requests information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research, or analysis from any person required to comply with the proposed rule or any other interested person. The public comment period will be held December 26, 2025 to January 26, 2026, to receive input on the proposed action. Comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Brooke Boston at brooke.boston@tdhca.texas.gov. ALL COMMENTS AND INFORMATION MUST BE RECEIVED BY 5:00 p.m., Austin local (Central) time, January 26, 2026.

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

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

§7.28. Program Participant Eligibility and Program Participant Files.

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

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

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

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

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

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

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

(f) Break in service. The Subrecipient must document eligibility before providing services after a break in service. A break in service occurs when a previously assisted household has exited the program and is no longer receiving services through Homeless Programs. Upon reentry into HHSP, the Household is required to complete a new intake application and provide updated source documentation, if applicable. The Subrecipient would not need to document further eligibility for HHSP if the Program Participant is currently receiving assistance through ESG.

(g) Program participant files. Subrecipient or their Subgrantees shall maintain Program Participant files, for non-emergency

activities providing direct subsidy to or on behalf of a Program Participant that contain the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
Earliest possible date of adoption: January 25, 2026
For further information, please call: (512) 475-3959

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SUBCHAPTER C. EMERGENCY SOLUTIONS GRANTS (ESG)

10 TAC §7.44

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

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

Tex. Gov't Code §2001.0045(b) does not apply to the amendment proposed because there are no costs associated with the amendment.

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

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

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

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

2. The amendment does not require a change in work that creates new employee positions nor does it generate a reduction in work that would eliminate any employee positions.

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

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

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

6. The amendment is not considered to expand an existing regulation.

7. The amendment does not increase the number of individuals subject to the rule's applicability.

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

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

The Department has evaluated the amendment and determined that the amendment will not create an economic effect on small or micro-businesses or rural communities.

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

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

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

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

10 TAC §1.410 Determination of Alien Status for Program Beneficiaries. There will not be economic costs to individuals required to comply with the amended section.

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

REQUEST FOR PUBLIC COMMENT AND INFORMATION RELATED TO COST, BENEFIT OR EFFECT. The Department requests comments on the rule action and also requests information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research, or analysis from any person required to comply with the proposed rule or any other interested person. The public comment period will be held December 26, 2025 to January 26, 2026, to receive input on the proposed action. Comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Brooke Boston at brooke.boston@tdhca.texas.gov. ALL COMMENTS AND INFORMATION MUST BE RECEIVED BY 5:00 p.m., Austin local (Central) time, January 26, 2026.

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

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

§7.44. Program Participant Eligibility and Program Participant Files.

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

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

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

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

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

(1) Each Household member receiving direct assistance (including Homelessness Prevention or Rapid Re-Housing upon annual recertification) must be verified for eligibility in accordance with §1.410 of this title prior to receiving assistance.

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

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

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

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

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

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

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

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CHAPTER 10. UNIFORM MULTIFAMILY RULES

SUBCHAPTER J. HOUSING FINANCE CORPORATION COMPLIANCE MONITORING

10 TAC §§10.1201 - 10.1207

The Texas Department of Housing and Community Affairs (the Department) proposes new 10 TAC Subchapter J, Housing Finance Corporation Compliance Monitoring, §§10.1201 through 10.1207. The purpose of the proposed new rule, in compliance with Tex. Gov't Code §2306.053, is to implement the requirements of HB 21 (89th Regular Legislature), which tasks the Department with the compliance monitoring oversight of all Housing Finance Corporation (HFC) multifamily residential developments. The bill requires the Department to adopt rules related to the new compliance monitoring function by January 1, 2026. The new rule provides guidance on auditing and reporting requirements for Housing Finance Corporation (HFC) multifamily residential developments that are required to be audited no later than June 1, 2026, and the results reviewed and published by the Department.

FISCAL NOTE. Mr. Bobby Wilkinson, Executive Director, has determined that, for each year of the first five years the rule is in effect, enforcing or administering the amendment does not have any foreseeable implications related to costs or revenues of the state or local governments.

GOVERNMENT GROWTH IMPACT STATEMENT. Mr. Wilkinson also has determined that, for the first five years the rule would be in effect:

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

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

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

4. The proposed new rule will increase fees paid to the Department. Each HFC multifamily residential development must submit an annual service fee in the amount of $20 per restricted unit and the minimum fee shall not be less than $500.

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

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

7. The proposed new rule will not increase or decrease the number of individuals subject to the rule's applicability; and

8. The proposed new rule will neither positively nor negatively affect this state's economy.

PUBLIC BENEFIT/COST NOTE. Mr. Wilkinson also has determined that, for each year of the first five years the rule is in effect, the public benefit anticipated as a result of the new rule will be the provision of a new procedure of monitoring Housing Finance Corporations multifamily residential developments that are generally exempt from ad valorem taxation. There will be economic cost to individuals required to comply with the new rule because a fee will be collected by the Department to perform compliance monitoring on Housing Finance Corporations multifamily residential developments. In addition, HFCs will be required to hire third party auditors to complete the annual audits.

ADVERSE IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES. The Department has determined that there will be no economic effect on small or micro-businesses or rural communities because the rules apply only to Housing Finance Corporation multifamily residential developments.

REQUEST FOR PUBLIC COMMENT AND INFORMATION RELATED TO COST, BENEFIT OR EFFECT. The Department requests comments on the rule and also requests information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research, or analysis from any person required to comply with the proposed rule or any other interested person. The public comment period will be held December 26, 2025 to January 26, 2026, to receive input on the newly proposed action. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Wendy Quackenbush, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941, or email wendy.quackenbush@tdhca.texas.gov. ALL COMMENTS AND INFORMATION MUST BE RECEIVED BY 5:00 pm Austin local time, January 26, 2026.

STATUTORY AUTHORITY. The new rule is proposed pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules; Texas Local Government Code Chapter 394 as amended by HB21 (89th Regular Legislature); and Section 13(j) of HB 21 (89th Regular Legislature) which requires the Department to adopt rules to implement Section 394.9027(i), Texas Local Government Code.

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

§10.1201. Purpose and Applicability.

The purpose of this Subchapter is to:

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

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

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

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

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

§10.1202. Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(16) Rent--Any recurring fee or charge a tenant is required to pay as a condition of occupancy, including a fee or charge for the use of a common area, amenity, or facility reasonably associated with the residential rental property. The term does not include pest control fees, fees for utilities (including phone, internet and cable) fees, and charges for services or amenities that are optional for a tenant, such as pet fees and fees for storage or covered parking.

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

(18) Responsible Parties--The Housing Finance Corporation that owns or is associated with the Development, the Housing Finance Corporation User of the Development, the Texas Comptroller, and the governing body of the Sponsor.

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

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

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

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

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

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

§10.1203. Reporting Requirements.

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

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

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

(B) Audit Report extension requests must be submitted to hfc@tdhca.texas.gov no later than May 1 of each reporting year. The request for an extension must include an explanation of the reason and the requested submission date, not to exceed 120 days from the June 1 reporting deadline. Within seven calendar days of receiving the request, the Department will respond to the request and issue a determination of approval or denial for an extension.

(C) Prior to submission of the first Audit Report for a Development, the HFC User must provide the Auditor with a copy of the underwriting assessment as published on the HFC website and as conducted pursuant to Section 394.905(b)(3) of Texas Local Government Code; a copy of the resolution or order required by Section 394.031(d) and Section 394.037(a-1)(2) if applicable; and a copy of the board meeting minutes, public hearing transcript or adopted resolution, or other document evidencing approval of the Development. The Auditor will include these with the first Audit Report. Additionally, a copy of the Regulatory Agreement and a copy of the one-time exemption application submitted to the Texas Comptroller's office shall be included in the first Audit Report. These items being submitted are the responsibility of the HFC User; if the Auditor indicates in their Audit Report that the HFC User has not provided the documents required in this subparagraph, a compliance finding will be issued.

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

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

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

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

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

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

(B) include contact information for all Responsible Parties.

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

(4) The HFC User must submit an annual service fee to the Department by June 1 of each year of the greater of $20 per Restricted unit or $500 for Developments subject to an Audit Report. This fee shall be tendered by check, money order, or via an online payment system (if provided by the Department), payable to the Texas Department of Housing and Community Affairs. This fee, when received in connection with an Audit Report, is earned and is not subject to refund.

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

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

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

(B) If there is any noncompliance with Section 394.9026 that is not corrected within the 180-day corrective action period, the Department will notify the Responsible Parties, appropriate appraisal district, and the Texas Comptroller in writing and recommend a loss of ad valorem tax exemption under Section 394.905 Texas Local Government Code respective to the Tax Year being Audited.

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

(8) Audit Reports and supporting documentation and required forms must be submitted though the Departments File Serve

System. To obtain access to this system the HFC User or Auditor must request access by emailing hfc@tdhca.texas.gov.

§10.1204. Audit Requirements.

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

(1) If the Multifamily Residential Development was acquired prior to May 28, 2025, the Development must comply with all requirements by January 1, 2026, with the exception of paragraphs (3)(B), (3)(C), (3)(J), (3)(K) and (3)(L) of this section, which must be met no later than the end of the 10th Tax Year following May 28, 2025, or the end of the first Tax Year following a Tax Year in which the Development was refinanced, fee or leasehold title was conveyed or a sale or transfer of a majority of the beneficial ownership interest in the Multifamily Residential Development or HFC User occurred. For purposes of this rule, refinancing of construction loans, whether by virtue of conversion from construction phase to permanent phase or replacement of construction, bridge, or short-term (less than 5 years) financing with permanent financing, will not be considered a refinancing.

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

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

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

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

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

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

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

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

(i) Where the household's income exceeds the AMI as designated, the household can be redesignated to the next AMI level in the Regulatory Agreement. The next available unit of comparable size in the Development is to be reserved for and occupied by a tenant that meets the AMI of the household that was determined to exceed the income limit. Example 1204(1): Development Regulatory Agreement includes units at 80% and 160%, Unit 101, a one-bedroom Unit Type, is designated as 80%. At the annual income recertification, the household income was determined to exceed 80% AMI but was less than 160% AMI. The unit should be redesignated as 160% at the time the determination is made and the next available one-bedroom Unit Type in the Development must be reserved for and occupied by an 80% household.

(ii) Where the household's income exceeds the AMI as designated and the household is designated at the highest AMI in the Regulatory Agreement, the next available unit of comparable size in the Development is to be reserved for and occupied by a tenant that meets the AMI of the household that was determined to exceed the income limit. Example 1204(2): Development Regulatory Agreement includes units at 80% and 160%. Unit 201, a two-bedroom Unit Type is designated as 160%. At the annual income recertification, household income was determined to exceed 160% AMI, the highest AMI in the Regulatory Agreement. The next two-bedroom Unit Type in the Development, must be reserved for and occupied by a 160% household. Unit 201 retains the 160% status until such time that the Available Unit Rule, as described here, is complied with or violated.

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

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

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

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

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

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

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

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

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

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

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

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

(K) Rent Restrictions:

(i) Monthly Rent for Restricted Units may not exceed thirty percent (30%) of the imputed household income limitation for the unit, adjusted for family size, as determined by HUD. To determine the adjustment for family size, the Auditor will defer to the Development's Regulatory Agreement and/or other operative document. In the event that the adjustment for family size is unclear, it is the responsibility of the HFC User to provide the Auditor support that the manner in which the adjustment was applied is acceptable by the HFC.

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

(L) Rent Reduction Comparison:

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

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

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

(-a-) For a Development acquired by an HFC the first Audit Report that will include the rent reduction test is for the first Tax Year after the acquisition Tax Year. Example 1204(3): Development acquired by an HFC on July 24, 2025. The acquisition tax year would be 2025, and the second tax year after acquisition would be 2026, so the first Audit Report would be due on June 1, 2026. The first rent reduction test would be for Tax Year 2026 on Audit Report submitted June 1, 2027.

(-b-) For newly constructed Developments the first Audit Report that will include the rent reduction test for the first Tax Year after the Tax Year in which construction first begins. Example 1204(4): An Multifamily Residential Development begins new construction on February 1, 2026. The first tenant occupies the Development on September 15, 2027. The first Audit Report is due on June 1, 2028, and must include the rent reduction test for reporting year 2027.

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

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

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

(III) If the Rent Reduction calculation demonstrates that the Rent Reduction was less than 50% of the amount of the estimated ad valorem taxes that would have been imposed on the Development for the Tax Year, the HFC User must pay each taxing authority the pro rata share of the Rent Reduction shortfall; the pro rata amount will be based on each taxing authorities share of the combined aggregate published millage rate of all applicable taxing authorities. The Rent Reduction shortfall is an amount equal to 50% of the estimated ad valorem tax amount minus the total Rent Reduction for the Tax Year. The Auditor must provide evidence of any payments made by the HFC User to the appropriate taxing authority in the Audit Report.

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

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

(-b-) For occupied Developments acquired by an HFC which already receive a property tax exemption, estimated ad valorem taxes may be based on an independent appraisal, third-party property tax report, published appraisal district value, or other means acceptable to the Department.

(-c-) For new construction, estimated ad valorem taxes may be based on an independent appraisal, third-party property tax report, published appraisal district value, or other means acceptable to the Department.

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

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

§10.1205. Income and Rent Calculations.

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

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

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

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

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

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

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

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

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

§10.1206. Penalties.

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

§10.1207. Options for Review.

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

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

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

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

Filed with the Office of the Secretary of State on December 15, 2025.

TRD-202504640
Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
Earliest possible date of adoption: January 25, 2026
For further information, please call: (512) 475-3959

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CHAPTER 20. SINGLE FAMILY PROGRAMS UMBRELLA RULE

10 TAC §20.4

The Texas Department of Housing and Community Affairs (the Department) proposes amendments to §20.4 Eligible Single Family Activities, which applies to the Single Family Programs Umbrella Rule. The purpose of the proposed amendment is to specify how households receiving benefits through Single Family Programs will have those benefits determined based on the household members' legal status. 10 TAC §1.410 Determination of Alien Status for Program Beneficiaries outlines the requirement that all Single Family, Community Affairs and Homelessness programs subrecipients of the Department must confirm legal alien status for program participants in order to receive assistance. This is to ensure that an alien who is not a qualified alien does not receive a federal public benefit.

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

Tex. Gov't Code §2001.0045(b) does not apply to the amendment proposed because there are no costs associated with the amendment.

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

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

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

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

2. The amendment does not require a change in work that creates new employee positions nor does it generate a reduction in work that would eliminate any employee positions.

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

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

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

6. The amendment is not considered to expand an existing regulation.

7. The amendment does not increase the number of individuals subject to the rule's applicability.

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

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

The Department has evaluated the amendment and determined that the amendment will not create an economic effect on small or micro-businesses or rural communities.

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

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

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

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the amendment is in effect, the public benefit anticipated as a result of the changed section would be a rule that provides clarity in implementing 10 TAC §1.410 Determination of Alien Status for Program Beneficiaries. There will not be economic costs to individuals required to comply with the amended section.

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

REQUEST FOR PUBLIC COMMENT AND INFORMATION RELATED TO COST, BENEFIT OR EFFECT. The Department requests comments on the rule action and also requests information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research, or analysis from any person required to comply with the proposed rule or any other interested person. The public comment period will be held December 26, 2025 to January 26, 2026, to receive input on the proposed action. Comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Brooke Boston at brooke.boston@tdhca.texas.gov. ALL COMMENTS AND INFORMATION MUST BE RECEIVED BY 5:00 p.m., Austin local (Central) time, January 26, 2026.

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

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

§20.4. Eligible Single Family Activities.

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

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

(1) Rehabilitation or new construction of Single Family Housing Units;

(2) Reconstruction of an existing Single Family Housing Unit on the same site;

(3) Replacement of existing owner-occupied housing with a new MHU;

(4) Acquisition of Single Family Housing Units, including acquisition with rehabilitation and accessibility modifications;

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

(6) Tenant-based rental assistance; and

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

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

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

(2) For assistance provided as an area benefit or limited clientele activity under the Colonia Self-Help Centers Program related to CDBG, or as an area benefit activity for NSP as described in 24 CFR §570.483, area benefit activities and limited clientele activities are exempt from the verification requirements in §1.410 of this title as individual eligibility is not required to be established for these Activity types.

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

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

Filed with the Office of the Secretary of State on December 12, 2025.

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Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
Earliest possible date of adoption: January 25, 2026
For further information, please call: (512) 475-3959

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10 TAC §20.6

The Texas Department of Housing and Community Affairs (the Department) proposes amendments to §20.6 Administrator Applicant Eligibility, which applies to the Single Family Programs Umbrella Rule. The purpose of the proposed amendment is to specify how households receiving benefits through Single Family Programs will have those benefits determined based on the household members' legal status. 10 TAC §1.410 Determination of Alien Status for Program Beneficiaries outlines the requirement that all Single Family, Community Affairs and Homelessness programs subrecipients of the Department must confirm legal alien status for program participants in order to receive assistance. This is to ensure that an alien who is not a qualified alien does not receive a federal public benefit.

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

Tex. Gov't Code §2001.0045(b) does not apply to the amendment proposed because there are no costs associated with the amendment.

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

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

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

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

2. The amendment does not require a change in work that creates new employee positions nor does it generate a reduction in work that would eliminate any employee positions.

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

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

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

6. The amendment is not considered to expand an existing regulation.

7. The amendment does not increase the number of individuals subject to the rule's applicability.

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

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

The Department has evaluated the amendment and determined that the amendment will not create an economic effect on small or micro-businesses or rural communities.

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

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

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

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

10 TAC §1.410 Determination of Alien Status for Program Beneficiaries. There will not be economic costs to individuals required to comply with the amended section.

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

REQUEST FOR PUBLIC COMMENT AND INFORMATION RELATED TO COST, BENEFIT OR EFFECT. The Department requests comments on the rule action and also requests information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research, or analysis from any person required to comply with the proposed rule or any other interested person. The public comment period will be held December 26, 2025 to January 26, 2026, to receive input on the proposed action. Comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Brooke Boston at brooke.boston@tdhca.texas.gov. ALL COMMENTS AND INFORMATION MUST BE RECEIVED BY 5:00 p.m., Austin local (Central) time, January 26, 2026.

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

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

§20.6. Administrator Applicant Eligibility.

(a) Eligible Applicants seeking to administer a single family Program are limited to entities described in the Program Rule and/or NOFA; and

(1) Shall be in good standing with the Department, Texas Secretary of State, Texas Comptroller of Public Accounts and HUD, as applicable.

(2) Shall comply with all applicable state and federal rules, statutes, or regulations including those administrative requirements in Chapters 1 and 2 of this title (relating to Administration and Enforcement).

(3) Must provide Resolutions in accordance with the applicable Program Rule.

(b) The actions described in the following paragraphs (1) - (3) of this subsection may cause an Applicant and any Applications they have submitted to administer a Single Family Program to be ineligible:

(1) Applicant did not satisfy all eligibility and/or threshold requirements described in the applicable Program Rule and NOFA;

(2) Applicant is debarred by HUD or the Department; or

(3) Applicant is currently noncompliant or has a history of noncompliance with any Department Program. Each Applicant will be reviewed by the Executive Award and Review Advisory Committee (EARAC) for its compliance history by the Department, as provided in §1.302 (relating to Previous Participation Reviews for Department Program Awards Not Covered by §1.301 of this Subchapter) and §1.303 (relating to Executive Award and Review Advisory Committee (EARAC)) of this title. An Application submitted by an Applicant found to be in noncompliance or otherwise violating the rules of the Department may be recommended with conditions or not recommended for funding by EARAC.

(c) The Department reserves the right to adjust the amount awarded based on the Application's feasibility, underwriting analysis, the availability of funds, or other similar factors as deemed appropriate by the Department.

(d) The Department may decline to fund any Application to administer a Single Family Program if the proposed Activities do not, in the Department's sole determination, represent a prudent use of the Department's funds. The Department is not obligated to proceed with any action pertaining to any Applications received, and may decide it is in the Department's best interest to refrain from pursuing any selection process. The Department reserves the right to negotiate individual components of any Application.

(e) If an Applicant/Administrator is originating or servicing a Mortgage Loan, the Applicant/Administrator must possess all licenses required under state or federal law for taking the Application of and/or servicing a residential mortgage loan and must be in good standing with respect thereto, unless Applicant/Administrator is specifically exempted from such licensure pursuant to the applicable state and federal laws and regulations regarding residential mortgage loans.

(f) Applicant is required to select a verification process under §1.410 of this title (relating to Determination of Alien Status for Program Beneficiaries). The Applicant may elect to change the selected method of verification during administration of the Activity subject to Department review and approval of the updated method.

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

Filed with the Office of the Secretary of State on December 12, 2025.

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Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
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For further information, please call: (512) 475-3959

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TITLE 22. EXAMINING BOARDS

PART 15. TEXAS STATE BOARD OF PHARMACY

CHAPTER 291. PHARMACIES
SUBCHAPTER B. COMMUNITY PHARMACY (CLASS A)

22 TAC §291.33

The Texas State Board of Pharmacy proposes amendments to §291.33, concerning Operational Standards. The amendments, if adopted, allow for written information reinforcing patient counseling to be provided electronically unless requested in a hardcopy format and remove the requirement to document the request.

Daniel Carroll, Pharm.D., Executive Director/Secretary, has determined that, for the first five-year period the rules are in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the rule. Dr. Carroll has determined that, for each year of the first five-year period the rule will be in effect, the public benefit anticipated as a result of enforcing the amendments will be providing pharmacies more flexibility in methods for communicating prescription drug information to better serve the needs of the pharmacy's patients. There is no anticipated adverse economic impact on large, small or micro-businesses (pharmacies), rural communities, or local or state employment. Therefore, an economic impact statement and regulatory flexibility analysis are not required.

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

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

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

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

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

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

(6) The proposed amendments do limit an existing regulation;

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

(8) The proposed amendments do not positively or adversely affect this state's economy.

The Board is requesting public comments on the proposed amendments and information related to the cost, benefit, or effect of the proposed amendments, including any applicable data, research, or analysis. Any information that is submitted in response to this request must include an explanation of how and why the submitted information is specific to the proposed amendments.

Written comments on the amendments may be submitted to Eamon D. Briggs, Deputy General Counsel, Texas State Board of Pharmacy, 1801 Congress Avenue, Suite 13.100, Austin, Texas, 78701-1319, FAX (512) 305-8061. The deadline for comments is 30 days after publication in the *Texas Register*.

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

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

§291.33. Operational Standards.

(a) Licensing requirements.

(1) A Class A pharmacy shall register annually or biennially with the board on a pharmacy license application provided by the board, following the procedures as specified in §291.1 of this title (relating to Pharmacy License Application).

(2) A Class A pharmacy which changes ownership shall notify the board within ten days of the change of ownership and apply for a new and separate license as specified in §291.3 of this title (relating to Required Notifications).

(3) A Class A pharmacy which changes location and/or name shall notify the board as specified in §291.3 of this title.

(4) A Class A pharmacy owned by a partnership or corporation which changes managing officers shall notify the board in writing of the names of the new managing officers within ten days of the change, following the procedures as specified in §291.3 of this title.

(5) A Class A pharmacy shall notify the board in writing within ten days of closing, following the procedures as specified in §291.5 of this title (relating to Closing a Pharmacy).

(6) A separate license is required for each principal place of business and only one pharmacy license may be issued to a specific location.

(7) A fee as specified in §291.6 of this title (relating to Pharmacy License Fees) will be charged for the issuance and renewal of a license and the issuance of an amended license.

(8) A Class A pharmacy, licensed under the provisions of the Act, §560.051(a)(1), which also operates another type of pharmacy which would otherwise be required to be licensed under the Act, §560.051(a)(2) concerning Nuclear Pharmacy (Class B), is not required to secure a license for such other type of pharmacy; provided, however, such licensee is required to comply with the provisions of Subchapter C of this chapter (relating to Nuclear Pharmacy (Class B)), to the extent such sections are applicable to the operation of the pharmacy.

(9) A Class A pharmacy engaged in the compounding of non-sterile preparations shall comply with the provisions of §291.131 of this title (relating to Pharmacies Compounding Non-Sterile Preparations).

(10) A Class A pharmacy shall not compound sterile preparations.

(11) A Class A pharmacy engaged in the provision of remote pharmacy services, including storage and dispensing of prescription drugs, shall comply with the provisions of §291.121 of this title (relating to Remote Pharmacy Services).

(12) Class A pharmacy engaged in centralized prescription dispensing and/or prescription drug or medication order processing shall comply with the provisions of §291.123 of this title (relating to Central Prescription Drug or Medication Order Processing) and/or §291.125 of this title (relating to Centralized Prescription Dispensing).

(b) Environment.

(1) General requirements.

(A) The pharmacy shall be arranged in an orderly fashion and kept clean. All required equipment shall be clean and in good operating condition.

(B) A Class A pharmacy shall have a sink with hot and cold running water within the pharmacy, exclusive of restroom facilities, available to all pharmacy personnel and maintained in a sanitary condition.

(C) A Class A pharmacy which serves the general public shall contain an area which is suitable for confidential patient counseling.

(i) Such counseling area shall be:

(I) easily accessible to both patient and pharmacists and not allow patient access to prescription drugs; and

(II) designed to maintain the confidentiality and privacy of the pharmacist/patient communication.

(ii) In determining whether the area is suitable for confidential patient counseling and designed to maintain the confidentiality and privacy of the pharmacist/patient communication, the board may consider factors such as the following:

(I) the proximity of the counseling area to the check-out or cash register area;

(II) the volume of pedestrian traffic in and around the counseling area;

(III) the presence of walls or other barriers between the counseling area and other areas of the pharmacy; and

(IV) any evidence of confidential information being overheard by persons other than the patient or patient's agent or the pharmacist or agents of the pharmacist.

(D) The pharmacy shall be properly lighted and ventilated.

(E) The temperature of the pharmacy shall be maintained within a range compatible with the proper storage of drugs. The temperature of the refrigerator shall be maintained within a range compatible with the proper storage of drugs requiring refrigeration.

(F) Animals, including birds and reptiles, shall not be kept within the pharmacy and in immediately adjacent areas under the control of the pharmacy. This provision does not apply to fish in aquariums, service animals accompanying disabled persons, or animals for

sale to the general public in a separate area that is inspected by local health jurisdictions.

(G) If the pharmacy has flammable materials, the pharmacy shall have a designated area for the storage of flammable materials. Such area shall meet the requirements set by local and state fire laws.

(2) Security.

(A) Each pharmacist while on duty shall be responsible for the security of the prescription department, including provisions for effective control against theft or diversion of prescription drugs, and records for such drugs.

(B) The prescription department shall be locked by key, combination or other mechanical or electronic means to prohibit unauthorized access when a pharmacist is not on-site except as provided in subparagraphs (C) and (D) of this paragraph and paragraph (3) of this subsection. The following is applicable:

(i) If the prescription department is closed at any time when the rest of the facility is open, the prescription department must be physically or electronically secured. The security may be accomplished by means such as floor to ceiling walls; walls, partitions, or barriers at least 9 feet 6 inches high; electronically monitored motion detectors; pull down sliders; or other systems or technologies that will secure the pharmacy from unauthorized entrance when the pharmacy is closed. Pharmacies licensed prior to June 1, 2009, shall be exempt from this provision unless the pharmacy changes location. Change of location shall include the relocation of the pharmacy within the licensed address. A pharmacy licensed prior to June 1, 2009 that files a change of ownership but does not change location shall be exempt from the provisions.

(ii) The pharmacy's key, combination, or other mechanical or electronic means of locking the pharmacy may not be duplicated without the authorization of the pharmacist-in-charge or owner.

(iii) At a minimum, the pharmacy must have a basic alarm system with off-site monitoring and perimeter and motion sensors. The pharmacy may have additional security by video surveillance camera systems.

(C) Prior to authorizing individuals to enter the prescription department, the pharmacist-in-charge or owner may designate persons who may enter the prescription department to perform functions, other than dispensing functions or prescription processing, documented by the pharmacist-in-charge including access to the prescription department by other pharmacists, pharmacy personnel and other individuals. The pharmacy must maintain written documentation of authorized individuals other than individuals employed by the pharmacy who accessed the prescription department when a pharmacist is not on-site.

(D) Only persons designated either by name or by title including such titles as "relief" or "floater" pharmacist, in writing by the pharmacist-in-charge may unlock the prescription department except in emergency situations. An additional key to or instructions on accessing the prescription department may be maintained in a secure location outside the prescription department for use during an emergency or as designated by the pharmacist-in-charge.

(E) Written policies and procedures for the pharmacy's security shall be developed and implemented by the pharmacist-in-charge and/or the owner of the pharmacy. Such policies and procedures may include quarterly audits of controlled substances commonly abused or diverted; perpetual inventories for the comparison of the receipt, dispensing, and distribution of controlled substances; monthly reports from the pharmacy's wholesaler(s) of controlled substances purchased by the pharmacy; opening and closing procedures; product storage and placement; and central management oversight.

(3) Temporary absence of pharmacist.

(A) On-site supervision by pharmacist.

(i) If a pharmacy is staffed by only one pharmacist, the pharmacist may leave the prescription department for short periods of time without closing the prescription department and removing pharmacy technicians, pharmacy technician trainees, and other pharmacy personnel from the prescription department provided the following conditions are met:

(I) at least one pharmacy technician remains in the prescription department;

(II) the pharmacist remains on-site at the licensed location of the pharmacy and is immediately available;

(III) the pharmacist reasonably believes that the security of the prescription department will be maintained in his or her absence. If in the professional judgment of the pharmacist, the pharmacist determines that the prescription department should close during his or her absence, then the pharmacist shall close the prescription department and remove the pharmacy technicians, pharmacy technician trainees, and other pharmacy personnel from the prescription department during his or her absence; and

(IV) a notice is posted which includes the following information:

(-a-) the pharmacist is on a break and the time the pharmacist will return; and

(-b-) pharmacy technicians may begin the processing of prescription drug orders or refills brought in during the pharmacist's absence, but the prescription or refill may not be delivered to the patient or the patient's agent until the pharmacist verifies the accuracy of the prescription.

(ii) During the time a pharmacist is absent from the prescription department, only pharmacy technicians who have completed the pharmacy's training program may perform the following duties, provided a pharmacist verifies the accuracy of all acts, tasks, and functions performed by the pharmacy technicians prior to delivery of the prescription to the patient or the patient's agent:

(I) initiating and receiving refill authorization requests;

(II) entering prescription data into a data processing system;

(III) taking a stock bottle from the shelf for a prescription;

(IV) preparing and packaging prescription drug orders (e.g., counting tablets/capsules, measuring liquids, or placing them in the prescription container);

(V) affixing prescription labels and auxiliary labels to the prescription container;

(VI) prepackaging and labeling prepackaged drugs;

(VII) receiving oral prescription drug orders for dangerous drugs and reducing these orders to writing, either manually or electronically;

(VIII) transferring or receiving a transfer of original prescription information for dangerous drugs on behalf of a patient; and

(IX) contacting a prescriber for information regarding an existing prescription for a dangerous drug.

(iii) Upon return to the prescription department, the pharmacist shall:

(I) conduct a drug regimen review as specified in subsection (c)(2) of this section; and

(II) verify the accuracy of all acts, tasks, and functions performed by the pharmacy technicians prior to delivery of the prescription to the patient or the patient's agent.

(iv) An agent of the pharmacist may deliver a previously verified prescription to the patient or his or her agent provided a record of the delivery is maintained containing the following information:

(I) date of the delivery;

(II) unique identification number of the prescription drug order;

(III) patient's name;

(IV) patient's phone number or the phone number of the person picking up the prescription; and

(V) signature of the person picking up the prescription.

(v) Any prescription delivered to a patient when a pharmacist is not in the prescription department must meet the requirements for a prescription delivered to a patient as described in subsection (c)(1)(F) of this section.

(vi) During the times a pharmacist is absent from the prescription department a pharmacist intern shall be considered a registered pharmacy technician and may perform only the duties of a registered pharmacy technician.

(vii) In pharmacies with two or more pharmacists on duty, the pharmacists shall stagger their breaks and meal periods so that the prescription department is not left without a pharmacist on duty.

(B) Pharmacist is off-site.

(i) The prescription department must be secured with procedures for entry during the time that a pharmacy is not under the continuous on-site supervision of a pharmacist and the pharmacy is not open for pharmacy services.

(ii) Pharmacy technicians and pharmacy technician trainees may not perform any duties of a pharmacy technician or pharmacy technician trainee during the time that the pharmacist is off-site.

(iii) A pharmacy may use an automated dispensing and delivery system as specified in §291.121(d) of this title for pick-up of a previously verified prescription by a patient or patient's agent.

(iv) An agent of the pharmacist may deliver a previously verified prescription to a patient or patient's agent during short periods of time when a pharmacist is off-site, provided the following conditions are met:

(I) short periods of time may not exceed two consecutive hours in a 24 hour period;

(II) a notice is posted which includes the following information:

(-a-) the pharmacist is off-site and not present in the pharmacy;

(-b-) no new prescriptions may be prepared at the pharmacy but previously verified prescriptions may be delivered to the patient or the patient's agent; and

(-c-) the date/time when the pharmacist will return;

(III) the pharmacy must maintain documentation of the absences of the pharmacist(s); and

(IV) the prescription department is locked and secured to prohibit unauthorized entry.

(v) During the time a pharmacist is absent from the prescription department and is off-site, a record of prescriptions delivered must be maintained and contain the following information:

(I) date and time of the delivery;

(II) unique identification number of the prescription drug order;

(III) patient's name;

(IV) patient's phone number or the phone number of the person picking up the prescription; and

(V) signature of the person picking up the prescription.

(vi) Any prescription delivered to a patient when a pharmacist is not on-site at the pharmacy must meet the requirements for a prescription delivered to a patient as described in subsection (c)(1)(F) of this section.

(c) Prescription dispensing and delivery.

(1) Patient counseling and provision of drug information.

(A) To optimize drug therapy, a pharmacist shall communicate to the patient or the patient's agent information about the prescription drug or device which in the exercise of the pharmacist's professional judgment the pharmacist deems significant, such as the following:

(i) name and description of the drug or device;

(ii) dosage form, dosage, route of administration, and duration of drug therapy;

(iii) special directions and precautions for preparation, administration, and use by the patient;

(iv) common severe side or adverse effects or interactions and therapeutic contraindications that may be encountered, including their avoidance, and the action required if they occur;

(v) techniques for self-monitoring of drug therapy;

(vi) proper storage;

(vii) refill information; and

(viii) action to be taken in the event of a missed dose.

(B) Such communication shall be:

(i) provided to new and existing patients of a pharmacy with each new prescription drug order. A new prescription drug order is one that has not been dispensed by the pharmacy to the patient in the same dosage and strength within the last year;

(ii) provided for any prescription drug order dispensed by the pharmacy on the request of the patient or patient's agent;

(iii) communicated orally unless the patient or patient's agent is not at the pharmacy or a specific communication barrier prohibits such oral communication;

(iv) documented by recording the initials or identification code of the pharmacist providing the counseling in the prescription dispensing record as follows:

(I) on the original hard-copy prescription, provided the counseling pharmacist clearly records his or her initials on the prescription for the purpose of identifying who provided the counseling;

(II) in the pharmacy's data processing system;

(III) in an electronic logbook; or

(IV) in a hard-copy log; and

(v) reinforced with written information relevant to the prescription and provided to the patient or patient's agent. The following is applicable concerning this written information:

(I) Written information must be in plain language designed for the patient and printed in an easily readable font size comparable to but no smaller than ten-point Times Roman. This information may be provided to the patient in an electronic format, such as by e-mail, unless [~~if~~] the patient or patient's agent requests the information in a hard-copy [~~an electronic~~] format [~~and the pharmacy documents the request~~].

(II) When a compounded preparation is dispensed, information shall be provided for the major active ingredient(s), if available.

(III) For new drug entities, if no written information is initially available, the pharmacist is not required to provide information until such information is available, provided:

(-a-) the pharmacist informs the patient or the patient's agent that the product is a new drug entity and written information is not available;

(-b-) the pharmacist documents the fact that no written information was provided; and

(-c-) if the prescription is refilled after written information is available, such information is provided to the patient or patient's agent.

(IV) The written information accompanying the prescription or the prescription label shall contain the statement "Do not flush unused medications or pour down a sink or drain." A drug product on a list developed by the Federal Food and Drug Administration of medicines recommended for disposal by flushing is not required to bear this statement.

(C) Only a pharmacist may verbally provide drug information to a patient or patient's agent and answer questions concerning prescription drugs. Non-pharmacist personnel and/or the pharmacy's computer system may not ask questions of a patient or patient's agent which are intended to screen and/or limit interaction with the pharmacist.

(D) Nothing in this subparagraph shall be construed as requiring a pharmacist to provide consultation when a patient or patient's agent refuses such consultation. The pharmacist shall document such refusal for consultation.

(E) In addition to the requirements of subparagraphs (A) - (D) of this paragraph, if a prescription drug order is delivered to the patient at the pharmacy, the following is applicable:

(i) So that a patient will have access to information concerning his or her prescription, a prescription may not be delivered to a patient unless a pharmacist is in the pharmacy, except as provided in subsection (b)(3) of this section.

(ii) Any prescription delivered to a patient when a pharmacist is not in the pharmacy must meet the requirements described in subparagraph (F) of this paragraph.

(F) In addition to the requirements of subparagraphs (A) - (D) of this paragraph, if a prescription drug order is delivered to the patient or his or her agent at the patient's residence or other designated location, the following is applicable:

(i) The information as specified in subparagraph (A) of this paragraph shall be delivered with the dispensed prescription in writing.

(ii) If prescriptions are routinely delivered outside the area covered by the pharmacy's local telephone service, the pharmacy shall provide a toll-free telephone line which is answered during normal business hours to enable communication between the patient and a pharmacist.

(iii) The pharmacist shall place on the prescription container or on a separate sheet delivered with the prescription container in both English and Spanish the local and, if applicable, toll-free telephone number of the pharmacy and the statement: "Written information about this prescription has been provided for you. Please read this information before you take the medication. If you have questions concerning this prescription, a pharmacist is available during normal business hours to answer these questions at (insert the pharmacy's local and toll-free telephone numbers)."

(iv) The pharmacy shall maintain and use adequate storage or shipment containers and use shipping processes to ensure drug stability and potency. Such shipping processes shall include the use of appropriate packaging material and/or devices to ensure that the drug is maintained at an appropriate temperature range to maintain the integrity of the medication throughout the delivery process.

(v) The pharmacy shall use a delivery system which is designed to ensure that the drugs are delivered to the appropriate patient.

(G) The provisions of this paragraph do not apply to patients in facilities where drugs are administered to patients by a person required to do so by the laws of the state (i.e., nursing homes).

(2) Pharmaceutical care services.

(A) Drug regimen review.

(i) For the purpose of promoting therapeutic appropriateness, a pharmacist shall, prior to or at the time of dispensing a prescription drug order, review the patient's medication record. Such review shall at a minimum identify clinically significant:

(I) known allergies;

(II) rational therapy-contraindications;

(III) reasonable dose and route of administration;

(IV) reasonable directions for use;

(V) duplication of therapy;

(VI) drug-drug interactions;

(VII) drug-food interactions;

(VIII) drug-disease interactions;

(IX) adverse drug reactions; and

(X) proper utilization, including overutilization or underutilization.

(ii) Upon identifying any clinically significant conditions, situations, or items listed in clause (i) of this subparagraph, the pharmacist shall take appropriate steps to avoid or resolve the problem including consultation with the prescribing practitioner. The pharmacist shall document such occurrences as specified in subparagraph (C) of this paragraph.

(iii) The drug regimen review may be conducted by remotely accessing the pharmacy's electronic database from outside the pharmacy by:

(I) an individual Texas licensed pharmacist employee of the pharmacy provided the pharmacy establishes controls to protect the privacy of the patient and the security of confidential records; or

(II) a pharmacist employed by a Class E pharmacy provided the pharmacies have entered into a written contract or agreement which outlines the services to be provided and the responsibilities and accountabilities of each pharmacy in compliance with federal and state laws and regulations.

(iv) Prior to dispensing, any questions regarding a prescription drug order must be resolved with the prescriber and written documentation of these discussions made and maintained as specified in subparagraph (C) of this paragraph.

(B) Other pharmaceutical care services which may be provided by pharmacists include, but are not limited to, the following:

(i) managing drug therapy as delegated by a practitioner as allowed under the provisions of the Medical Practice Act;

(ii) administering immunizations and vaccinations under written protocol of a physician;

(iii) managing patient compliance programs;

(iv) providing preventative health care services; and

(v) providing case management of patients who are being treated with high-risk or high-cost drugs, or who are considered "high risk" due to their age, medical condition, family history, or related concern.

(C) Documentation of consultation. When a pharmacist consults a prescriber as described in subparagraph (A) of this paragraph, the pharmacist shall document on the prescription or in the pharmacy's data processing system associated with the prescription such occurrences and shall include the following information:

(i) date the prescriber was consulted;

(ii) name of the person communicating the prescriber's instructions;

(iii) any applicable information pertaining to the consultation; and

(iv) initials or identification code of the pharmacist performing the consultation clearly recorded for the purpose of identifying the pharmacist who performed the consultation.

(3) Substitution of generically equivalent drugs or interchangeable biological products. A pharmacist may dispense a generically equivalent drug or interchangeable biological product and shall comply with the provisions of §309.3 of this title (relating to Substitution Requirements).

(4) Substitution of dosage form.

(A) As specified in §562.012 of the Act, a pharmacist may dispense a dosage form of a drug product different from that prescribed, such as a tablet instead of a capsule or liquid instead of tablets, provided:

(i) the patient consents to the dosage form substitution; and

(ii) the dosage form so dispensed:

(I) contains the identical amount of the active ingredients as the dosage prescribed for the patient;

(II) is not an enteric-coated or time release product; and

(III) does not alter desired clinical outcomes.

(B) Substitution of dosage form may not include the substitution of a product that has been compounded by the pharmacist unless the pharmacist contacts the practitioner prior to dispensing and obtains permission to dispense the compounded product.

(5) Therapeutic Drug Interchange. A switch to a drug providing a similar therapeutic response to the one prescribed shall not be made without prior approval of the prescribing practitioner. This paragraph does not apply to generic substitution. For generic substitution, see the requirements of paragraph (3) of this subsection.

(A) The patient shall be notified of the therapeutic drug interchange prior to, or upon delivery of, the dispensed prescription to the patient. Such notification shall include:

(i) a description of the change;

(ii) the reason for the change;

(iii) whom to notify with questions concerning the change; and

(iv) instructions for return of the drug if not wanted by the patient.

(B) The pharmacy shall maintain documentation of patient notification of therapeutic drug interchange which shall include:

(i) the date of the notification;

(ii) the method of notification;

(iii) a description of the change; and

(iv) the reason for the change.

(C) The provisions of this paragraph do not apply to prescriptions for patients in facilities where drugs are administered to patients by a person required to do so by the laws of this state if the practitioner issuing the prescription has agreed to use of a formulary that includes a listing of therapeutic interchanges that the practitioner has agreed to allow. The pharmacy must maintain a copy of the formulary including a list of the practitioners that have agreed to the formulary and the signatures of these practitioners.

(6) Prescription containers.

(A) A drug dispensed pursuant to a prescription drug order shall be dispensed in a child-resistant container unless:

(i) the patient or the practitioner requests the prescription not be dispensed in a child-resistant container; or

(ii) the product is exempted from requirements of the Poison Prevention Packaging Act of 1970.

(B) A drug dispensed pursuant to a prescription drug order shall be dispensed in an appropriate container as specified on the manufacturer's container.

(C) Prescription containers or closures shall not be re-used. However, if a patient or patient's agent has difficulty reading or understanding a prescription label, a prescription container may be reused provided:

(i) the container is designed to provide audio-recorded information about the proper use of the prescription medication;

(ii) the container is reused for the same patient;

(iii) the container is cleaned; and

(iv) a new safety closure is used each time the prescription container is reused.

(7) Labeling.

(A) At the time of delivery of the drug, the dispensing container shall bear a label in plain language and printed in an easily readable font size, unless otherwise specified, with at least the following information:

(i) name, address and phone number of the pharmacy;

(ii) unique identification number of the prescription that is printed in an easily readable font size comparable to but no smaller than ten-point Times Roman;

(iii) date the prescription is dispensed;

(iv) initials or an identification code of the dispensing pharmacist;

(v) name of the prescribing practitioner;

(vi) if the prescription was signed by a pharmacist, the name of the pharmacist who signed the prescription for a dangerous drug under delegated authority of a physician as specified in Subtitle B, Chapter 157, Occupations Code;

(vii) name of the patient or if such drug was prescribed for an animal, the species of the animal and the name of the owner that is printed in an easily readable font size comparable to but no smaller than ten-point Times Roman. The name of the patient's partner or family member is not required to be on the label of a drug prescribed for a partner for a sexually transmitted disease or for a patient's family members if the patient has an illness determined by the Centers for Disease Control and Prevention, the World Health Organization, or the Governor's office to be pandemic;

(viii) instructions for use that are printed in an easily readable font size comparable to but no smaller than ten-point Times Roman;

(ix) quantity dispensed;

(x) appropriate ancillary instructions such as storage instructions or cautionary statements such as warnings of potential harmful effects of combining the drug product with any product containing alcohol;

(xi) if the prescription is for a Schedule II - IV controlled substance, the statement "Caution: Federal law prohibits the transfer of this drug to any person other than the patient for whom it was prescribed";

(xii) if the pharmacist has selected a generically equivalent drug or interchangeable biological product pursuant to the provisions of the Act, Chapter 562, the statement "Substituted for Brand Prescribed" or "Substituted for 'Brand Name'" where "Brand Name" is the actual name of the brand name product prescribed;

(xiii) the name and strength of the actual drug or biological product dispensed that is printed in an easily readable size comparable to but no smaller than ten-point Times Roman, unless otherwise directed by the prescribing practitioner;

(I) The name shall be either:

(-a-) the brand name; or

(-b-) if no brand name, then the generic drug or interchangeable biological product name and name of the manufacturer or distributor of such generic drug or interchangeable biological product. (The name of the manufacturer or distributor may be reduced to an abbreviation or initials, provided the abbreviation or initials are sufficient to identify the manufacturer or distributor. For combination drug products or non-sterile compounded drug preparations having no brand name, the principal active ingredients shall be indicated on the label).

(II) Except as provided in clause (xii) of this subparagraph, the brand name of the prescribed drug or biological product shall not appear on the prescription container label unless it is the drug product actually dispensed.

(xiv) if the drug is dispensed in a container other than the manufacturer's original container, the date after which the prescription should not be used or beyond-use-date. Unless otherwise specified by the manufacturer, the beyond-use-date shall be one year from the date the drug is dispensed or the manufacturer's expiration date, whichever is earlier. The beyond-use-date may be placed on the prescription label or on a flag label attached to the bottle. A beyond-use-date is not required on the label of a prescription dispensed to a person at the time of release from prison or jail if the prescription is for not more than a 10-day supply of medication; and

(xv) either on the prescription label or the written information accompanying the prescription, the statement "Do not flush unused medications or pour down a sink or drain." A drug product on a list developed by the Federal Food and Drug Administration of medicines recommended for disposal by flushing is not required to bear this statement.

(B) If the prescription label required in subparagraph (A) of this paragraph is printed in a type size smaller than ten-point Times Roman, the pharmacy shall provide the patient written information containing the information as specified in subparagraph (A) of this paragraph in an easily readable font size comparable to but no smaller than ten-point Times Roman.

(C) The label is not required to include the initials or identification code of the dispensing pharmacist as specified in subparagraph (A) of this paragraph if the identity of the dispensing pharmacist is recorded in the pharmacy's data processing system. The record of the identity of the dispensing pharmacist shall not be altered in the pharmacy's data processing system.

(D) The dispensing container is not required to bear the label as specified in subparagraph (A) of this paragraph if:

(i) the drug is prescribed for administration to an ultimate user who is institutionalized in a licensed health care institution (e.g., nursing home, hospice, hospital);

(ii) no more than a 90-day supply is dispensed at one time;

(iii) the drug is not in the possession of the ultimate user prior to administration;

(iv) the pharmacist-in-charge has determined that the institution:

(I) maintains medication administration records which include adequate directions for use for the drug(s) prescribed;

(II) maintains records of ordering, receipt, and administration of the drug(s); and

(III) provides for appropriate safeguards for the control and storage of the drug(s); and

(v) the dispensing container bears a label that adequately:

(I) identifies the:

(-a-) pharmacy by name and address;

(-b-) unique identification number of the prescription;

(-c-) name and strength of the drug dispensed;

(-d-) name of the patient; and

(-e-) name of the prescribing practitioner or, if applicable, the name of the pharmacist who signed the prescription drug order;

(II) if the drug is dispensed in a container other than the manufacturer's original container, specifies the date after which the prescription should not be used or beyond-use-date. Unless otherwise specified by the manufacturer, the beyond-use-date shall be one year from the date the drug is dispensed or the manufacturer's expiration date, whichever is earlier. The beyond-use-date may be placed on the prescription label or on a flag label attached to the bottle. A beyond-use-date is not required on the label of a prescription dispensed to a person at the time of release from prison or jail if the prescription is for not more than a 10-day supply of medication; and

(III) sets forth the directions for use and cautionary statements, if any, contained on the prescription drug order or required by law.

(8) Returning Undelivered Medication to Stock.

(A) A pharmacist may not accept an unused prescription or drug, in whole or in part, for the purpose of resale or re-dispensing to any person after the prescription or drug has been originally dispensed or sold, except as provided in §291.8 of this title (relating to Return of Prescription Drugs) or Subchapter M, Chapter 431, Health and Safety Code, or Chapter 442, Health and Safety Code. Prescriptions that have not been picked up by or delivered to the patient or patient's agent may be returned to the pharmacy's stock for dispensing.

(B) A pharmacist shall evaluate the quality and safety of the prescriptions to be returned to stock.

(C) Prescriptions returned to stock for dispensing shall not be mixed within the manufacturer's container.

(D) Prescriptions returned to stock for dispensing should be used as soon as possible and stored in the dispensing container. The expiration date of the medication shall be the lesser of one year from the dispensing date on the prescription label or the manufacturer's expiration date if dispensed in the manufacturer's original container.

(E) At the time of dispensing, the prescription medication shall be placed in a new prescription container and not dispensed in the previously labeled container unless the label can be completely removed. However, if the medication is in the manufacturer's original container, the pharmacy label must be removed so that no confidential patient information is released.

(9) Redistribution of Donated Prepackaged Prescription Drugs.

(A) A participating provider may dispense to a recipient donated prescription drugs that are prepackaged and labeled in accordance with §442.0515, Health and Safety Code, and this paragraph.

(B) Drugs may be prepackaged in quantities suitable for distribution to a recipient only by a pharmacist or by pharmacy technicians or pharmacy technician trainees under the direction and direct supervision of a pharmacist.

(C) The label of a prepackaged prescription drug a participating provider dispenses to a recipient shall indicate:

(i) brand name and strength of the drug; or if no brand name, then the generic name, strength, and name of the manufacturer or distributor;

(ii) participating provider's lot number;

(iii) participating provider's beyond use date; and

(iv) quantity of the drug, if the quantity is greater than one.

(D) Records of prepackaged prescription drugs dispensed to a recipient shall be maintained to show:

(i) name of the drug, strength, and dosage form;

(ii) participating provider's lot number;

(iii) manufacturer or distributor;

(iv) manufacturer's lot number;

(v) manufacturer's expiration date;

(vi) quantity per prepackaged unit;

(vii) number of prepackaged units;

(viii) date packaged;

(ix) name, initials, or written or electronic signature of the prepacker; and

(x) written or electronic signature of the responsible pharmacist.

(E) Stock packages, repackaged units, and control records shall be quarantined together until checked/released by the pharmacist.

(d) Equipment and supplies. Class A pharmacies dispensing prescription drug orders shall have the following equipment and supplies:

(1) data processing system including a printer or comparable equipment;

(2) refrigerator;

(3) adequate supply of child-resistant, light-resistant, tight, and if applicable, glass containers;

(4) adequate supply of prescription, poison, and other applicable labels;

(5) appropriate equipment necessary for the proper preparation of prescription drug orders; and

(6) metric-apothecary weight and measure conversion charts.

(e) Library. A reference library shall be maintained which includes the following in hard-copy or electronic format:

(1) current copies of the following:

(A) Texas Pharmacy Act and rules;

(B) Texas Dangerous Drug Act and rules;

(C) Texas Controlled Substances Act and rules; and

(D) Federal Controlled Substances Act and rules (or official publication describing the requirements of the Federal Controlled Substances Act and rules);

(2) at least one current or updated reference from each of the following categories:

(A) a patient prescription drug information reference text or leaflets which are designed for the patient and must be available to the patient;

(B) at least one current or updated general drug information reference which is required to contain drug interaction information including information needed to determine severity or significance of the interaction and appropriate recommendations or actions to be taken; and

(C) if the pharmacy dispenses veterinary prescriptions, a general reference text on veterinary drugs; and

(3) basic antidote information and the telephone number of the nearest Regional Poison Control Center.

(f) Drugs.

(1) Procurement and storage.

(A) The pharmacist-in-charge shall have the responsibility for the procurement and storage of drugs, but may receive input from other appropriate staff relative to such responsibility.

(B) Prescription drugs and devices and nonprescription Schedule V controlled substances shall be stored within the prescription department or a locked storage area.

(C) All drugs shall be stored at the proper temperature, as defined in the USP/NF and §291.15 of this title (relating to Storage of Drugs).

(2) Out-of-date drugs or devices.

(A) Any drug or device bearing an expiration date shall not be dispensed beyond the expiration date of the drug or device.

(B) Outdated drugs or devices shall be removed from dispensing stock and shall be quarantined together until such drugs or devices are disposed of properly.

(3) Nonprescription Schedule V controlled substances.

(A) Schedule V controlled substances containing codeine, dihydrocodeine, or any of the salts of codeine or dihydrocodeine may not be distributed without a prescription drug order from a practitioner.

(B) A pharmacist may distribute nonprescription Schedule V controlled substances which contain no more than 15 milligrams of opium per 29.5729 ml or per 28.35 Gm provided:

(i) such distribution is made only by a pharmacist; a nonpharmacist employee may not distribute a nonprescription Schedule V controlled substance even if under the supervision of a pharmacist; however, after the pharmacist has fulfilled professional and legal responsibilities, the actual cash, credit transaction, or delivery may be completed by a nonpharmacist:

(ii) not more than 240 ml (eight fluid ounces), or not more than 48 solid dosage units of any substance containing opium, may be distributed to the same purchaser in any given 48-hour period without a prescription drug order;

(iii) the purchaser is at least 18 years of age; and

(iv) the pharmacist requires every purchaser not known to the pharmacist to furnish suitable identification (including proof of age where appropriate).

(C) A record of such distribution shall be maintained by the pharmacy in a bound record book. The record shall contain the following information:

(i) true name of the purchaser;

(ii) current address of the purchaser;

(iii) name and quantity of controlled substance purchased;

(iv) date of each purchase; and

(v) signature or written initials of the distributing pharmacist.

(4) Class A Pharmacies may not sell, purchase, trade or possess prescription drug samples, unless the pharmacy meets the requirements as specified in §291.16 of this title (relating to Samples).

(g) Prepackaging of drugs.

(1) Drugs may be prepackaged in quantities suitable for internal distribution only by a pharmacist or by pharmacy technicians or pharmacy technician trainees under the direction and direct supervision of a pharmacist.

(2) The label of a prepackaged unit shall indicate:

(A) brand name and strength of the drug; or if no brand name, then the generic name, strength, and name of the manufacturer or distributor;

(B) facility's lot number;

(C) facility's beyond use date; and

(D) quantity of the drug, if the quantity is greater than one.

(3) Records of prepackaging shall be maintained to show:

(A) name of the drug, strength, and dosage form;

(B) facility's lot number;

(C) manufacturer or distributor;

(D) manufacturer's lot number;

(E) manufacturer's expiration date;

(F) quantity per prepackaged unit;

(G) number of prepackaged units;

(H) date packaged;

(I) name, initials, or electronic signature of the prepacker; and

(J) signature, or electronic signature of the responsible pharmacist.

(4) Stock packages, repackaged units, and control records shall be quarantined together until checked/released by the pharmacist.

(h) Customized patient medication packages.

(1) Purpose. In lieu of dispensing two or more prescribed drug products in separate containers, a pharmacist may, with the consent of the patient, the patient's caregiver, or the prescriber, provide a customized patient medication package (patient med-pak).

(2) Label.

(A) The patient med-pak shall bear a label stating:

(i) the name of the patient;

(ii) the unique identification number for the patient med-pak itself and a separate unique identification number for each of the prescription drug orders for each of the drug products contained therein;

(iii) the name, strength, physical description or identification, and total quantity of each drug product contained therein;

(iv) the directions for use and cautionary statements, if any, contained in the prescription drug order for each drug product contained therein;

(v) if applicable, a warning of the potential harmful effect of combining any form of alcoholic beverage with any drug product contained therein;

(vi) any storage instructions or cautionary statements required by the official compendia;

(vii) the name of the prescriber of each drug product;

(viii) the name, address, and telephone number of the pharmacy;

(ix) the initials or an identification code of the dispensing pharmacist;

(x) the date after which the prescription should not be used or beyond-use-date. Unless otherwise specified by the manufacturer, the beyond-use-date shall be one year from the date the med-pak is dispensed or the earliest manufacturer's expiration date for a product contained in the med-pak if it is less than one-year from the date dispensed. The beyond-use-date may be placed on the prescription label or on a flag label attached to the bottle. A beyond-use-date is not required on the label of a prescription dispensed to a person at the time of release from prison or jail if the prescription is for not more than a 10-day supply of medication;

(xi) either on the prescription label or the written information accompanying the prescription, the statement "Do not flush unused medications or pour down a sink or drain." A drug product on a list developed by the Federal Food and Drug Administration of medicines recommended for disposal by flushing is not required to bear this statement; and

(xii) any other information, statements, or warnings required for any of the drug products contained therein.

(B) If the patient med-pak allows for the removal or separation of the intact containers therefrom, each individual container shall bear a label identifying each of the drug product contained therein.

(C) The dispensing container is not required to bear the label as specified in subparagraph (A) of this paragraph if:

(i) the drug is prescribed for administration to an ultimate user who is institutionalized in a licensed health care institution (e.g., nursing home, hospice, hospital);

(ii) no more than a 90-day supply is dispensed at one time;

(iii) the drug is not in the possession of the ultimate user prior to administration;

(iv) the pharmacist-in-charge has determined that the institution:

(I) maintains medication administration records which include adequate directions for use for the drug(s) prescribed;

(II) maintains records of ordering, receipt, and administration of the drug(s); and

(III) provides for appropriate safeguards for the control and storage of the drug(s); and

(v) the dispensing container bears a label that adequately:

(I) identifies the:

(-a-) pharmacy by name and address;

(-b-) name and strength of each drug product dispensed;

(-c-) name of the patient; and

(-d-) name of the prescribing practitioner of each drug product, or the pharmacist who signed the prescription drug order;

(II) the date after which the prescription should not be used or beyond-use-date. Unless otherwise specified by the manufacturer, the beyond-use-date shall be one year from the date the med-pak is dispensed or the earliest manufacturer's expiration date for a product contained in the med-pak if it is less than one-year from the date dispensed. The beyond-use-date may be placed on the prescription label or on a flag label attached to the bottle. A beyond-use-date is not required on the label of a prescription dispensed to a person at the time of release from prison or jail if the prescription is for not more than a 10-day supply of medication; and

(III) for each drug product sets forth the directions for use and cautionary statements, if any, contained on the prescription drug order or required by law.

(3) Labeling. The patient med-pak shall be accompanied by a patient package insert, in the event that any drug contained therein is required to be dispensed with such insert as accompanying labeling. Alternatively, such required information may be incorporated into a single, overall educational insert provided by the pharmacist for the total patient med-pak.

(4) Packaging. In the absence of more stringent packaging requirements for any of the drug products contained therein, each container of the patient med-pak shall comply with official packaging standards. Each container shall be either not reclosable or so designed as to show evidence of having been opened.

(5) Guidelines. It is the responsibility of the dispensing pharmacist when preparing a patient med-pak, to take into account any applicable compendial requirements or guidelines and the physical and chemical compatibility of the dosage forms placed within each container, as well as any therapeutic incompatibilities that may attend the simultaneous administration of the drugs.

(6) Recordkeeping. In addition to any individual prescription filing requirements, a record of each patient med-pak shall be made and filed. Each record shall contain, as a minimum:

(A) the name and address of the patient;

(B) the unique identification number for the patient med-pak itself and a separate unique identification number for each of

the prescription drug orders for each of the drug products contained therein;

(C) the name of the manufacturer or distributor and lot number for each drug product contained therein;

(D) information identifying or describing the design, characteristics, or specifications of the patient med-pak sufficient to allow subsequent preparation of an identical patient med-pak for the patient;

(E) the date of preparation of the patient med-pak and the beyond-use date that was assigned;

(F) any special labeling instructions; and

(G) the initials or an identification code of the dispensing pharmacist.

(7) The patient med-pak label is not required to include the initials or identification code of the dispensing pharmacist as specified in paragraph (2)(A) of this subsection if the identity of the dispensing pharmacist is recorded in the pharmacy's data processing system. The record of the identity of the dispensing pharmacist shall not be altered in the pharmacy's data processing system.

(i) Automated devices and systems in a pharmacy.

(1) Automated counting devices. If a pharmacy uses automated counting devices:

(A) the pharmacy shall have a method to calibrate and verify the accuracy of the automated counting device and document the calibration and verification on a routine basis;

(B) the devices may be loaded with bulk drugs only by a pharmacist or by pharmacy technicians or pharmacy technician trainees under the direction and direct supervision of a pharmacist;

(C) the label of an automated counting device container containing a bulk drug shall indicate the brand name and strength of the drug; or if no brand name, then the generic name, strength, and name of the manufacturer or distributor;

(D) records of loading bulk drugs into an automated counting device shall be maintained to show:

(i) name of the drug, strength, and dosage form;

(ii) manufacturer or distributor;

(iii) manufacturer's lot number;

(iv) expiration date;

(v) date of loading;

(vi) name, initials, or electronic signature of the person loading the automated counting device; and

(vii) name, initials, or electronic signature of the responsible pharmacist; and

(E) the automated counting device shall not be used until a pharmacist verifies that the system is properly loaded and affixes his or her name, initials, or electronic signature to the record as specified in subparagraph (D) of this paragraph.

(2) Automated pharmacy dispensing systems.

(A) Authority to use automated pharmacy dispensing systems. A pharmacy may use an automated pharmacy dispensing system to fill prescription drug orders provided that:

(i) the pharmacist-in-charge is responsible for the supervision of the operation of the system;

(ii) the automated pharmacy dispensing system has been tested by the pharmacy and found to dispense accurately. The pharmacy shall make the results of such testing available to the board upon request; and

(iii) the pharmacy will make the automated pharmacy dispensing system available for inspection by the board for the purpose of validating the accuracy of the system.

(B) Automated pharmacy dispensing systems may be stocked or loaded by a pharmacist or by a pharmacy technician or pharmacy technician trainee under the supervision of a pharmacist.

(C) Quality assurance program. A pharmacy which uses an automated pharmacy dispensing system to fill prescription drug orders shall operate according to a quality assurance program of the automated pharmacy dispensing system which:

(i) requires continuous monitoring of the automated pharmacy dispensing system; and

(ii) establishes mechanisms and procedures to test the accuracy of the automated pharmacy dispensing system at least every twelve months and whenever any upgrade or change is made to the system and documents each such activity.

(D) Policies and procedures of operation.

(i) When an automated pharmacy dispensing system is used to fill prescription drug orders, it shall be operated according to written policies and procedures of operation. The policies and procedures of operation shall:

(I) provide for a pharmacist's review, approval, and accountability for the transmission of each original or new prescription drug order to the automated pharmacy dispensing system before the transmission is made;

(II) provide for access to the automated pharmacy dispensing system for stocking and retrieval of medications which is limited to licensed healthcare professionals or pharmacy technicians acting under the supervision of a pharmacist;

(III) require that a pharmacist checks, verifies, and documents that the correct medication and strength of bulk drugs, prepackaged containers, or manufacturer's unit of use packages were properly stocked, filled, and loaded in the automated pharmacy dispensing system prior to initiating the fill process; alternatively, an electronic verification system may be used for verification of manufacturer's unit of use packages or prepacked medication previously verified by a pharmacist;

(IV) provide for an accountability record to be maintained that documents all transactions relative to stocking and removing medications from the automated pharmacy dispensing system;

(V) require a prospective drug regimen review is conducted as specified in subsection (c)(2) of this section; and

(VI) establish and make provisions for documentation of a preventative maintenance program for the automated pharmacy dispensing system.

(ii) A pharmacy that uses an automated pharmacy dispensing system to fill prescription drug orders shall, at least annually, review its written policies and procedures, revise them if necessary, and document the review.

(E) Recovery Plan. A pharmacy that uses an automated pharmacy dispensing system to fill prescription drug orders shall maintain a written plan for recovery from a disaster or any other situation which interrupts the ability of the automated pharmacy dispensing sys-

tem to provide services necessary for the operation of the pharmacy. The written plan for recovery shall include:

(i) planning and preparation for maintaining pharmacy services when an automated pharmacy dispensing system is experiencing downtime;

(ii) procedures for response when an automated pharmacy dispensing system is experiencing downtime; and

(iii) procedures for the maintenance and testing of the written plan for recovery.

(F) Final check of prescriptions dispensed using an automated pharmacy dispensing system. For the purpose of §291.32(c)(2)(D) of this title (relating to Personnel), a pharmacist must perform the final check of all prescriptions prior to delivery to the patient to ensure that the prescription is dispensed accurately as prescribed.

(i) This final check shall be considered accomplished if:

(I) a check of the final product is conducted by a pharmacist after the automated pharmacy dispensing system has completed the prescription and prior to delivery to the patient; or

(II) the following checks are conducted:

(-a-) if the automated pharmacy dispensing system contains bulk stock drugs, a pharmacist verifies that those drugs have been accurately stocked as specified in subparagraph (D)(i)(III) of this paragraph;

(-b-) if the automated pharmacy dispensing system contains manufacturer's unit of use packages or prepackaged medication previously verified by a pharmacist, an electronic verification system has confirmed that the medications have been accurately stocked as specified in subparagraph (D)(i)(III) of this paragraph;

(-c-) a pharmacist checks the accuracy of the data entry of each original or new prescription drug order entered into the automated pharmacy dispensing system; and

(-d-) an electronic verification process is used to verify the proper prescription label has been affixed to the correct medication container, prepackaged medication or manufacturer unit of use package for the correct patient.

(ii) If the final check is accomplished as specified in clause (i)(II) of this subparagraph, the following additional requirements must be met:

(I) the dispensing process must be fully automated from the time the pharmacist releases the prescription to the automated pharmacy dispensing system until a completed, labeled prescription ready for delivery to the patient is produced;

(II) the pharmacy has conducted initial testing and has a continuous quality assurance program which documents that the automated pharmacy dispensing system dispenses accurately as specified in subparagraph (C) of this paragraph;

(III) the automated pharmacy dispensing system documents and maintains:

(-a-) the name(s), initials, or identification code(s) of each pharmacist responsible for the checks outlined in clause (i)(II) of this subparagraph; and

(-b-) the name(s), initials, or identification code(s) and specific activity(ies) of each pharmacist, pharmacy technician, or pharmacy technician trainee who performs any other portion of the dispensing process; and

(IV) the pharmacy establishes mechanisms and procedures to test the accuracy of the automated pharmacy dispensing system at least every month rather than every twelve months as specified in subparagraph (C) of this paragraph.

(3) Automated checking device.

(A) For the purpose of §291.32(c)(2)(D) of this title, the final check of a dispensed prescription shall be considered accomplished using an automated checking device provided a check of the final product is conducted by a pharmacist prior to delivery to the patient or the following checks are performed:

(i) the drug used to fill the order is checked through the use of an automated checking device which verifies that the drug is labeled and packaged accurately; and

(ii) a pharmacist checks the accuracy of each original or new prescription drug order and is responsible for the final check of the order through the automated checking device.

(B) If the final check is accomplished as specified in subparagraph (A) of this paragraph, the following additional requirements must be met:

(i) the pharmacy has conducted initial testing of the automated checking device and has a continuous quality assurance program which documents that the automated checking device accurately confirms that the correct drug and strength has been labeled with the correct label for the correct patient;

(ii) the pharmacy documents and maintains:

(I) the name(s), initials, or identification code(s) of each pharmacist responsible for the checks outlined in subparagraph (A)(i) of this paragraph; and

(II) the name(s) initials, or identification code(s) and specific activity(ies) of each pharmacist, pharmacy technician, or pharmacy technician trainee who performs any other portion of the dispensing process;

(iii) the pharmacy establishes mechanisms and procedures to test the accuracy of the automated checking device at least monthly; and

(iv) the pharmacy establishes procedures to ensure that errors identified by the automated checking device may not be overridden by a pharmacy technician and must be reviewed and corrected by a pharmacist.

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

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Daniel Carroll, Pharm.D.
Executive Director
Texas State Board of Pharmacy
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For further information, please call: (512) 305-8084

SUBCHAPTER F. NON-RESIDENT PHARMACY (CLASS E)

22 TAC §291.104

The Texas State Board of Pharmacy proposes amendments to §291.104, concerning Operational Standards. The amendments, if adopted, allow for written information reinforcing patient counseling to be provided electronically unless requested in a hard-copy format and remove the requirement to document the request.

Daniel Carroll, Pharm.D., Executive Director/Secretary, has determined that, for the first five-year period the rules are in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the rule. Dr. Carroll has determined that, for each year of the first five-year period the rule will be in effect, the public benefit anticipated as a result of enforcing the amendments will be providing pharmacies more flexibility in methods for communicating prescription drug information to better serve the needs of the pharmacy's patients. There is no anticipated adverse economic impact on large, small or micro-businesses (pharmacies), rural communities, or local or state employment. Therefore, an economic impact statement and regulatory flexibility analysis are not required.

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

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

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

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

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

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

(6) The proposed amendments do limit an existing regulation;

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

(8) The proposed amendments do not positively or adversely affect this state's economy.

The Board is requesting public comments on the proposed amendments and information related to the cost, benefit, or effect of the proposed amendments, including any applicable data, research, or analysis. Any information that is submitted in response to this request must include an explanation of how and why the submitted information is specific to the proposed amendments.

Written comments on the amendments may be submitted to Eamon D. Briggs, Deputy General Counsel, Texas State Board of Pharmacy, 1801 Congress Avenue, Suite 13.100, Austin, Texas 78701-1319, FAX (512) 305-8061. The deadline for comments is 30 days after publication in the *Texas Register*.

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

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

§291.104. Operational Standards.

(a) Licensing requirements.

(1) A Class E pharmacy shall register with the board on a pharmacy license application provided by the board, following the procedures specified in §291.1 of this title (relating to Pharmacy License Application).

(2) On initial application, the pharmacy shall follow the procedures specified in §291.1 of this title and then provide the following additional information specified in §560.052(c) and (f) of the Act (relating to Qualifications):

(A) evidence that the applicant holds a pharmacy license, registration, or permit issued by the state in which the pharmacy is located;

(B) the name of the owner and pharmacist-in-charge of the pharmacy for service of process;

(C) evidence of the applicant's ability to provide to the board a record of a prescription drug order dispensed by the applicant to a resident of this state not later than 72 hours after the time the board requests the record;

(D) an affidavit by the pharmacist-in-charge which states that the pharmacist has read and understands the laws and rules relating to a Class E pharmacy;

(E) proof of creditworthiness; and

(F) an inspection report issued not more than two years before the date the license application is received and conducted by the pharmacy licensing board in the state of the pharmacy's physical location.

(i) A Class E pharmacy may submit an inspection report issued by an entity other than the pharmacy licensing board of the state in which the pharmacy is physically located if the state's licensing board does not conduct inspections as follows:

(I) an individual approved by the board who is not employed by the pharmacy but acting as a consultant to inspect the pharmacy;

(II) an agent of the National Association of Boards of Pharmacy;

(III) an agent of another State Board of Pharmacy; or

(IV) an agent of an accrediting body, such as the Joint Commission on Accreditation of Healthcare Organizations.

(ii) The inspection must be substantively equivalent to an inspection conducted by the board.

(3) On renewal of a license, the pharmacy shall complete the renewal application provided by the board and, as specified in §561.0031 of the Act, provide an inspection report issued not more than three years before the date the renewal application is received and conducted by the pharmacy licensing board in the state of the pharmacy's physical location.

(A) A Class E pharmacy may submit an inspection report issued by an entity other than the pharmacy licensing board of the state in which the pharmacy is physically located if the state's licensing board does not conduct inspections as follows:

(i) an individual approved by the board who is not employed by the pharmacy but acting as a consultant to inspect the pharmacy;

(ii) an agent of the National Association of Boards of Pharmacy;

(iii) an agent of another State Board of Pharmacy; or

(iv) an agent of an accrediting body, such as the Joint Commission on Accreditation of Healthcare Organizations.

(B) The inspection must be substantively equivalent to an inspection conducted by the board.

(4) A Class E pharmacy which changes ownership shall notify the board within ten days of the change of ownership and apply for a new and separate license as specified in §291.3 of this title (relating to Required Notifications).

(5) A Class E pharmacy which changes location and/or name shall notify the board of the change as specified in §291.3 of this title.

(6) A Class E pharmacy owned by a partnership or corporation which changes managing officers shall notify the board in writing of the names of the new managing officers within ten days of the change, following the procedures in §291.3 of this title.

(7) A Class E pharmacy shall notify the board in writing within ten days of closing.

(8) A separate license is required for each principal place of business and only one pharmacy license may be issued to a specific location.

(9) A fee as specified in §291.6 of this title (relating to Pharmacy License Fees) will be charged for the issuance and renewal of a license and the issuance of an amended license.

(10) The board may grant an exemption from the licensing requirements of this Act on the application of a pharmacy located in a state of the United States other than this state that restricts its dispensing of prescription drugs or devices to residents of this state to isolated transactions.

(11) A Class E pharmacy engaged in the centralized dispensing of prescription drug or medication orders or outsourcing of prescription drug order dispensing to a central fill pharmacy shall comply with the provisions of §291.125 of this title (relating to Centralized Prescription Dispensing).

(12) A Class E pharmacy engaged in central processing of prescription drug or medication orders shall comply with the provisions of §291.123 of this title (relating to Central Prescription or Medication Order Processing).

(13) A Class E pharmacy engaged in the compounding of non-sterile preparations shall comply with the provisions of §291.131 of this title (relating to Pharmacies Compounding Non-Sterile Preparations).

(14) Class E pharmacy personnel shall not compound sterile preparations unless the pharmacy has applied for and obtained a Class E-S pharmacy license.

(15) A Class E pharmacy, which operates as a community type of pharmacy which would otherwise be required to be licensed under the Act §560.051(a)(1) (Community Pharmacy (Class A)), shall comply with the provisions of §291.31 of this title (relating to Definitions), §291.32 of this title (relating to Personnel), §291.33 of this title (relating to Operational Standards), §291.34 of this title (relating to Records), and §291.35 of this title (relating to Official Prescription Requirements), contained in Community Pharmacy (Class A); or which operates as a nuclear type of pharmacy which would otherwise be required to be licensed under the Act §560.051(a)(2) (Nuclear Pharmacy (Class B)), shall comply with the provisions of §291.51 of this title (relating to Purpose), §291.52 of this title (relating to Definitions), §291.53 of this title (relating to Personnel), §291.54 of this title (relating to Operational Standards), and §291.55 of this title (relating to Records), contained in Nuclear Pharmacy (Class B), to the extent such sections are applicable to the operation of the pharmacy.

(b) Prescription dispensing and delivery.

(1) General.

(A) All prescription drugs and/or devices shall be dispensed and delivered safely and accurately as prescribed.

(B) The pharmacy shall maintain adequate storage or shipment containers and use shipping processes to ensure drug stability and potency. Such shipping processes shall include the use of packaging material and devices to ensure that the drug is maintained at an appropriate temperature range to maintain the integrity of the medication throughout the delivery process.

(C) The pharmacy shall utilize a delivery system which is designed to assure that the drugs are delivered to the appropriate patient.

(D) All pharmacists shall exercise sound professional judgment with respect to the accuracy and authenticity of any prescription drug order they dispense. If the pharmacist questions the accuracy or authenticity of a prescription drug order, he/she shall verify the order with the practitioner prior to dispensing.

(E) Prior to dispensing a prescription, pharmacists shall determine, in the exercise of sound professional judgment, that the prescription is a valid prescription. A pharmacist may not dispense a prescription drug if the pharmacist knows or should have known that the prescription was issued on the basis of an Internet-based or telephonic consultation without a valid patient-practitioner relationship.

(F) Subparagraph (E) of this paragraph does not prohibit a pharmacist from dispensing a prescription when a valid patient-practitioner relationship is not present in an emergency situation (e.g. a practitioner taking calls for the patient's regular practitioner).

(2) Drug regimen review.

(A) For the purpose of promoting therapeutic appropriateness, a pharmacist shall, prior to or at the time of dispensing a prescription drug order, review the patient's medication record. Such review shall at a minimum identify clinically significant:

(i) inappropriate drug utilization;

(ii) therapeutic duplication;

(iii) drug-disease contraindications;

(iv) drug-drug interactions;

(v) incorrect drug dosage or duration of drug treatment;

(vi) drug-allergy interactions; and

(vii) clinical abuse/misuse.

(B) Upon identifying any clinically significant conditions, situations, or items listed in subparagraph (A) of this paragraph, the pharmacist shall take appropriate steps to avoid or resolve the prob-

lem including consultation with the prescribing practitioner. The pharmacist shall document such occurrences.

(3) Patient counseling and provision of drug information.

(A) To optimize drug therapy, a pharmacist shall communicate to the patient or the patient's agent information about the prescription drug or device which in the exercise of the pharmacist's professional judgment the pharmacist deems significant, such as the following:

(i) the name and description of the drug or device;

(ii) dosage form, dosage, route of administration, and duration of drug therapy;

(iii) special directions and precautions for preparation, administration, and use by the patient;

(iv) common severe side or adverse effects or interactions and therapeutic contraindications that may be encountered, including their avoidance and the action required if they occur;

(v) techniques for self-monitoring of drug therapy;

(vi) proper storage;

(vii) refill information; and

(viii) action to be taken in the event of a missed dose.

(B) Such communication shall be:

(i) provided to new and existing patients of a pharmacy with each new prescription drug order. A new prescription drug order is one that has not been dispensed by the pharmacy to the patient in the same dosage and strength within the last year;

(ii) provided for any prescription drug order dispensed by the pharmacy on the request of the patient or patient's agent;

(iii) communicated orally in person unless the patient or patient's agent is not at the pharmacy or a specific communication barrier prohibits such oral communication; and

(iv) reinforced with written information. The following is applicable concerning this written information:

(I) Written information must be in plain language designed for the patient and printed in an easily readable font comparable to but no smaller than ten-point Times Roman. This information may be provided to the patient in an electronic format, such as by e-mail, unless [~~if~~] the patient or patient's agent requests the information in a hard-copy [~~an electronic~~] format [~~and the pharmacy documents the request~~].

(II) When a compounded product is dispensed, information shall be provided for the major active ingredient(s), if available.

(III) For new drug entities, if no written information is initially available, the pharmacist is not required to provide information until such information is available, provided:

(-a-) the pharmacist informs the patient or the patient's agent that the product is a new drug entity and written information is not available;

(-b-) the pharmacist documents the fact that no written information was provided; and

(-c-) if the prescription is refilled after written information is available, such information is provided to the patient or patient's agent.

(IV) The written information accompanying the prescription or the prescription label shall contain the statement "Do not flush unused medications or pour down a sink or drain." A drug product on a list developed by the Federal Food and Drug Administration of medicines recommended for disposal by flushing is not required to bear this statement.

(C) Only a pharmacist may orally provide drug information to a patient or patient's agent and answer questions concerning prescription drugs. Non-pharmacist personnel may not ask questions of a patient or patient's agent which are intended to screen and/or limit interaction with the pharmacist.

(D) If prescriptions are routinely delivered outside the area covered by the pharmacy's local telephone service, the pharmacy shall provide a toll-free telephone line which is answered during normal business hours to enable communication between the patient and a pharmacist.

(E) The pharmacist shall place on the prescription container or on a separate sheet delivered with the prescription container in both English and Spanish the local and toll-free telephone number of the pharmacy and the statement: "Written information about this prescription has been provided for you. Please read this information before you take the medication. If you have questions concerning this prescription, a pharmacist is available during normal business hours to answer these questions at (insert the pharmacy's local and toll-free telephone numbers)."

(F) The provisions of this paragraph do not apply to patients in facilities where drugs are administered to patients by a person required to do so by the laws of the state (i.e., nursing homes).

(G) Upon delivery of a refill prescription, a pharmacist shall ensure that the patient or patient's agent is offered information about the refilled prescription and that a pharmacist is available to discuss the patient's prescription and provide information.

(H) Nothing in this subparagraph shall be construed as requiring a pharmacist to provide consultation when a patient or patient's agent refuses such consultation. The pharmacist shall document such refusal for consultation.

(4) Labeling. At the time of delivery, the dispensing container shall bear a label that contains the following information:

(A) the name, physical address, and phone number of the pharmacy;

(B) if the drug is dispensed in a container other than the manufacturer's original container, the date after which the prescription should not be used or beyond-use-date. Unless otherwise specified by the manufacturer, the beyond-use-date shall be one year from the date the drug is dispensed or the manufacturer's expiration date, whichever is earlier. The beyond-use-date may be placed on the prescription label or on a flag label attached to the bottle. A beyond-use-date is not required on the label of a prescription dispensed to a person at the time of release from prison or jail if the prescription is for not more than a 10-day supply of medication;

(C) either on the prescription label or the written information accompanying the prescription, the statement, "Do not flush unused medications or pour down a sink or drain." A drug product on a list developed by the Federal Food and Drug Administration of medicines recommended for disposal by flushing is not required to bear this statement; and

(D) any other information that is required by the pharmacy or drug laws or rules in the state in which the pharmacy is located.

(c) Substitution requirements.

(1) Unless compliance would violate the pharmacy or drug laws or rules in the state in which the pharmacy is located a pharmacist in a Class E pharmacy may dispense a generically equivalent drug or interchangeable biological product and shall comply with the provisions of §309.3 of this title (relating to Substitution Requirements) and §309.7 of this title (relating to Dispensing Responsibilities).

(2) The pharmacy must include on the prescription order form completed by the patient or the patient's agent information that clearly and conspicuously:

(A) states that if a less expensive generically equivalent drug or interchangeable biological product is available for the brand prescribed, the patient or the patient's agent may choose between the generically equivalent drug or interchangeable biological product and the brand prescribed; and

(B) allows the patient or the patient's agent to indicate the choice of the generically equivalent drug or interchangeable biological product or the brand prescribed.

(d) Therapeutic Drug Interchange. A switch to a drug providing a similar therapeutic response to the one prescribed shall not be made without prior approval of the prescribing practitioner. This subsection does not apply to generic substitution. For generic substitution, see the requirements of subsection (c) of this section.

(1) The patient shall be notified of the therapeutic drug interchange prior to, or upon delivery of, the dispensed prescription to the patient. Such notification shall include:

(A) a description of the change;

(B) the reason for the change;

(C) whom to notify with questions concerning the change; and

(D) instructions for return of the drug if not wanted by the patient.

(2) The pharmacy shall maintain documentation of patient notification of therapeutic drug interchange which shall include:

(A) the date of the notification;

(B) the method of notification;

(C) a description of the change; and

(D) the reason for the change.

(e) Transfer of Prescription Drug Order Information. Unless compliance would violate the pharmacy or drug laws or rules in the state in which the pharmacy is located, a pharmacist in a Class E pharmacy may not refuse to transfer prescriptions to another pharmacy that is making the transfer request on behalf of the patient. The transfer of original prescription information must be done within four business hours of the request.

(f) Prescriptions for Schedules II - V controlled substances. Unless compliance would violate the pharmacy or drug laws or rules in the state in which the pharmacy is located, a pharmacist in a Class E pharmacy who dispenses a prescription for a Schedules II - V controlled substance for a resident of Texas shall electronically send the prescription information to the Texas State Board of Pharmacy as specified in §315.6 of this title (relating to Pharmacy Responsibility - Electronic Reporting) not later than the next business day after the prescription is dispensed.

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

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CHAPTER 295. PHARMACISTS

22 TAC §295.8

The Texas State Board of Pharmacy proposes amendments to §295.8, concerning Continuing Education Requirements. The amendments, if adopted, establish an electronic continuing education tracking system in accordance with Senate Bill 912, update continuing education programs in preparation for the statutory continuing education tracking system, specify that record retention requirements apply to all required courses, and make grammatical corrections.

Daniel Carroll, Pharm.D., Executive Director/Secretary, has determined that, for the first five-year period the rules are in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the rule. Dr. Carroll has determined that, for each year of the first five-year period the rule will be in effect, the public benefit anticipated as a result of enforcing the amendments will be to provide consistency between state law and Board rules regarding continuing education requirements and clearer recordkeeping requirements and grammatically correct regulations. There is no anticipated adverse economic impact on large, small or micro-businesses (pharmacies), rural communities, or local or state employment. Therefore, an economic impact statement and regulatory flexibility analysis are not required.

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

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

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

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

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

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

(6) The proposed amendments do expand an existing regulation in order to be consistent with state law and by applying record retention requirements to an additional category of records;

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

(8) The proposed amendments do not positively or adversely affect this state's economy.

The Board is requesting public comments on the proposed amendments and information related to the cost, benefit, or

effect of the proposed amendments, including any applicable data, research, or analysis. Any information that is submitted in response to this request must include an explanation of how and why the submitted information is specific to the proposed amendments.

Written comments on the amendments may be submitted to Eamon D. Briggs, Deputy General Counsel, Texas State Board of Pharmacy, 1801 Congress Avenue, Suite 13.100, Austin, Texas 78701-1319, FAX (512) 305-8061. The deadline for comments is 30 days after publication in the *Texas Register*.

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

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

§295.8. Continuing Education Requirements.

(a) Authority and purpose.

(1) Authority. In accordance with §559.053 of the Texas Pharmacy Act, (Chapters 551 - 569, Occupations Code), all pharmacists shall [~~must~~] complete and report 30 contact hours (3.0 CEUs) of approved continuing education and any courses required under subsection (d)(1) of this section obtained during the previous license period in order to renew their license to practice pharmacy.

(2) Purpose. The board recognizes that the fundamental purpose of continuing education is to maintain and enhance the professional competency of pharmacists licensed to practice in Texas, for the protection of the health and welfare of the citizens of Texas.

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

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

(2) Act--The Texas Pharmacy Act, Chapters 551 - 569, Occupations Code.

(3) Approved programs--Live programs, home study, and other mediated instruction delivered by an approved provider or a program specified by the board and listed as an approved program in subsection (e) of this section.

(4) Approved provider--An individual, institution, organization, association, corporation, or agency that is approved by the board.

(5) Board--The Texas State Board of Pharmacy.

(6) Certificate of completion--A certificate or other official document presented to a participant upon the successful completion of an approved continuing education program.

(7) Contact hour--A unit of measure of educational credit which is equivalent to approximately 60 minutes of participation in an organized learning experience.

(8) Continuing education unit (CEU)--A unit of measure of education credit which is equivalent to 10 contact hours (i.e., one CEU = 10 contact hours).

(9) CPE Monitor--A collaborative service from the National Association of Boards of Pharmacy and ACPE that provides an electronic system for pharmacists to track their completed CPE credits.

(10) Credit hour--A unit of measurement for continuing education equal to 15 contact hours.

(11) Enduring Materials (Home Study)--Activities that are printed, recorded, or computer assisted instructional materials that do not provide for direct interaction between faculty and participants.

(12) Initial license period--The time period between the date of issuance of a pharmacist's license and the next expiration date following the initial 30 day expiration date. This time period ranges from eighteen to thirty months depending upon the birth month of the licensee.

(13) License period--The time period between consecutive expiration dates of a license.

(14) Live programs--Activities that provide for direct interaction between faculty and participants and may include lectures, symposia, live teleconferences, workshops, etc.

(15) Standardized pharmacy examination--The North American Pharmacist Licensure [~~Pharmacy Licensing~~] Examination (NAPLEX).

(c) Methods for obtaining continuing education contact hours. A pharmacist may satisfy the continuing education contact hour requirements by either:

(1) successfully completing the number of continuing education hours necessary to renew a license as specified in subsection (a)(1) of this section;

(2) successfully completing during the preceding license period, one credit hour for each year of their license period, which is a part of the professional degree program in a college of pharmacy the professional degree program of which has been accredited by ACPE; or

(3) taking and passing the standardized pharmacy examination (NAPLEX) during the preceding license period as a Texas licensed pharmacist, which shall be equivalent to the number of continuing education hours necessary to renew a license as specified in subsection (a)(1) of this section. This paragraph does not apply to the standardized pharmacy examination (NAPLEX) that an individual uses to obtain initial licensure as a pharmacist.

(d) Reporting requirements [~~Requirements~~].

(1) Renewal of a pharmacist license. To renew a license to practice pharmacy, a pharmacist shall [~~must~~] report on the renewal application completion of at least thirty contact hours (3.0 CEUs) of continuing education, any specialty requirements applicable to the pharmacist (e.g., preceptor, sterile compounding, immunization, drug therapy management), and any courses required under this paragraph. The following is applicable to the reporting of continuing education [~~contact hours~~]:

(A) at least one contact hour (0.1 CEU) specified in paragraph (1) of this subsection shall be related to Texas pharmacy laws or rules;

(B) not later than the first anniversary of becoming licensed to practice pharmacy, a pharmacist shall [~~must~~] have completed at least two contact hours (0.2 CEU) specified in paragraph (1) of this subsection related to approved procedures of prescribing and monitoring controlled substances as specified in §481.07635 of the Texas Health and Safety Code;

(C) any continuing education requirements which are imposed upon a pharmacist as a part of a board order or agreed board order shall be in addition to the requirements of this section; and

(D) a pharmacist shall [~~must~~] have completed the human trafficking prevention course required in §116.002 of the Texas Occupations Code.

(2) Failure to report completion of required continuing education. The following is applicable if a pharmacist fails to report completion of the required continuing education:

(A) the license of a pharmacist who fails to report completion of the required number of continuing education contact hours or any courses required under this paragraph shall not be renewed and the pharmacist shall not be issued a renewal certificate for the license period until such time as the pharmacist successfully completes the required continuing education and reports the completion to the board; and

(B) a pharmacist who practices pharmacy without a current renewal certificate is subject to all penalties of practicing pharmacy without a license, including the delinquent fees specified in the Act, §559.003.

(3) Extension of time for reporting. A pharmacist who has had a physical disability, illness, or other extenuating circumstances which prohibits the pharmacist from obtaining continuing education credit during the preceding license period may be granted an extension of time to complete the continuing education requirement. The following is applicable for this extension:

(A) the pharmacist shall submit a petition to the board with his/her license renewal application which contains:

(i) the name, address, and license number of the pharmacist;

(ii) a statement of the reason for the request for extension;

(iii) if the reason for the request for extension is health related, a statement from the attending physician(s) treating the pharmacist which includes the nature of the physical disability or illness and the dates the pharmacist was incapacitated; and

(iv) if the reason for the request for the extension is for other extenuating circumstances, a detailed explanation of the extenuating circumstances, and if because of military deployment, documentation of the dates of the deployment;

(B) after review and approval of the petition, a pharmacist may be granted an extension of time to comply with the continuing education requirement which shall not exceed one license renewal period;

(C) an extension of time to complete continuing education credit does not relieve a pharmacist from the continuing education requirement during the current license period; and

(D) if a petition for extension to the reporting period for continuing education is denied, the pharmacist shall:

(i) have 60 days to complete and report completion of the required continuing education requirements; and

(ii) be subject to the requirements of paragraph (2) of this subsection relating to failure to report completion of the required continuing education if the required continuing education is not completed and reported within the required 60-day time period.

(4) Exemptions from reporting requirements.

(A) All pharmacists licensed in Texas shall be exempt from the continuing education requirements in paragraph (1) of this subsection during their initial license period, with the exception of the requirements in paragraph (1)(B) and (D) [~~, (C), and (F)~~] of this subsection which shall [~~must~~] be completed during the time periods specified in the subparagraphs.

(B) Pharmacists who are not actively practicing pharmacy shall be granted an exemption to the reporting requirements for continuing education, provided the pharmacists submit a completed renewal application for each license period which states that they are not practicing pharmacy. Upon submission of the completed renewal application, the pharmacist shall be issued a renewal certificate which states that pharmacist is inactive. Pharmacists who wish to return to the practice of pharmacy after being exempted from the continuing education requirements as specified in this subparagraph shall [~~must~~]:

(i) notify the board of their intent to actively practice pharmacy;

(ii) pay the fee as specified in §295.9 of this title (relating to Inactive License); and

(iii) provide copies of completion certificates from approved continuing education programs as specified in subsection (e) of this section for 30 contact hours (3.0 CEUs). Approved continuing education earned within two years prior to the licensee applying for the return to active status may be applied toward the continuing education requirement for reactivation of the license but may not be counted toward subsequent renewal of the license.

(e) Approved programs [~~Programs~~].

(1) Any program presented by an ACPE approved provider subject to the following conditions:

(A) pharmacists may receive credit for the completion of the same ACPE course only once during a license period;

(B) pharmacists who present approved ACPE continuing education programs may receive credit for the time expended during the actual presentation of the program. Pharmacists may receive credit for the same presentation only once during a license period; and

(C) proof of completion of an ACPE course shall contain the following information:

(i) name of the participant;

(ii) title and completion date of the program;

(iii) name of the approved provider sponsoring or cosponsoring the program;

(iv) number of contact hours and/or CEUs awarded;

(v) the assigned ACPE universal program number and a "P" designation indicating that the CE is targeted to pharmacists; and

(vi) either:

(I) a dated certifying signature of the approved provider and the official ACPE logo; or

(II) the CPE Monitor logo.

(2) Courses which are part of a professional degree program or an advanced pharmacy degree program offered by a college of pharmacy which has a professional degree program accredited by ACPE.

(A) Pharmacists may receive credit for the completion of the same course only once during a license period. A course is equivalent to one credit hour for each year of the renewal period.

(B) Pharmacists who teach these courses may receive credit towards their continuing education, but such credit may be received only once for teaching the same course during a license period. Documentation of the course instruction shall be a signed letter from the academic administrator (e.g., department head, program director) of the professional degree program or advanced pharmacy degree program that contains the course title and completion date, the name of the pharmacist who taught the course, and the proportion of the course taught by the pharmacist, if the course was co-taught. A pharmacist who co-teaches a course shall receive continuing education credit in proportion to the percentage of the course taught by the pharmacist, rounded to the nearest contact hour.

(3) Basic cardiopulmonary resuscitation (CPR) courses which lead to CPR certification by the American Red Cross or the American Heart Association or its equivalent shall be recognized as approved programs. Pharmacists may receive credit for one contact hour (0.1 CEU) towards their continuing education requirement for completion of a CPR course only once during a license period. Proof of completion of a CPR course shall be the certificate issued by the American Red Cross or the American Heart Association or its equivalent.

(4) Advanced cardiovascular life support courses (ACLS) or pediatric advanced life support (PALS) courses which lead to initial ACLS or PALS certification by the American Heart Association or its equivalent shall be recognized as approved programs. Pharmacists may receive credit for twelve contact hours (1.2 CEUs) towards their continuing education requirement for completion of an ACLS or PALS course only once during a license period. Proof of completion of an ACLS or PALS course shall be the certificate issued by the American Heart Association or its equivalent.

(5) Advanced cardiovascular life support courses (ACLS) or pediatric advanced life support (PALS) courses which lead to ACLS or PALS recertification by the American Heart Association or its equivalent shall be recognized as approved programs. Pharmacists may receive credit for four contact hours (0.4 CEUs) towards their continuing education requirement for completion of an ACLS or PALS recertification course only once during a license period. Proof of completion of an ACLS or PALS recertification course shall be the certificate issued by the American Heart Association or its equivalent.

~~[(6) Attendance at Texas State Board of Pharmacy Board Meetings shall be recognized for continuing education credit as follows:]~~

~~[(A) pharmacists shall receive credit for three contact hours (0.3 CEUs) towards their continuing education requirement for attending a full, public board business meeting in its entirety;]~~

~~[(B) a maximum of six contact hours (0.6 CEUs) are allowed for attendance at a board meeting during a license period; and]~~

~~[(C) proof of attendance for a complete board meeting shall be a certificate issued by the Texas State Board of Pharmacy.]~~

~~[(7) Participation in a Texas State Board of Pharmacy appointed Task Force shall be recognized for continuing education credit as follows:]~~

~~[(A) pharmacists shall receive credit for three contact hours (0.3 CEUs) towards their continuing education requirement for participating in a Texas State Board of Pharmacy appointed Task Force; and]~~

~~[(B) proof of participation for a Task Force shall be a certificate issued by the Texas State Board of Pharmacy.]~~

(6) [~~(8)~~] Attendance at programs presented by the Texas State Board of Pharmacy or courses offered by the Texas State Board of Pharmacy as follows:

(A) pharmacists shall receive credit for the number of hours for the program or course as stated by the Texas State Board of Pharmacy; and

(B) proof of attendance at a program presented by the Texas State Board of Pharmacy or completion of a course offered by the Texas State Board of Pharmacy shall be a certificate issued by the Texas State Board of Pharmacy.

~~[(9) Pharmacists shall receive credit toward their continuing education requirements for programs or courses approved by other state boards of pharmacy as follows:]~~

~~[(A) pharmacists shall receive credit for the number of hours for the program or course as specified by the other state board of pharmacy; and]~~

~~[(B) proof of attendance at a program or course approved by another state board of pharmacy shall be a certificate or other documentation that indicates:]~~

~~*[(i)* name of the participant;]~~

~~*[(ii)* title and completion date of the program;]~~

~~*[(iii)* name of the approved provider sponsoring or cosponsoring the program;]~~

~~*[(iv)* number of contact hours and/or CEUs awarded;]~~

~~*[(v)* a dated certifying signature of the provider; and]~~

~~*[(vi)* documentation that the program is approved by the other state board of pharmacy.]~~

~~[(10) Completion of an Institute for Safe Medication Practices' (ISMP) Medication Safety Self Assessment for hospital pharmacies or for community/ambulatory pharmacies shall be recognized for continuing education credit as follows:]~~

~~[(A) pharmacists shall receive credit for three contact hours (0.3 CEUs) towards their continuing education requirement for completion of an ISMP Medication Safety Self Assessment; and]~~

~~[(B) proof of completion of an ISMP Medication Safety Self Assessment shall be:]~~

~~*[(i)* a continuing education certificate provided by an ACPE approved provider for completion of an assessment; or]~~

~~*[(ii)* a document from ISMP showing completion of an assessment.]~~

(7) [~~(11)~~] Pharmacists shall receive credit for three contact hours (0.3 CEUs) toward their continuing education requirements for taking and successfully passing an initial Board of Pharmacy [~~Pharmaceutical~~] Specialties certification examination administered by the Board of Pharmacy [~~Pharmaceutical~~] Specialties. Proof of successfully passing the examination shall be a certificate issued by the Board of Pharmacy [~~Pharmaceutical~~] Specialties.

(8) [~~(12)~~] Programs approved by the American Medical Association (AMA) as Category 1 Continuing Medical Education (CME) and accredited by the Accreditation Council for Continuing Medical Education (ACCME) subject to the following conditions:

(A) pharmacists may receive credit for the completion of the same CME course only once during a license period;

(B) pharmacists who present approved CME programs may receive credit for the time expended during the actual presentation of the program. Pharmacists may receive credit for the same presentation only once during a license period; and

(C) proof of completion of a CME course shall contain the following information:

(i) name of the participant;

(ii) title and completion date of the program;

(iii) name of the approved provider sponsoring or cosponsoring the program;

(iv) number of contact hours and/or CEUs awarded; and

(v) a dated certifying signature of the approved provider.

(f) Retention of continuing education records and audit of records by the board.

(1) Retention of records. Pharmacists are required to maintain certificates of completion of approved continuing education for three years from the date of reporting the contact hours or course completion on a license renewal application. Such records may be maintained in hard copy or electronic format.

(2) Audit of records by the board. The board shall use the continuing education tracking system described in subsection (g) of this section to audit the records of pharmacists for verification of reported continuing education contact hours or course completion [~~credit~~]. The following is applicable for such audits:

(A) upon written request, a pharmacist shall provide to the board documentation of proof for all continuing education contact hours and course completions reported during a specified license period(s). Failure to provide all requested records during the specified time period constitutes prima facie evidence of failure to keep and maintain records and shall subject the pharmacist to disciplinary action by the board;

(B) credit for continuing education contact hours or course completion shall only be allowed for approved programs or required courses for which the pharmacist submits documentation of proof reflecting that the hours or courses were completed during the specified license period(s). Any other reported hours or course completion shall be disallowed. A pharmacist who has received credit for continuing education contact hours or course completion disallowed during an audit shall be subject to disciplinary action; and

(C) a pharmacist who submits false or fraudulent records to the board shall be subject to disciplinary action by the board.

(g) Continuing education tracking system. As specified in §112.103 of the Texas Occupations Code, proof of completion of all continuing education requirements shall be reported to the board through the board's continuing education tracking system. A pharmacist shall not be issued a renewal certificate for the license period unless the pharmacist has reported the completion of all required contact hours and any courses required under subsection (d)(1) of this section through the continuing education tracking system.

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

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Daniel Carroll, Pharm.D.
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For further information, please call: (512) 305-8084

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CHAPTER 297. PHARMACY TECHNICIANS AND PHARMACY TECHNICIAN TRAINEES

22 TAC §297.8

The Texas State Board of Pharmacy proposes amendments to §297.8, concerning Continuing Education Requirements. The amendments, if adopted, establish an electronic continuing education tracking system in accordance with Senate Bill 912, update continuing education programs in preparation for the statutory continuing education tracking system, specify that record retention requirements apply to all required courses, and make grammatical corrections.

Daniel Carroll, Pharm.D., Executive Director/Secretary, has determined that, for the first five-year period the rules are in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the rule. Dr. Carroll has determined that, for each year of the first five-year period the rule will be in effect, the public benefit anticipated as a result of enforcing the amendments will be to provide consistency between state law and Board rules regarding continuing education requirements and clearer recordkeeping requirements and grammatically correct regulations. There is no anticipated adverse economic impact on large, small or micro-businesses (pharmacies), rural communities, or local or state employment. Therefore, an economic impact statement and regulatory flexibility analysis are not required.

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

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

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

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

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

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

(6) The proposed amendments do expand an existing regulation in order to be consistent with state law and by applying record retention requirements to an additional category of records;

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

(8) The proposed amendments do not positively or adversely affect this state's economy.

The Board is requesting public comments on the proposed amendments and information related to the cost, benefit, or effect of the proposed amendments, including any applicable data, research, or analysis. Any information that is submitted in response to this request must include an explanation of how and why the submitted information is specific to the proposed amendments.

Written comments on the amendments may be submitted to Eamon D. Briggs, Deputy General Counsel, Texas State Board of Pharmacy, 1801 Congress Avenue, Suite 13.100, Austin, Texas, 78701-1319, FAX (512) 305-8061. The deadline for comments is 30 days after publication in the *Texas Register*.

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

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

§297.8. Continuing Education Requirements.

(a) Pharmacy technician trainees [~~Technician Trainees~~]. Pharmacy technician trainees are not required to complete continuing education.

(b) Pharmacy technicians [~~Technicians~~].

(1) All pharmacy technicians shall be exempt from the continuing education requirements during their initial registration period.

(2) All pharmacy technicians shall [~~must~~] complete and report 20 contact hours of approved continuing education and any courses required under paragraph (4) of this subsection obtained during the previous renewal period [~~in pharmacy related subjects~~] in order to renew their registration as a pharmacy technician. No more than 5 of the 20 contact hours may be earned at the pharmacy technician's workplace through in-service education and training under the direct supervision of the pharmacist(s).

(3) A pharmacy technician may satisfy the continuing education requirements by:

(A) successfully completing the number of continuing education hours necessary to renew a registration as specified in paragraph (2) of this subsection;

(B) successfully completing during the preceding license period, one credit hour for each year of the renewal period, in pharmacy related college course(s); or

(C) taking and passing a pharmacy technician certification examination approved by the board during the preceding renewal period, which shall be equivalent to the number of continuing education hours necessary to renew a registration as specified in paragraph (2) of this subsection.

(4) To renew a registration, a pharmacy technician shall [~~must~~] report on the renewal application completion of at least twenty contact hours of continuing education and any courses required under this paragraph. The following is applicable to the reporting of continuing education [~~contact hours~~]:

(A) at least one contact hour of the 20 contact hours specified in paragraph (2) of this subsection shall be related to Texas pharmacy laws or rules;

(B) any continuing education requirements which are imposed upon a pharmacy technician as a part of a board order or agreed board order shall be in addition to the requirements of this section; and

(C) a pharmacy technician shall [~~must~~] have completed the human trafficking prevention course required in §116.002 of the Texas Occupations Code.

(5) Pharmacy technicians are required to maintain records of completion of approved continuing education for three years from the date of reporting the contact hours or course completion on a renewal application. The records shall [~~must~~] contain at least the following information:

(A) name of participant;

(B) title and date of program;

(C) program sponsor or provider (the organization);

(D) number of hours awarded; and

(E) dated signature of sponsor representative.

(6) The board shall use the continuing education tracking system described in subsection (c) of this section to audit the records of pharmacy technicians for verification of reported continuing education contact hours or course completion [~~credit~~]. The following is applicable for such audits.

(A) Upon written request, a pharmacy technician shall provide to the board copies of the record required to be maintained in paragraph (5) of this subsection or certificates of completion for all continuing education contact hours and course completions reported during a specified registration period. Failure to provide all requested records by the specified deadline constitutes prima facie evidence of a violation of this rule.

(B) Credit for continuing education contact hours or course completion shall only be allowed for approved programs or required courses for which the pharmacy technician submits copies of records reflecting that the hours or courses were completed during the specified registration period(s). Any other reported hours or course completion shall be disallowed.

(C) A pharmacy technician who submits false or fraudulent records to the board shall be subject to disciplinary action by the board.

(7) The following is applicable if a pharmacy technician fails to report completion of the required continuing education.

(A) The registration of a pharmacy technician who fails to report completion of the required number of continuing education contact hours or any courses required under paragraph (4) of this subsection shall not be renewed and the pharmacy technician shall not be issued a renewal certificate for the license period until such time as the pharmacy technician successfully completes the required continuing education and reports the completion to the board.

(B) A person shall not practice as a pharmacy technician without a current renewal certificate.

(8) A pharmacy technician who has had a physical disability, illness, or other extenuating circumstances which prohibits the pharmacy technician from obtaining continuing education credit during the preceding license period may be granted an extension of time to complete the continued education requirement. The following is applicable for this extension:

(A) The pharmacy technician shall submit a petition to the board with his/her registration renewal application which contains:

(i) the name, address, and registration number of the pharmacy technician;

(ii) a statement of the reason for the request for extension;

(iii) if the reason for the request for extension is health related, a statement from the attending physician(s) treating the pharmacy technician which includes the nature of the physical disability or illness and the dates the pharmacy technician was incapacitated; and

(iv) if the reason for the request for the extension is for other extenuating circumstances, a detailed explanation of the extenuating circumstances and if because of military deployment, documentation of the dates of the deployment.

(B) After review and approval of the petition, a pharmacy technician may be granted an extension of time to comply with the continuing education requirement which shall not exceed one license renewal period.

(C) An extension of time to complete continuing education credit does not relieve a pharmacy technician from the continuing education requirement during the current license period.

(D) If a petition for extension to the reporting period for continuing education is denied, the pharmacy technician shall:

(i) have 60 days to complete and report completion of the required continuing education requirements; and

(ii) be subject to the requirements of paragraph (6) of this subsection relating to failure to report completion of the required continuing education if the required continuing education is not completed and reported within the required 60-day time period.

(9) The following are considered approved programs for pharmacy technicians.

(A) Any program presented by an Accreditation Council for Pharmacy Education (ACPE) approved provider subject to the following conditions.

(i) Pharmacy technicians may receive credit for the completion of the same ACPE course only once during a renewal period.

(ii) Pharmacy technicians who present approved ACPE continuing education programs may receive credit for the time expended during the actual presentation of the program. Pharmacy technicians may receive credit for the same presentation only once during a license period.

(iii) Proof of completion of an ACPE course shall contain the following information:

(I) name of the participant;

(II) title and completion date of the program;

(III) name of the approved provider sponsoring or cosponsoring the program;

(IV) number of contact hours awarded;

(V) the assigned ACPE universal program number and a "T" designation indicating that the CE is targeted to pharmacy technicians; and

(VI) either:

(-a-) a dated certifying signature of the approved provider and the official ACPE logo; or

(-b-) the Continuing Pharmacy Education Monitor logo.

(B) Pharmacy related college courses which are part of a pharmacy technician training program or part of a professional degree program offered by a college of pharmacy.

(i) Pharmacy technicians may receive credit for the completion of the same course only once during a license period. A course is equivalent to one credit hour for each year of the renewal period. One credit hour is equal to 15 contact hours.

(ii) Pharmacy technicians who teach these courses may receive credit towards their continuing education, but such credit may be received only once for teaching the same course during a license period. Documentation of the course instruction shall be a signed letter from the academic administrator (e.g., department head, program director) of the training program or professional degree program that contains the course title and completion date, the name of the pharmacy technician who taught the course, and the proportion of the course taught by the pharmacy technician, if the course was co-taught. A pharmacy technician who co-teaches a course shall receive continuing education credit in proportion to the percentage of the course taught by the pharmacy technician, rounded to the nearest contact hour.

(C) Basic cardiopulmonary resuscitation (CPR) courses which lead to CPR certification by the American Red Cross or the American Heart Association or its equivalent shall be recognized as approved programs. Pharmacy technicians may receive credit for one contact hour towards their continuing education requirement for completion of a CPR course only once during a renewal period. Proof of completion of a CPR course shall be the certificate issued by the American Red Cross or the American Heart Association or its equivalent.

(D) Advanced cardiovascular life support courses (ACLS) or pediatric advanced life support (PALS) courses which lead to initial ACLS or PALS certification by the American Heart Association or its equivalent shall be recognized as approved programs. Pharmacy technicians may receive credit for twelve contact hours towards their continuing education requirement for completion of an ACLS or PALS course only once during a renewal period. Proof of completion of an ACLS or PALS course shall be the certificate issued by the American Heart Association or its equivalent.

(E) Advanced cardiovascular life support courses (ACLS) or pediatric advanced life support (PALS) courses which lead to ACLS or PALS recertification by the American Heart Association or its equivalent shall be recognized as approved programs. Pharmacy technicians may receive credit for four contact hours towards their continuing education requirement for completion of an ACLS or PALS recertification course only once during a renewal period. Proof of completion of an ACLS or PALS recertification course shall be the certificate issued by the American Heart Association or its equivalent.

~~[(F) Attendance at Texas State Board of Pharmacy Board Meetings shall be recognized for continuing education credit as follows.]~~

~~*[(i)* Pharmacy technicians shall receive credit for three contact hours towards their continuing education requirement for attending a full, public board business meeting in its entirety.]~~

~~*[(ii)* A maximum of six contact hours are allowed for attendance at a board meeting during a renewal period.]~~

~~*[(iii)* Proof of attendance for a complete board meeting shall be a certificate issued by the Texas State Board of Pharmacy.]~~

[(G) Participation in a Texas State Board of Pharmacy appointed Task Force shall be recognized for continuing education credit as follows.]

[(i) Pharmacy technicians shall receive credit for three contact hours towards their continuing education requirement for participating in a Texas State Board of Pharmacy appointed Task Force.]

[(ii) Proof of participation for a Task Force shall be a certificate issued by the Texas State Board of Pharmacy.]

(F) [(H)] Attendance at programs presented by the Texas State Board of Pharmacy or courses offered by the Texas State Board of Pharmacy as follows:

(i) Pharmacy technicians shall receive credit for the number of hours for the program or course as stated by the Texas State Board of Pharmacy.

(ii) Proof of attendance at a program presented by the Texas State Board of Pharmacy or completion of a course offered by the Texas State Board of Pharmacy shall be a certificate issued by the Texas State Board of Pharmacy.

[(I) Pharmacy technicians shall receive credit toward their continuing education requirements for programs or courses approved by other state boards of pharmacy as follows:]

[(i) Pharmacy technicians shall receive credit for the number of hours for the program or course as specified by the other state board of pharmacy.]

[(ii) Proof of attendance at a program or course approved by another state board of pharmacy shall be a certificate or other documentation that indicates:]

[(I) name of the participant;]

[(II) title and completion date of the program;]

[(III) name of the approved provider sponsoring or cosponsoring the program;]

[(IV) number of contact hours awarded;]

[(V) a dated certifying signature of the provider; and]

[(VI) documentation that the program is approved by the other state board of pharmacy.]

[(J) Completion of an Institute for Safe Medication Practices' (ISMP) Medication Safety Self-Assessment for hospital pharmacies or for community/ambulatory pharmacies shall be recognized for continuing education credit as follows.]

[(i) Pharmacy technicians shall receive credit for three contact hours towards their continuing education requirement for completion of an ISMP Medication Safety Self-Assessment.]

[(ii) Proof of completion of an ISMP Medication Safety Self-Assessment shall be:]

[(I) a continuing education certificate provided by an ACPE approved provider for completion of an assessment; or]

[(II) a document from ISMP showing completion of an assessment.]

(G) [(K)] Programs approved by the American Medical Association (AMA) as Category 1 Continuing Medical Education (CME) and accredited by the Accreditation Council for Continuing Medical Education (ACCME) subject to the following conditions.

(i) Pharmacy technicians may receive credit for the completion of the same CME course only once during a license period.

(ii) Pharmacy technicians who present approved CME programs may receive credit for the time expended during the actual presentation of the program. Pharmacy technicians may receive credit for the same presentation only once during a license period.

(iii) Proof of completion of a CME course shall contain the following information:

(I) name of the participant;

(II) title and completion date of the program;

(III) name of the approved provider sponsoring or cosponsoring the program;

(IV) number of contact hours awarded; and

(V) a dated certifying signature of the approved provider.

(H) [(L)] In-service education provided under the direct supervision of a pharmacist shall be recognized as continuing education as follows:

(i) Pharmacy technicians shall receive credit for the number of hours provided by pharmacist(s) at the pharmacy technician's place of employment.

(ii) Proof of completion of in-service education shall contain the following information:

(I) name of the participant;

(II) title or description of the program;

(III) completion date of the program;

(IV) name of the pharmacist supervising the in-service education;

(V) number of hours; and

(VI) a dated signature of the pharmacist providing the in-service education.

(c) Continuing education tracking system. As specified in §112.103 of the Texas Occupations Code, proof of completion of all continuing education requirements shall be reported to the board through the board's continuing education tracking system. A pharmacy technician shall not be issued a renewal certificate for the license period unless the pharmacy technician has reported the completion of all required contact hours and any courses required under subsection (b)(4) of this section through the continuing education tracking system.

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

Filed with the Office of the Secretary of State on December 11, 2025.

TRD-202504528
Daniel Carroll, Pharm.D.
Executive Director
Texas State Board of Pharmacy
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For further information, please call: (512) 305-8084

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TITLE 25. HEALTH SERVICES

PART 1. DEPARTMENT OF STATE HEALTH SERVICES

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

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

BACKGROUND AND PURPOSE

House Bill 1325 (86th Legislature, Regular Session) established Texas Health and Safety Code (HSC) Chapter 443 for the Manufacture, Distribution, and Sale of Consumable Hemp Products (CHPs). The rules in Title 25 Texas Administrative Code Chapter 300 implement HSC 443 and became effective on August 2, 2020.

On September 10, 2025, Governor Greg Abbott issued Executive Order GA-56 which directed the department to amend the rules to prohibit the sale of CHPs to minors by retail hemp registrants and manufacturers; to add age verification requirements; to update testing requirements; and to update record keeping requirements.

The proposal increases the initial and renewal licensing fees for consumable hemp manufacturers to $25,000 annually and increases the registration fees to $20,000 annually per location. The proposal adds a written consent requirement for Texas Alcoholic Beverage Commission (TABC) to enter the premises to conduct a physical inspection for both manufacturers and retail hemp registrants.

SECTION-BY-SECTION SUMMARY

DSHS made minor editorial changes to the rules to ensure consistency and improve overall clarity, including necessary renumbering, punctuation and grammatical edits, and changing the word "shall" to "must."

The proposed amendment to §300.100 is a minor copy edit only.

The proposed amendment to §300.101 changes existing definitions of "approved hemp source," "cannabidiol (CBD)," "Certificate of Analysis (COA)," "consumable hemp product," "consumable hemp products license," "delta-9 tetrahydrocannabinol," "distributor," "manufacturer," "measurement of uncertainty," "non-consumable hemp processor," "registrant," "tetrahydrocannabinol (THC)," and "smoking." The proposed amendment adds new definitions for "batch date," "batch ID number," "cannabis," "decarboxylation," "hemp-derived cannabinoid product," "marihuana," "minor," "private labeling," "supplier," "tetrahydrocannabinol acid (THCA)," "total THC," and "total Delta-9 THC," and removes the definition for "lot number."

The proposed amendment to §300.102 adds Chapter 229, Subchapter O to the list of applicable regulations.

The proposed amendment to §300.103 consists primarily of editorial changes and clarifies citations to 21 United States Code.

The proposed amendment to §300.201 adds Texas Alcoholic Beverage Commission to the list of agencies a consumable hemp product (CHP) license applicant must consent to allow entry and clarifies the requirements for "business name."

The proposed amendment to §300.202 clarifies what constitutes a valid license and updates license fees and terms.

The proposed amendment to §300.203 adds new subsections (d) and (e) to specify what and how records must be maintained and replaces "§519 or §520(g)" with "§360(i) or §360(j)" to reference the correct federal code.

Proposed new §300.204 contains specific requirements for master production records to promote uniformity across production batches.

Proposed new §300.205 contains specific requirements for individual batch production records.

Proposed new §300.206 contains specific source and traceability requirements for raw materials and ingredients.

Proposed new §300.207 contains requirements for conducting product recalls, including maintaining a written recall plan.

Proposed new §300.208 contains requirements for the documentation, evaluation, and investigation of consumer complaints by CHP licensees.

The proposed amendment to §300.301 clarifies testing requirements for raw hemp, hemp-derived ingredients, and CHP and adds new subsections (b) and (d) - (f) which outlines requirements for certificates of analysis (COAs).

The proposed amendment to §300.302 clarifies the language regarding acceptable delta-9 THC limits and business' responsibility for providing samples to DSHS at the businesses' own expense, and changes the title of the rule from *Sample Analysis of Consumable Hemp and Certain Cannabinoid Oils* to *Sample Analysis of Consumable Hemp Products*.

The proposed amendment to §300.303 clarifies that manufacturers must also meet the testing requirements of §300.301. The proposal repeals subsection (f) regarding DSHS acceptance of sample results from other accredited laboratories, subsection (h) regarding DSHS notification of license holders with sample results within 14 days, and subsection (k) regarding exemptions to testing requirements. The proposed amendment also clarifies the department's responsibility to provide an updated list of analytes and upper limits.

The proposed amendment to §300.402 clarifies label requirements; adds new subsection (b) regarding warning statements on labels; and repeals subsection (c) regarding placement and QR code requirements.

The proposed amendment to §300.403 is a minor edit only replacing "this state" with "Texas," and "registrant" with "person."

The proposed amendment to §300.404 adds language to prohibit the transport of ingredients containing THC above 0.3% into Texas for further processing.

Proposed new §300.405 adds requirements for packaging that is tamper-evident, child-resistant, and non-attractive to children.

Proposed new §300.406 adds language regarding handling of packaging and labeling materials, including keeping written procedures and documentation.

Proposed new §300.407 adds language to prohibit labels that mislead consumers to believe products do not contain hemp-derived cannabinoids or are intended for medical use.

The proposed amendment to §300.501 removes language that restricts the prohibition to products "containing CBD."

The proposed amendment to §300.502 adds language requiring the business or property owner to provide written consent for entry by DSHS, Texas Alcoholic Beverage Commission (TABC), or law enforcement when applying for a license. The amendment also increases fees. Additionally, the amendment specifies that an expired registration is no longer valid and repeals subsection (f) regarding the collection of Texas.gov fees.

The proposed amendment to §300.601 clarifies each violation counts individually when calculating an administrative penalty.

The proposed amendment to §300.602 adds new language to classify the following prohibited acts: refusal of inspection, sample collection, photography, copy of records, and aggressive or threatening behavior.

The proposed amendment to §300.603 is a minor clarifying edit only.

The proposed amendment to §300.604 removes the requirement for a reverse distributor to destroy THC products above the acceptable hemp THC level and instead specifies referral to law enforcement.

The proposed amendment to §300.605 removes a good and sufficient bond for correction of adulterated or mislabeled products and a minor edit.

The proposed amendment to §300.606 is editorial in nature only.

Proposed new §300.701 prohibits the sale of CHPs to minors and requires valid identification as proof of age for purchase.

Proposed new §300.702 establishes sale of CHPs to minors as grounds for the revocation of a CHP license or retail hemp registration.

FISCAL NOTE

Christy Havel Burton, Chief Financial Officer, has determined that for each year of the first five years the rules will be in effect, there will be an estimated increase in revenue to state government as a result of enforcing and administering the rules as proposed. Enforcing or administering the rules does not have foreseeable implications relating to costs or revenues of local government.

The effect on state government for each year of the first five years the proposed rules are in effect is an estimated increase in revenue of $202,050,000 in fiscal year (FY) 2026; $202,050,000 in FY 2027; $202,050,000 in FY 2028; $202,050,000 in FY 2029; and $202,050,000 in FY 2030; and an estimated increase in costs of $69,315.00 in FY 2026; $5,648.00 in FY 2027; $5,648.00 in FY 2028; $5,648.00 in FY 2029; and $5,648.00 in FY 2030.

GOVERNMENT GROWTH IMPACT STATEMENT

DSHS has determined that during the first five years the rules will be in effect:

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

(2) implementation of the proposed rules will not affect the number of DSHS employee positions;

(3) implementation of the proposed rules will require an increase in future legislative appropriations;

(4) the proposed rules will require an increase in fees paid to DSHS;

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

(6) the proposed rules will expand existing regulations;

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

(8) DSHS has insufficient information to determine the proposed rules' effect on the state's economy.

SMALL BUSINESS, MICRO-BUSINESS, AND RURAL COMMUNITY IMPACT ANALYSIS

Christy Havel Burton has also determined there will be an adverse economic effect on small businesses or micro-businesses, or rural communities due to the higher licensing and registration fees and higher costs to comply with the proposed rule updates.

DSHS estimates the number of small businesses, micro-businesses, and rural communities subject to the proposed rules is approximately 9,900. The projected, total economic impact for small businesses, micro-businesses, and rural communities across the state is $202,050,000 for each of the first five years the rules will be in effect.

DSHS determined that alternative methods to achieve the purpose of the proposed rules for small businesses, micro-businesses, or rural communities would not be consistent with ensuring the health and safety of adults and minors who have been targeted consumers of CHPs.

LOCAL EMPLOYMENT IMPACT

The proposed rules will impact the local economy, but DSHS does not have sufficient data to define the impact.

COSTS TO REGULATED PERSONS

Texas Government Code §2001.0045 does not apply to these rules because the rules are necessary to protect the health, safety, and welfare of the residents of Texas.

PUBLIC BENEFIT AND COSTS

Timothy Stevenson, DVM, PhD, Deputy Commissioner, Consumer Protection Division, has determined that for each year of the first five years the rules are in effect, the public benefit will be increased public health requirements for the manufacturers, distributors, and retailers of CHPs along with prohibited availability and access of CHPs to minors.

Christy Havel Burton has also determined that for the first five years the rules are in effect, persons who are required to comply with the proposed rules may incur economic costs because of higher licensing and registration fees. Some retailers and manufacturers may incur costs associated with compliance with age verification requirements, depending on the methodology and equipment used to verify identification and to ensure minors are not sold consumable hemp products.

TAKINGS IMPACT ASSESSMENT

DSHS has determined that the proposal does not restrict or limit an owner's right to the owner's property that would otherwise exist in the absence of government action and, therefore, does not constitute a taking under Texas Government Code §2007.043.

PUBLIC COMMENT

Written comments on the proposal, including information related to the cost, benefit, or effect of the proposed rule, as well as any applicable data, research, or analysis, may be submitted to Rules Coordination Office, P.O. Box 13247, Mail Code 4102, Austin, Texas 78711-3247, or street address 4601 West Guadalupe Street, Austin, Texas 78751; or emailed to *HHSRulesCoordinationOffice@hhs.texas.gov.*

To be considered, comments must be submitted no later than 31 days after the date of this issue of the *Texas Register*. Comments must be (1) postmarked or shipped before the last day of the comment period; (2) hand-delivered before 5:00 p.m. on the last working day of the comment period; or (3) emailed before midnight on the last day of the comment period. If the last day to submit comments falls on a holiday, comments must be postmarked, shipped, or emailed before midnight on the following business day to be accepted. When emailing comments, please indicate "Comments on Proposed Rule 26R008" in the subject line.

SUBCHAPTER A. GENERAL PROVISIONS

25 TAC §§300.100 - 300.103

STATUTORY AUTHORITY

The amendments are authorized by Texas Health and Safety Code §1001.075, which authorizes the executive commissioner of HHSC to adopt rules for the operation and provision of health and human services by DSHS and for the administration of Texas Health and Safety Code Chapter 1001; Texas Health and Safety Code §12.001, stating that the executive commissioner of HHSC has general supervision and control over all matters relating to the health of Texas citizens; Texas Health and Safety Code Chapter 431 and §443.051, stating that the executive commissioner of HHSC shall adopt rules governing the provision of CHPs by license and registration holders; Texas Government Code §524.0151 and §524.0005; and Texas Health and Safety Code §12.001.

The amendments implement Texas Government Code §524.0151, Texas Government Code §524.0005, Texas Health and Safety Code §1001.075, Texas Health and Safety Code §12.001, and Texas Health and Safety Code Chapters 431 and 443.

§300.100. Purpose.

This chapter implements Texas Health and Safety Code[~~,~~] Chapter 443, regulating the manufacture, distribution, and retail sale of consumable hemp and consumable hemp products in the State of Texas.

§300.101. Definitions.

The following words and terms, when used in this chapter, have the following meanings unless context clearly indicates otherwise:

(1) Acceptable hemp THC level--A total delta-9 tetrahydrocannabinol content concentration level on a dry weight basis, that, when reported with the accredited laboratory's measurement of uncertainty, produces a distribution or range that includes a result of 0.3% [~~0.3 percent~~] or less.

(2) Accredited laboratory--A laboratory, including at an institution of higher education, accredited in accordance with the International Organization for Standardization ISO/IEC 17025 or a comparable or successor standard.

(3) Act--House Bill 1325, 86th Legislature, Regular Session, 2019, relating to the production and regulation of hemp in Texas, codified in Texas Health and Safety Code[~~,~~] Chapter 443.

(4) Analyte--A chemical, compound, element, bacteria, yeast, fungus, mold, or toxin identified and measured by accredited laboratory analysis.

(5) Approved hemp source--Hemp and hemp products [~~grown~~] for human use and consumption must be grown [~~produced~~] under a state or [~~a~~] compatible federal, foreign, or Tribal plan. These plans must be[~~,~~] approved by the United States Department of Agriculture under 7 United States Code (U.S.C.) Chapter 38, Subchapter VII, or Texas Agriculture Code[~~,~~] Chapter 121. The products must comply[~~, or in a manner that is consistent~~] with federal law and the laws of respective foreign jurisdictions. Additionally, the products must come from a manufacturer or distributor licensed with the department according to Texas Health and Safety Code Chapters 431 and 443.

(6) Batch date--The date a product batch was made, used for tracking and quality control. This is also called the lot date.

(7) Batch ID number--A number that identifies a specific amount of raw or processed hemp product that meets standards for identity, strength, purity, and composition. Each batch ID number must include the manufacturer's, processor's, or distributor's number and a sequence for inventory, traceability, and identification of the plant batches used in making consumable hemp products. This is also called the lot number.

(8) Cannabis--A type of flowering plant in the Cannabaceae family. Cannabis sativa is a species. Cannabis indica and Cannabis ruderalis are subspecies.

(9) [~~(6)~~] Cannabidiol (CBD)--A phytocannabinoid produced by [~~identified as an extract from~~] cannabis [~~plants~~].

(10) [~~(7)~~] Certificate of Analysis (COA)--An official document from an [~~released by the~~] accredited laboratory available to the manufacturer, processor, distributor, [~~or~~] retailer, public, or department. The COA shows the concentrations of cannabinoid analytes and other measurements required by the department, including data on THC levels, and states whether a sample passed or failed content analysis limits. [~~of consumable hemp products, the public, or department, which contains the concentrations of cannabinoid analytes and other measures approved by the department, to also include data on levels of THC and state whether a sample passed or failed any limits of content analysis.~~]

(11) [~~(8)~~] Consumable hemp product (CHP)--Any product processed or manufactured for consumption that contains hemp, including food, a drug, a device, and a cosmetic, as [~~those terms are~~] defined by Texas Health and Safety Code[~~,~~] §431.002. The definition excludes[~~, but does not include~~] any [~~consumable~~] hemp product containing a hemp seed[~~,~~] or hemp seed-derived ingredient that the FDA [~~being used in a manner that~~] has designated as Generally Recognized as Safe [~~been generally recognized as safe~~] (GRAS) [~~by the FDA~~].

(12) [~~(9)~~] Consumable hemp products license--A license issued to a person or facility engaged in the act of manufacturing, extracting, or processing[~~, or distributing~~] consumable hemp products for human consumption or use.

(13) Decarboxylation--The removal or elimination of a carboxyl group from a molecule or organic compound.

(14) [~~(10)~~] Delta-9 tetrahydrocannabinol (d-9 THC)--A tetrahydrocannabinol isomer known as the [~~The~~] primary psychoactive component of cannabis. [~~For the purposes of this chapter, the terms delta-9 tetrahydrocannabinol and THC are interchangeable.~~]

(15) [~~(11)~~] Department--Department of State Health Services.

(16) [~~(12)~~] Distributor--A person who distributes consumable hemp products for resale, either through a retail outlet owned by that person or through sales to another retailer. A distributor is required to hold a wholesaler license per Texas Health and Safety Code Chapter 431 [~~consumable hemp products license~~].

(17) [~~(13)~~] Facility--A place of business engaged in manufacturing, processing, or distributing consumable hemp products subject to the requirements of this chapter and Texas Health and Safety Code[~~,~~] Chapter 431. A facility includes a domestic or foreign facility [~~that is~~] required to register under the Federal Food, Drug, and Cosmetic Act, Section 415 in accordance with the requirements of 21 Code of Federal Regulations Part 1, Subpart H.

(18) [~~(14)~~] FDA--The United States Food and Drug Administration or its successor agency.

(19) [~~(15)~~] Federal Act--Federal Food, Drug, and Cosmetic Act (Title 21 U.S.C. 301 et seq.).

(20) [~~(16)~~] Hemp--The plant, Cannabis sativa L. and any part of that plant, including the seeds of the plant and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a total delta-9 tetrahydrocannabinol content concentration level on a dry weight basis, that, when reported with the accredited laboratory's measurement of uncertainty, produces a distribution or range that includes a result of 0.3 percent or less total delta-9 tetrahydrocannabinol concentration.

(21) Hemp-derived cannabinoid product--Any intermediate or final product derived from hemp (other than industrial hemp), that:

(A) contains cannabinoids in any form; and

(B) is intended for human or animal use through any means of application or administration, such as inhalation, ingestion, or topical application.

(22) [~~(17)~~] Independent contractor--A person or entity contracted to perform work or sales for a registrant.

(23) [~~(18)~~] License holder--The person who is legally responsible for the operation as a consumable hemp manufacturer, processor, or distributor, and possesses a valid license.

[~~(19) Lot number--A specific quantity of raw or processed hemp product that is uniform and intended to meet specifications for identity, strength, purity, and composition that shall contain the manufacturer's, processor's, or distributor's, number and a sequence to allow for inventory, traceability, and identification of the plant batches used in the production of consumable hemp products.~~]

(24) [~~(20)~~] Manufacturer--A person who makes, extracts, processes, packages, repackages, or distributes consumable hemp product from one or more ingredients. The definition includes [~~, including~~] synthesizing, preparing, treating, modifying, or manipulating hemp, [~~or~~] hemp crops, or ingredients to create a consumable hemp product. It also includes private-labeling. For farmers and persons with farm mixed-type facilities, manufacturing and processing do [~~does~~] not include activities related to growing, harvesting, packing, or holding raw hemp product.

(25) Marihuana--The plant Cannabis sativa L., whether growing or not, the seeds of that plant, and every compound, manufacture, salt, derivative, mixture, or preparation of that plant or its seeds. The term does not include:

(A) the resin extracted from a part of the plant or a compound, manufacture, salt, derivative, mixture, or preparation of the resin;

(B) the mature stalks of the plant or fiber produced from the stalks;

(C) oil or cake made from the seeds of the plant;

(D) a compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, fiber, oil, or cake;

(E) the sterilized seeds of the plant that are incapable of beginning germination; or

(F) hemp, as that term is defined by Section 121.001, Agriculture Code.

(26) [~~(21)~~] Measurement of uncertainty--The parameter, associated with the results of an analytical measurement that characterizes the dispersion of the values that could reasonably be attributed to the quantity subjected to testing measurement. For example, if the reported total d-9 THC [~~delta-9 tetrahydrocannabinol~~] content concentration level on a dry weight basis is 0.35% and the measurement of uncertainty is +/- 0.06%, the measured total d-9 THC [~~delta-9 tetrahydrocannabinol~~] content concentration level on a dry weight basis for this sample ranges from 0.29% to 0.41%. Because 0.3% is within the distribution or range, the sample is within the acceptable hemp THC level for the purpose of plan compliance.

(27) Minor--A person under 21 years of age.

(28) [~~(22)~~] Non-consumable hemp processor--A person who intends to process hemp products not for human consumption and who is registered with the Texas Department of Agriculture.

(29) [~~(23)~~] Non-consumable hemp product--As defined by Texas Agriculture Code[~~,~~] §122.001(8), means a product that contains hemp, other than a consumable hemp product as defined by Texas Health and Safety Code[~~,~~] §443.001. The term includes cloth, cordage, fiber, fuel, paint, paper, particleboard, construction materials, and plastics derived from hemp.

(30) [~~(24)~~] Pathogen--A microorganism of public health significance, including molds, yeasts, Listeria monocytogenes, Campylobacter, Salmonella, E. coli, Yersinia, or Staphylococcus.

(31) [~~(25)~~] Person--An individual, business, partnership, corporation, or association.

(32) Private labeling--When a person or manufacturer labels a CHP with the person's name and address, thereby representing itself as responsible for the purity and labeling of a CHP.

(33) [~~(26)~~] Process--Extraction of a component of hemp, including CBD or another cannabinoid, that is:

(A) sold as a consumable hemp product;

(B) offered for sale as a consumable hemp product;

(C) incorporated into a consumable hemp product; or

(D) intended for incorporation [~~to be incorporated~~] into a consumable hemp product.

(34) [~~(27)~~] Processor--A person who operates a facility that [~~which~~] processes raw agriculture hemp into consumable hemp products for manufacture, distribution, and sale. A hemp processor is re-

quired to hold a consumable hemp products license. A person issued a consumable hemp products license who[~~, which~~] only engages in the manufacturing, processing, and distribution of consumable hemp products[~~,~~] is not required to hold a license under Texas Health and Safety Code[~~,~~] Chapter 431, Subchapter J.

(35) [~~(28)~~] QR code--A quick response machine-readable code that can be read by a camera, consisting of an array of black and white squares used for storing information or directing or leading a user to product information regarding manufacturer data and accredited laboratory COA [~~certificates of analysis~~].

(36) [~~(29)~~] Raw hemp--An unprocessed hemp plant, or any part of the [~~that~~] plant, in its natural state.

(37) [~~(30)~~] Registrant--A person[~~, on the person's own behalf or on behalf of others,~~] who sells consumable hemp products directly to consumers, and who submits a complete registration form to the department for purposes of registering the [~~their~~] place of business to sell consumable hemp products at retail to the public.

(38) [~~(31)~~] Reverse distributor--A person registered with the federal Drug Enforcement Agency as a reverse distributor that receives controlled substances from another person or entity for return of the products to the registered manufacturer or to destroy adulterated or impermissible THC products.

(39) [~~(32)~~] Smoking--Burning or igniting a substance [~~consumable hemp product~~] and inhaling the resultant smoke or heating a substance and inhaling the resulting[~~,~~] vapor[~~,~~] or aerosol.

(40) Supplier--A person or entity that manufactures or processes a material used in the processing or manufacturing of hemp. This term also includes a person or entity that manufactures hemp-derived cannabinoids or sells products containing hemp-derived cannabinoids to retailers.

(41) [~~(33)~~] Tetrahydrocannabinol (THC)--A cannabinoid found in cannabis and considered the [~~The~~] primary psychoactive component of the cannabis plant.

(42) Tetrahydrocannabinolic acid (THCA)--A precursor to all tetrahydrocannabinols (THC).

(43) [~~(34)~~] Texas Department of Agriculture--The state agency responsible for regulation of planting, growing, harvesting, and testing of hemp as a raw agricultural product.

(44) [~~(35)~~] Texas.gov--The online registration system for the State of Texas found at https://www.texas.gov.

(45) Total THC--The value determined after the process of decarboxylation, or the application of a conversion factor if the testing methodology does not include decarboxylation, that expresses the potential total tetrahydrocannabinol content derived from the sum of all THC isomers and THCA content and reported on a dry weight basis. This technique requires the use of the following conversion: [Total THC = (0.877 x THCA) + THC], which calculates the potential total THC in a given sample.

(46) Total delta-9 THC--The value is determined after decarboxylation or by applying a conversion factor if the testing method does not include decarboxylation. This shows the potential total delta-9 THC content from the sum of delta-9 THC and THCA, reported on a dry weight basis. The post-decarboxylation value of delta-9 THC can be calculated using a chromatograph technique with heat, like gas chromatography, which converts THCA. This test calculates the potential total delta-9 THC in a sample. The total delta-9 THC can also be calculated using a liquid chromatograph technique, which keeps THCA intact. This technique uses the conversion: [Total delta-9 THC = (0.877 x THCA) + delta-9 THC]. This test calculates the potential total delta-9 THC in a sample.]

§300.102. Applicability of Other Rules and Regulations.

Hemp manufacturers, processors, distributors, and retailers must comply with all relevant laws and rules applicable to the manufacture, processing, distribution and sale of consumable products, including:

(1) Chapter 217, Subchapter C of this title (relating to Rules for the Manufacture of Frozen Desserts);

(2) Chapter 229, Subchapter D of this title (relating to Regulation of Cosmetics);

(3) Chapter 229, Subchapter F of this title (relating to Production, Processing, and Distribution of Bottled and Vended Drinking Water);

(4) Chapter 229, Subchapter G of this title (relating to Manufacture, Storage, and Distribution of Ice Sold for Human Consumption, Including Ice Produced at Point of Use);

(5) Chapter 229, Subchapter L of this title (relating to Licensure of Food Manufacturers, Food Wholesalers, and Warehouse Operators);

(6) Chapter 229, Subchapter N of this title (relating to Current Good Manufacturing Practice and Good Warehousing Practice In Manufacturing, Packing, Or Holding Human Food);

(7) Chapter 229, Subchapter O of this title (relating to Licensing of Wholesale Distributors of Nonprescription Drugs--Including Good Manufacturing Practices);

(8) [~~(7)~~] Chapter 229, Subchapter W of this title (relating to Licensing of Wholesale Distributors of Prescription Drugs--Including Good Manufacturing Practices);

(9) [~~(8)~~] Chapter 229, Subchapter X of this title (relating to Licensing of Device Distributors and Manufacturers); and

(10) [~~(9)~~] Chapter 229, Subchapter GG of this title (relating to Sanitary Transportation of Human Foods).

§300.103. Inspections.

(a) Authorized employees of the department, after showing proper [~~may, upon presenting appropriate~~] credentials to the owner, operator, or person in charge, may:

(1) enter [~~at reasonable times~~] the premises at reasonable times, conduct inspections, collect samples, and take photographs to determine compliance with this chapter and Texas Health and Safety Code[~~,~~] Chapters 431 and 443;

(2) enter a vehicle being used to transport or hold a [~~the~~] consumable hemp product in commerce; or

(3) inspect at reasonable times, within reasonable limits, and in a reasonable manner, the facility or vehicle and all equipment, finished and unfinished materials, containers, and labeling of any item and obtain samples necessary for the enforcement of this chapter.

(b) The inspection of a facility where consumable hemp products are manufactured, processed, distributed, packed, repackaged, sold, or held [~~or sold~~], for introduction into commerce must undergo inspection to determine [~~shall be for the purpose of determining~~] if the consumable hemp product is:

(1) adulterated or misbranded; or

(2) [~~otherwise~~] manufactured, processed, held, distributed, packed, or sold in violation of this chapter or Texas Health and Safety Code[~~,~~] Chapters 431 and 443.

(c) An inspection of a facility where [~~in which~~] a prescription drug or restricted device is being manufactured, processed, packed, or held for introduction into commerce under subsection (b) of this section must [~~shall~~] not extend to:

(1) financial data;

(2) sales data other than shipment data;

(3) pricing data;

(4) personnel data other than data relating to the qualifications of technical and professional personnel performing functions under this chapter; or

(5) research data other than data:

(A) relating to new consumable hemp products; and

(B) subject to reporting and inspection [~~under regulations issued~~] under 21 United States Code (U.S.C) §11 or 21 U.S.C. §355 or 21 U.S.C. §360(j) or §360(i) [~~§505(i) or (j), §519, or §520(g) of the Federal Act~~].

(d) The inspector must start and complete the [~~An~~] inspection under subsection (b) of this section [~~shall be started and completed~~] with reasonable promptness.

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

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SUBCHAPTER B. MANUFACTURE, PROCESSING, AND DISTRIBUTION OF CONSUMABLE HEMP PRODUCTS

25 TAC §§300.201 - 300.208

STATUTORY AUTHORITY

The amendments and new sections are authorized by Texas Health and Safety Code §1001.075, which authorizes the executive commissioner of HHSC to adopt rules for the operation and provision of health and human services by DSHS and for the administration of Texas Health and Safety Code Chapter 1001; Texas Health and Safety Code §12.001, stating that the executive commissioner of HHSC has general supervision and control over all matters relating to the health of Texas citizens; Texas Health and Safety Code Chapter 431 and §443.051, stating that the executive commissioner of HHSC shall adopt rules governing the provision of CHPs by license and registration holders; Texas Government Code §524.0151 and §524.0005; and Texas Health and Safety Code §12.001.

The amendments and new sections implement Texas Government Code §524.0151, Texas Government Code §524.0005, Texas Health and Safety Code §1001.075, Texas Health and Safety Code §12.001, and Texas Health and Safety Code Chapters 431 and 443.

§300.201. Application for License or Renewal.

(a) A person must hold a consumable hemp products license issued by the department before engaging in the manufacture, processing, or distribution of consumable hemp products.

(b) A person must [~~shall~~] apply for a consumable hemp products license [~~under this subchapter~~] by submitting an application to the department [~~in the manner prescribed by the department~~] for each location engaged in the manufacture, processing, or distribution of consumable hemp products. The application must include [~~be accompanied by~~]:

(1) a legal description of each location, including [~~to include~~] the global positioning system coordinates for the perimeter of each location:

(A) where the applicant intends to manufacture or process consumable hemp products; and

(B) where the applicant intends to store consumable hemp products [~~to include the global positioning system coordinates for the perimeter of each location~~];

(2) written consent from the applicant or [~~the~~] property owner, if the applicant is not the property owner, for the department, the Department of Public Safety, Texas Alcoholic Beverage Commission, and any other state or local law enforcement agencies [~~agency,~~] to enter all premises where consumable hemp is manufactured, processed, or delivered for [~~, to conduct a~~] physical inspection or to ensure compliance with this chapter; and

(3) a fingerprint-based criminal background check from each applicant at the applicant's expense.

(c) If the applicant or person has been convicted of a felony relating to a controlled substance under federal law or the law of any state within 10 [~~ten~~] years before the date of application, the department must [~~shall~~] not issue a consumable hemp products license under this subchapter.

(d) If the department receives information that a license holder [~~under this subchapter~~] has been convicted of a felony relating to a controlled substance under federal law or the law of any state within 10 [~~ten~~] years before the license was issued [~~issue date of the license~~], the department must [~~shall~~] revoke the consumable hemp products license.

(e) A person holding [~~who holds~~] a consumable hemp products license under this subchapter must [~~shall~~] undergo a fingerprint-based criminal background check at the person's [~~his~~] own expense.

(f) Applications must contain the following information:

(1) the name of the license applicant;

(2) the business name, if different from the applicant's name, and any other names under which the firm does business, if applicable [~~than applicant name~~];

(3) the mailing address of the business;

(4) the street address of the facility;

(5) the primary business contact telephone number;

(6) the personal email address of the applicant; and

(7) the email address of the business, if different than the applicant's email address.

(g) If a person owns or operates two or more facilities, each facility must have a separate license with its own application form,

[~~shall be licensed separately by~~] listing the name and address of each facility [~~on separate application forms~~].

(h) Applicants must submit an application for a consumable hemp products license request under this subchapter electronically through www.Texas.gov. The department is authorized to collect fees[~~, in amounts determined by the Texas Online Authority,~~] to recover costs associated with application and renewal application processing through www.Texas.gov.

(i) All fees required by the department must be submitted with the application.

(j) Applicants must provide any additional [~~submit any other~~] information required by the department, as specified on the [~~evidenced and provided upon~~] application forms.

(k) The facility must display the [~~A~~] consumable hemp products license issued by the department [~~should be displayed~~] in an obvious and conspicuous public location [~~within the facility to which the license applies~~].

§300.202. License Term and Fees.

(a) A consumable hemp product license is valid for one year from the date displayed on the license and must be renewed annually. An expired license is not current or valid. A person must not process hemp or manufacture a consumable hemp product without a valid license.

(b) The department must [~~shall~~] issue and renew a license if the license holder:

(1) is eligible to obtain a license under §300.201 of this subchapter (relating to Application for License or Renewal);

(2) submits a license fee to the department;

(3) does not owe outstanding fees to the department;

(4) possesses testing results of consumable hemp products before [~~their~~] manufacture, distribution, or sale into commerce, and provides those testing results upon department request; [~~and~~]

(5) has not been convicted of a felony relating to a controlled substance under federal law or the law of any state in the 10 [~~ten~~] years before the date of renewal of the license;[~~.~~]

(6) submits a complete application; and

(7) has not had a consumable hemp products license revoked for sale to a minor in the preceding five years from the date on which an application is submitted to the department.

(c) Fees.

(1) Before the manufacture, processing, or distribution of consumable hemp products, a license holder must pay a fee of $25,000 [~~$250~~] per facility. License renewal fees are $25,000 per facility.

(2) For each facility, a license holder must pay:

(A) a $25,000 [~~$250.00~~] fee for an amendment to a new license due to a change of ownership of the licensed facility; or

(B) a $125.00 fee for any amendment during the licensure period due to minor changes, such as change of location, change of name, or change of address.

(3) Fees are not prorated.

(4) A person who files a renewal application after the expiration date of the current license must pay an additional delinquency fee of $1,000 [~~$100~~].

(d) An application for an amendment of a consumable hemp product license is complete when the department has received, reviewed, and found acceptable the application information and fee required by [~~the~~] subsection (c) of this section.

(e) An initial and renewal application for a consumable hemp product license must be processed in [~~accordance with~~] the following time periods:

(1) the first time period of 45 calendar [~~business~~] days begins on the date the department receives a completed application. If the department receives an incomplete application [~~is received~~], the period ends on the date the department issues [~~facility is issued~~] a written notice that the application is incomplete. The department must issue the written notice [~~shall be issued~~] within 60 calendar [~~45 business~~] days after receiving [~~receipt of~~] the incomplete application and describe the specific information or fee [~~that is~~] required before the application is considered complete;

(2) the second time period of 45 calendar [~~business~~] days begins on the date the department receives a completed application and ends on the date the department issues the license [~~is issued~~] or issues [~~the facility is issued~~] a written notice that the application is being proposed for denial; and

(3) the third time period of 135 calendar days begins on the date [~~if the applicant fails to submit the requested information or fee within 135 calendar days after the date~~] the department issues [~~issued~~] the written notice to the applicant as described in paragraph (1) of this subsection. If the applicant fails to submit the requested information or fee within this period, the department considers[~~,~~] the application [~~is considered~~] withdrawn.

(f) Reimbursement of fees:

(1) in the event the application is not processed within the time periods stated in subsection (e) [~~(g)~~] of this section, the applicant has the right to make a written request within 30 business days after the end of the second time period that the department shall reimburse in full the fee paid in that application process; and

(2) if the department finds that good cause does not exist for exceeding the established periods, the request shall be denied, and the department shall notify the applicant in writing of the denial of the reimbursement within 30 business days after the department's decision.

§300.203. Access to Records.

(a) A person who is required to maintain records under this chapter or 21 United States Code (U.S.C.) §360(i) or §360(j) [~~§519 or §520(g) of the Federal Act~~] must maintain records on site for immediate inspection. Upon [~~, and at the~~] request by [~~of~~] the department, the person must provide access to records for review or copying to verify that consumable hemp products are being produced in accordance with United States Department of Agriculture under 7 U.S.C. [~~United States Code (U.S.C.)~~] Chapter 38, Subchapter VII, or Texas Agriculture Code[~~,~~] Chapter 121.

(b) A person regulated [~~licensed~~] under Texas Agriculture Code[~~,~~] Chapter 122 must provide the department with test results of hemp or hemp products upon request. These results must show that the total delta-9 tetrahydrocannabinol content on a dry weight basis, when reported with the accredited laboratory's measure of uncertainty, has a range that includes a result of 0.3% or less.[~~, shall make available to the department upon request the results of tests conducted on samples of hemp or hemp products as evidence that the delta-9 tetrahydrocannabinol content concentration level on a dry weight basis, that, when reported with the accredited laboratory's measurement of uncertainty, produces a distribution or range that includes a result of~~

~~0.3 percent or less delta-9 tetrahydrocannabinol concentration of the hemp or hemp products does not exceed 0.3 percent.~~]

(c) Records described in this chapter [~~subsection (b) of this section~~] must be maintained for a period of no less than three years after the date the records are created.

(d) A person licensed under this chapter must maintain the following records, as applicable:

(1) COA of raw hemp and hemp ingredients in accordance with §300.301(b)(1) - (3) and §300.301(c) of this chapter;

(2) COA of finished hemp products by batch number;

(3) source of ingredients, including:

(A) receiving records with address and contact information from suppliers, distributors, warehouses, or any person engaged in the business of making a consumer product directly or indirectly; or

(B) licensing documentation from the supplier's respective hemp or food regulating authority;

(4) batch production records;

(5) recalled product information;

(6) consumer complaints;

(7) other records required by the department, including corrective action logs, destruction logs, equipment calibration records, or other accurate reproductions of the original records, or electronic records; and

(8) master production records.

(e) Records must contain actual values and observations. Records must be accurate, permanent, legible, and created concurrently with performance of the activity documented. Records can be electronic. Records must be detailed enough to provide a history of work performed, and include:

(1) the name and, when necessary, the location of the plant or facility;

(2) the date and time of the documented activity, when appropriate;

(3) the signature or initials of the person performing the activity; and

(4) the identity of the product and the batch number.

§300.204. Master Production Records.

(a) To ensure uniformity from batch to batch, one person must prepare, date, and sign with full handwritten signature, the master production records for each consumable hemp product, including batch size. A second person must independently check, date, and sign these records. The preparation of master production and control records must be described in a written procedure that the firm must follow.

(b) Master production records must include:

(1) the name and weight or measure of each ingredient;

(2) a complete list of ingredients;

(3) a statement of any calculated excess of a by-product;

(4) an accurate statement of the weight or measure of each ingredient; and

(5) complete manufacturing instructions and specifications.

§300.205. Batch Production Records.

Batch production records must be prepared for each batch of consumable hemp product produced and must include complete information regarding each batch. These records must include, if applicable:

(1) the appropriate master product record, checked for accuracy, dated, and signed; and

(2) documentation that each step in the manufacture, processing, packaging, or holding of the batch was accomplished, including:

(A) dates;

(B) identity of individual major equipment and lines used;

(C) weight and measure of ingredients;

(D) in-process results;

(E) laboratory control results, if applicable;

(F) inspection of the packaging and labeling area before and after use;

(G) statement of the actual yield;

(H) complete labeling records, including copies of all labeling used;

(I) any sampling performed;

(J) any investigation conducted;

(K) any destruction of tetrahydrocannabinol; and

(L) any rework conducted.

§300.206. Raw Materials and Ingredients.

(a) All raw materials and ingredients must come from approved sources.

(b) All raw materials and ingredients must be clearly identified to allow for appropriate traceability. Identification includes:

(1) name of raw material or ingredient;

(2) batch or lot number from original package;

(3) date the ingredient was manufactured;

(4) date the ingredient was received at the facility;

(5) expiration, re-test, or use-by date; and

(6) total delta-9 THC content concentration level on a dry weight basis.

(c) Substances containing total delta-9 THC levels above the acceptable hemp THC level may not be transported into Texas for further processing within Texas.

§300.207. Recalls.

Consumable hemp facilities must establish a written recall plan. This plan must include procedures that describe the steps and assign responsibility for carrying out the following actions, as appropriate to the facility:

(1) directly notify the direct consignees of the hemp product, including how to return or dispose of the affected product;

(2) notify the public about any hazards presented by the product when appropriate to protect public health;

(3) conduct effectiveness checks to verify that the recall is carried out; and

(4) dispose of recalled product appropriately by reprocessing, reworking, diverting to a safe use, or destroying the product.

§300.208. Complaint Files.

(a) Each manufacturer must maintain complaint files relating to product safety. Each manufacturer must establish and maintain procedures for receiving, reviewing, and evaluating complaints. The procedures must ensure that:

(1) all complaints are processed in a uniform and timely manner;

(2) oral complaints are documented upon receipt; and

(3) complaints are evaluated to determine whether the complaint represents an event that must be reported to the FDA and the department.

(b) Each manufacturer must review and evaluate all complaints to determine whether an investigation is necessary. All safety-related complaints must be investigated. If no investigation is made, the manufacturer must maintain a record that includes the reason for not investigating and the name of the individual responsible for the decision.

(c) Any complaint about labeling or packaging not meeting specifications must be reviewed, evaluated, and investigated, unless a similar complaint has already been investigated and another investigation is not needed.

(d) The record of the investigation must include:

(1) the name of the product;

(2) the date the complaint was received;

(3) the batch number and batch date of product used;

(4) the name, address, and phone number of the complainant;

(5) the nature and details of the complaint;

(6) the dates and results of the investigation;

(7) any corrective action taken; and

(8) any reply to the complainant.

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

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SUBCHAPTER C. TESTING OF CONSUMABLE HEMP PRODUCTS

25 TAC §§300.301 - 300.303

STATUTORY AUTHORITY

The amendments are authorized by Texas Health and Safety Code §1001.075, which authorizes the executive commissioner of HHSC to adopt rules for the operation and provision of health and human services by DSHS and for the administration of Texas Health and Safety Code Chapter 1001; Texas Health and Safety Code §12.001, stating that the executive commissioner of HHSC has general supervision and control over all matters relating to the health of Texas citizens; Texas Health and Safety Code Chapter 431 and §443.051, stating that the executive commissioner of HHSC shall adopt rules governing the provision of CHPs by license and registration holders; Texas Government Code §524.0151 and §524.0005; and Texas Health and Safety Code §12.001.

The amendments implement Texas Government Code §524.0151, Texas Government Code §524.0005, Texas Health and Safety Code §1001.075, Texas Health and Safety Code §12.001, and Texas Health and Safety Code Chapters 431 and 443.

§300.301. Testing Required.

(a) Before a hemp plant is processed or otherwise used in the [~~All hemp or hemp derivatives used in the~~] manufacture of a consumable hemp product, a representative sample must be tested [~~as appropriate for the product and process by an accredited laboratory~~] to determine:

(1) the [~~presence and~~] concentration and identity of the cannabinoids, including all acids in the plant;

(2) the presence and quantity of heavy metals, pesticides, microbial contamination, and other substances prescribed by the department; [~~and concentration of THC; and~~]

(3) the presence and concentration of d-9 THC, total d-9 THC, and total THC; and [~~or quantity of residual solvents, heavy metals, pesticides, and harmful pathogens.~~]

(4) a total delta-9 tetrahydrocannabinol concentration of 0.3% or less on a dry weight basis.

(b) Before a consumable hemp product, including hemp-derived ingredients used for further processing into another consumable hemp product, is sold at retail, distributed, or otherwise introduced into commerce in this state, a representative sample must be tested to determine:

(1) the presence, concentration, and identity of cannabinoids;

(2) the presence and concentration of d-9 THC, total d-9 THC, and total THC;

(3) the presence and quantity of residual solvents, heavy metals, pesticides, and harmful pathogens; and

(4) the total delta-9 tetrahydrocannabinol concentration is 0.3% or less on a dry weight basis.

(c) [~~(b)~~] A COA [~~Certificate of Analysis~~] documenting tests conducted under this subchapter must [~~shall~~]:

(1) be made available to the department upon request in an electronic format before manufacture, processing, or distribution into commerce; and

(2) include measurement of uncertainty analysis parameters.

(d) The COA must contain, at a minimum, the following information:

(1) laboratory name, address, and contact information;

(2) hemp cultivator or hemp manufacturer's name and address;

(3) sampler identification;

(4) sample identifying information, including matrix type;

(5) lot identification number of sample;

(6) sample received date and the dates of sample analyses and corresponding testing results;

(7) units of measure;

(8) analytical methods, analytical instrumentation used, and corresponding limits of detection (LOD) and limits of quantitation (LOQ);

(9) expiration date;

(10) QR code on the COA verifying the authenticity of testing conducted at an accredited laboratory;

(11) measurement of uncertainty analysis parameters; and

(12) results of all requested analyses performed for the sample, including percentage of delta-9 THC, total delta-9 THC, and total THC per container.

(e) It is a violation if a person, with the intent to deceive, forges, falsifies, or alters the results of a laboratory test authorized or required by this chapter. Consumable hemp products found in violation of this subsection must be retested and are subject to detention or embargo under Texas Health and Safety Code §431.048.

(f) Expired COAs are not valid. Consumable hemp products with expired COAs must be retested and are subject to detention or embargo under Texas Health and Safety Code §431.048.

§300.302. Sample Analysis of Consumable Hemp Products [and Certain Cannabinoid Oils].

(a) This section does not apply to low-THC cannabis regulated under Texas Health and Safety Code[,] Chapter 487.

(b) Regardless of [Notwithstanding] any other law, a person must [shall] not sell, offer for sale, possess, distribute, or transport a consumable hemp product in this state[, including CBD oil,] if the consumable hemp product contains any material extracted or derived from the plant Cannabis sativa L., other than from hemp produced in compliance with 7 United States Code (U.S.C.) Chapter 38, Subchapter VII, and [unless]:

(1) a representative sample of the consumable hemp product [oil] has been tested by an accredited laboratory and found to have a total delta-9 THC [tetrahydrocannabinol content] concentration of 0.3% or less [level] on a dry weight basis, that, when reported with the accredited laboratory's measurement of uncertainty, produces a distribution or range that includes a result of 0.3% [0.3 percent] or less; and

(2) testing results are provided to the department upon request.

(c) The department must [shall] conduct random testing of consumable hemp products at various retail and other facilities that sell or distribute products to ensure the products:

(1) do not contain harmful ingredients;

(2) are produced in compliance with 7 U.S.C. Chapter 38, Subchapter VII; and

(3) have a total delta-9 THC [tetrahydrocannabinol] content concentration level on a dry weight basis, that, when reported with the accredited laboratory's measurement of uncertainty, produces a distribution or range that includes a result of 0.3% [0.3 percent] or less.

(d) Upon request by the department, the manufacturer, processor, distributor, or retailer of consumable hemp products must [shall] provide representative raw or finished consumable hemp product samples to the department. These samples must be provided at the licensee's or registrant's expense.

[(e) Representative raw or finished consumable hemp product samples shall be provided to the department at owner, license holder, or registrant expense.]

§300.303. Provisions Related to Testing.

(a) A consumable hemp product that exceeds the acceptable hemp THC level or is adulterated in a manner harmful to human consumption must [shall] not be sold at retail or otherwise introduced into commerce in this state.

(b) A hemp manufacturer, processor, or distributor must [shall] provide the results of testing required by §300.301 of this subchapter (relating to Testing Required) to the department upon request.

(c) The registrant and manufacturer must [shall] provide the testing results required under §300.301 of this subchapter to a consumer or the department upon request.

(d) A license holder must [shall] not use an independent testing accredited laboratory unless the license holder [has]:

(1) has no ownership interest in the accredited laboratory; or

(2) holds 10 [less than a ten] percent or less ownership interest in the accredited laboratory if the accredited laboratory is a publicly traded [publicly-traded] company.

(e) A license holder or registrant must pay the costs of raw and finished hemp product testing in an amount prescribed by the accredited laboratory selected by the license holder.

[(f) The department shall recognize and accept the results of a test performed by an accredited laboratory, including at an institution of higher education.]

(f) [(g)] The department may require that a copy of the test results be sent directly to the department and the license holder.

[(h) The department shall notify the license holder of the results of the test not later than the 14th day after the date testing results are made available to the department.]

(g) [(i)] A license holder must [shall] retain results from samples for at least [a period of no less than] three years from the date that testing results are made available to the license holder.

(h) [(j)] A manufacturer or processor of consumable hemp products must [shall] conduct sampling and testing using acceptance criteria determined by the department [that are protective of public health].

[(k) A consumable hemp product is not required to be tested under §300.301 of this subchapter if each hemp-derived ingredient of the product:]

[(1) has been tested;]

[(2) includes the results that are available upon request from the department before distribution or sale; and]

[(3) contains an acceptable hemp THC level.]

(i)[(l)] The licensee or registrant must ensure all products are tested for the most current list of analytes maintained by the department. [department may utilize Table 1 to test raw or finished consumable hemp products as appropriate for the product and the process:] [Figure: 25 TAC §300.303(l)]

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

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SUBCHAPTER D. RETAIL SALE OF CONSUMABLE HEMP PRODUCTS

25 TAC §§300.402 - 300.407

STATUTORY AUTHORITY

The amendments and new sections are authorized by Texas Health and Safety Code §1001.075, which authorizes the executive commissioner of HHSC to adopt rules for the operation and provision of health and human services by DSHS and for the administration of Texas Health and Safety Code Chapter 1001; Texas Health and Safety Code §12.001, stating that the executive commissioner of HHSC has general supervision and control over all matters relating to the health of Texas citizens; Texas Health and Safety Code Chapter 431 and §443.051, stating that the executive commissioner of HHSC shall adopt rules governing the provision of CHPs by license and registration holders; Texas Government Code §524.0151 and §524.0005; and Texas Health and Safety Code §12.001.

The amendments and new sections implement Texas Government Code §524.0151, Texas Government Code §524.0005, Texas Health and Safety Code §1001.075, Texas Health and Safety Code §12.001, and Texas Health and Safety Code Chapters 431 and 443.

§300.402. Packaging and Labeling Requirements.

(a) All consumable hemp products marketed as containing [more than trace amounts of] cannabinoids must, in addition to the requirements of §300.102 of this chapter (relating to Applicability of Other Rules and Regulations), be labeled in the manner provided by this section with the following information:

(1) batch [lot] number;

(2) batch [lot] date;

(3) product name;

(4) [the] name of the product's manufacturer;

(5) telephone number and email address of manufacturer; [and]

(6) a uniform resource locator (URL) that provides or links to a COA for the product or each hemp-derived ingredient of the product, including the amount of cannabinoid in each serving or unit of the product, the amount of total THC, and total delta-9 THC. The URL must: [a Certificate of Analysis that the delta-9 tetrahydrocannabinol content concentration level on a dry weight basis, that, when reported with the accredited laboratory's measurement of uncertainty, produces a distribution or range that includes a result of 0.3 percent or less.]

(A) be conspicuously marked; and

(B) directly link to a webpage where the required COA may be found in three or fewer steps; and

(7) recommended serving size in milligrams and servings per container.

(b) Labels must include the following specific warnings:

(1) keep out of reach of children;

(2) product may contain tetrahydrocannabinol (THC) and can cause a user to fail a drug test;

(3) all THCs have psychoactive properties that may produce an effect similar to or greater than the effect of marihuana, a controlled substance;

(4) pregnant or nursing women should consult a healthcare provider before use; and

(5) this product has not been evaluated by the FDA.

(c) [(b)] The label required by this section must appear on the outer packaging of each product intended for individual retail sale.

[(c) The label required by this section may be in the form of:]

[(1) a uniform resource locator (URL) for the manufacturer's Internet website that provides or links to the information required by this section; and]

[(2) a QR code or other bar code that may be scanned and that leads to the information required on the label.]

§300.403. Retail Sale of Out-Of-State Consumable Hemp Products.

A person [registrant] selling consumable hemp products processed or manufactured outside of Texas [this state] must, upon request, submit to the department evidence that the products were processed or manufactured in another state or a foreign jurisdiction in compliance with:

(1) a state or tribal or jurisdiction's plan approved by the United States Department of Agriculture under 7 United States Code (U.S.C.) §1639p;

(2) a plan established under 7 U.S.C. §1639q if that plan applies to the state or jurisdiction; or

(3) the laws of a foreign jurisdiction if the products are tested in accordance with §300.301 of this chapter (relating to Testing Required) and comply with federal regulations.

§300.404. Transportation and Exportation of Consumable Hemp Products Out of State.

Consumable hemp products may be legally transported across state lines and exported to foreign jurisdictions in a manner [that is] consistent with federal law and the laws of respective foreign jurisdictions. Substances containing total delta-9 THC levels above the acceptable hemp THC level may not be transported into Texas for further processing within Texas.

§300.405. Packaging Requirements.

(a) Before selling or distributing a consumable hemp product, the product must be prepackaged or, at the time of sale, placed in packaging or a container that is:

(1) tamper-evident;

(2) child resistant; and

(3) resealable, if the product contains multiple servings or includes multiple products purchased in one transaction, while keeping the child-resistant mechanism to remain intact.

(b) It is prohibited to market, advertise, sell, or cause to be sold an edible consumable hemp product containing a hemp-derived cannabinoid that:

(1) is in the shape of a human, animal, or cartoon or in another shape that is attractive to children; or

(2) is in packaging or a container that:

(A) is in the shape of a human, animal, or cartoon or in another shape that is attractive to children;

(B) depicts an image of a human, animal, or cartoon or another image that is attractive to children;

(C) imitates or mimics trademarks or trade dress of products that are or have been primarily marketed to minors;

(D) includes a symbol that is primarily used to market products to minors; or

(E) includes an image of a celebrity.

(c) In this section, a cartoon includes a depiction of an object, person, animal, creature, or any similar caricature that:

(1) uses comically exaggerated features and attributes;

(2) assigns human characteristics to animals, plants, or other objects; or

(3) has unnatural or extra-human abilities, such as imperviousness to pain or injury, x-ray vision, tunneling at very high speeds, or transformation.

§300.406. Packaging and Labeling Control.

(a) There must be clear written procedures describing in sufficient detail the process for receipt, identification, storage, handling, and examination of labeling and packaging materials.

(b) Labeling and packaging materials must be examined upon receipt and before use in packaging or labeling of a consumable hemp product. All labels and packaging material meeting appropriate written criteria must be approved by a qualified individual as defined in 25 TAC §229.211(54) (relating to Definitions), and released for use. Any labeling or packaging materials that do not meet such criteria must be rejected to prevent use in unsuitable operations.

(c) Records must be maintained for each shipment received of each different labeling and packaging material indicating receipt, examination, and whether accepted or rejected.

(d) Obsolete or rejected labeling and other packaging must be destroyed.

(e) Labeling materials issued for a batch must be carefully examined for identity and conformity to the labeling specified in the master production records.

(f) Labeling not currently being applied must be stored in a manner to prevent mix-ups with active labeling and ensure appropriate use.

§300.407. Misleading Consumable Hemp Packaging.

A person must not sell or offer for sale a consumable hemp product that contains or is marketed as containing hemp-derived cannabinoids in a package that depicts any statement, artwork, or design that would likely mislead a person to believe:

(1) the package does not contain a hemp-derived cannabinoid; or

(2) the product is intended for medical use.

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

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Cynthia Hernandez
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SUBCHAPTER E. REGISTRATION FOR RETAILERS OF CONSUMABLE HEMP PRODUCTS

25 TAC §300.501, §300.502

STATUTORY AUTHORITY

The amendments are authorized by Texas Health and Safety Code §1001.075, which authorizes the executive commissioner of HHSC to adopt rules for the operation and provision of health and human services by DSHS and for the administration of Texas Health and Safety Code Chapter 1001; Texas Health and Safety Code §12.001, stating that the executive commissioner of HHSC has general supervision and control over all matters relating to the health of Texas citizens; Texas Health and Safety Code Chapter 431 and §443.051, stating that the executive commissioner of HHSC shall adopt rules governing the provision of CHPs by license and registration holders; Texas Government Code §524.0151 and §524.0005; and Texas Health and Safety Code §12.001.

The amendments implement Texas Government Code §524.0151, Texas Government Code §524.0005, Texas Health and Safety Code §1001.075, Texas Health and Safety Code §12.001, and Texas Health and Safety Code Chapters 431 and 443.

§300.501. Registration Required for Retailers of Certain Products.

(a) This section does not apply to:

(1) low-THC cannabis regulated under Texas Health and Safety Code[,] Chapter 487; or

(2) products approved by the FDA, or recognized by the FDA under 21 Code of Federal Regulations [~~CFR~~] Part 182, Substances Generally Recognized as Safe (GRAS).

(b) A person must [~~shall~~] not sell consumable hemp products [~~containing CBD~~] at retail in Texas [~~this state~~] unless the person registers [~~with the department~~] each location with the department. This includes any location owned, operated, or controlled by the person where consumable hemp [~~at which those~~] products are sold.

(c) A person is not required to register with the department under subsection (b) of this section if the person is:

(1) an employee of a registrant; or

(2) an independent contractor of a registrant who sells the registrant's products at retail.

§300.502. Application.

(a) A person must [~~shall~~] register under this subchapter by submitting an application in the manner prescribed by the department.

(b) The owner, operator, or owner designee [~~Applications~~] must submit an application that contains [~~be submitted by the owner, operator, or owner designee and shall contain~~] the following information:

(1) the name under which the business is operated;

(2) the mailing address of the facility;

(3) the street address of each location;

(4) the primary business contact telephone number;

(5) the phone number for each location; [~~and~~]

(6) the primary business email address; and[~~.~~]

(7) the written consent from the applicant or property owner, if the applicant is not the property owner, for the department, Department of Public Safety, Texas Alcoholic Beverage Commission, and other state or local law enforcement agencies to enter all premises where consumable hemp is manufactured, processed, or delivered for physical inspection or to ensure compliance with this chapter.

(c) A registration is valid for one year and may be renewed annually, provided the registrant remains in good standing. An expired registration is not current or valid. A person must not sell at retail or offer for sale at retail a consumable hemp product without a current and valid registration.

(d) Proof of registration from the department must be prominently displayed in a conspicuous location visible to the public.

(e) Applicants must submit an application for registration [~~request~~] electronically through www.Texas.gov.

[~~(f) The department shall collect fees, in amounts determined by the Texas Online Authority, to recover costs associated with application and renewal application processing through www.Texas.gov.~~]

(f) [~~(g)~~] All fees required by the department must be submitted with the application.

(1) A retail hemp registration or renewal fee of $20,000 [~~$150.00~~] for each location is required before the sale of consumable hemp product.

(2) A person who holds a registration issued by the department under Texas Health and Safety Code[~~,~~] Chapter 443 must [~~, shall~~] renew the registration by filing an application for renewal on a form authorized by the department with [~~accompanied by~~] the appropriate registration fee. A registrant must file for renewal before the expiration date of the current registration. A person who files a renewal application after the expiration date must pay an additional $1,000 [~~$100~~] delinquency fee.

(3) Fees are non-refundable.

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

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SUBCHAPTER F. ENFORCEMENT

25 TAC §§300.601 - 300.606

STATUTORY AUTHORITY

The amendments are authorized by Texas Health and Safety Code §1001.075, which authorizes the executive commissioner of HHSC to adopt rules for the operation and provision of health and human services by DSHS and for the administration of Texas Health and Safety Code Chapter 1001; Texas Health and Safety Code §12.001, stating that the executive commissioner of HHSC has general supervision and control over all matters relating to the health of Texas citizens; Texas Health and Safety Code Chapter 431 and §443.051, stating that the executive commissioner of HHSC shall adopt rules governing the provision of CHPs by license and registration holders; Texas Government Code §524.0151 and §524.0005; and Texas Health and Safety Code §12.001.

The amendments implement Texas Government Code §524.0151, Texas Government Code §524.0005, Texas Health and Safety Code §1001.075, Texas Health and Safety Code §12.001, and Texas Health and Safety Code Chapters 431 and 443.

§300.601. Violation of Department License or Registration Requirement.

(a) A person commits a violation if the person manufactures, processes, distributes, [~~or~~] sells, or otherwise introduces a consumable hemp product into commerce without a license or registration required by the department under:

(1) §300.201 of this chapter (relating to Application for License or Renewal) for the manufacture, processing, or distributing of consumable hemp products; or

(2) §300.502 of this chapter (relating to Application) for the retail sale of consumable hemp products.

(b) Each day a violation continues or occurs counts as [~~is~~] a separate violation when calculating [~~for purposes of imposing~~] an administrative penalty.

§300.602. Prohibited Acts.

The following acts, and the causing of the following acts, within Texas [~~this state~~] are unlawful and prohibited:

(1) introducing hemp-derived cannabinoids into commerce [~~the distribution in commerce of a packaged consumable hemp product, if there is affixed to that consumable hemp product a label~~] that do [~~does~~] not conform to the provisions of this chapter;[~~ and~~]

(2) engaging in the packaging or labeling of packaged consumable hemp products if there is affixed to the consumable hemp product a label that does not conform to the provisions of this chapter;[~~.~~]

(3) refusing to permit the following:

(A) entry or inspection;

(B) taking of a sample;

(C) access to or copying of any record as authorized by Texas Health and Safety Code §431 and this chapter; or

(D) photography for inspection purposes; and

(4) refusing to permit inspection, which includes impeding the inspection, aggressive behaviors, using foul language, or exhibiting threatening behavior.

§300.603. Detained or Embargoed Article.

The department must attach a tag or other appropriate marking [~~shall affix~~] to an article that is a food, drug, device, cosmetic, or consumer commodity [~~a tag or other appropriate marking~~] that gives notice that the article is, or is suspected of being, adulterated or misbranded. The department will tag or mark any [~~and that the article has been~~] detained or embargoed article if the department finds or has probable cause to believe [~~that~~] the article:

(1) is adulterated;

(2) is misbranded so that the article is dangerous or fraudulent under this chapter; or

(3) is in violation of Texas Health and Safety Code[~~,~~] §431.084, §431.114, or §431.115.

§300.604. Destruction of Article.

(a) The department may [~~shall~~] request court-ordered destruction of a sampled, detained, or embargoed consumable hemp product if the department [~~court~~] finds the article is misbranded or adulterated.

(b) After entry of the court's order, an authorized agent must [~~shall~~] supervise the destruction of the article.

(c) The claimant of the article must [~~shall~~] pay the cost of the destruction of the article.

(d) If the article is being destroyed in whole or in part due to [~~a~~] THC content that meets the definition of a controlled substance [~~schedule I drug~~], the department may refer to the appropriate law enforcement agency. The article must be destroyed per department specifications and documented as such, unless law enforcement communicates an intent to use the article for evidence [~~by a reverse distributor authorized by the United States Drug Enforcement Agency~~].

§300.605. Correction By Proper Labeling or Processing.

(a) A court may order the delivery of a sampled article or a detained or embargoed article that is adulterated or misbranded to the claimant of the article for labeling or processing under the supervision of the department if:

(1) the decree has been entered in the suit;

(2) the costs, fees, and expenses of the suit have been paid; and

(3) the adulteration or misbranding can be corrected by proper labeling or processing.[~~; and~~]

[~~(4) a good and sufficient bond, conditioned on the correction of the adulteration or misbranding by proper labeling or processing, has been executed.~~]

(b) The claimant must [~~shall~~] pay the costs of department supervision.

§300.606. Administrative Penalty.

(a) The department may impose an administrative penalty against a person who [~~holds a license or is registered under this chapter and who~~] violates this chapter.

(b) The department must [~~shall~~] notify a retailer of consumable hemp products of a potential violation [~~concerning consumable hemp products sold by the registrant~~] and provide the registrant an opportunity to resolve unintentional or negligent [~~such~~] violations [~~made unintentionally or negligently within ten business days~~] after being notified by the department [~~notifies the registrant~~].

(c) The department assesses [~~shall assess~~] administrative penalties based upon one or more of the following criteria:

(1) the seriousness of the violation, including the nature, circumstances, extent, and gravity of any prohibited acts, and the hazard or potential hazard created to the health, safety, or economic welfare of the public;

(2) the history of previous violations;

(3) the amount necessary to deter future violations;

(4) the efforts to correct the violation; and

(5) any other matter that justice may require in relation to the violation.

(d) If the department determines that a violation has occurred, the department must [~~shall~~] issue a notice of violation. The notice must state [~~that states~~] the facts on which the determination is based. The notice must include [~~, including~~] an assessment of the penalty.

(e) The notice of violation must [~~shall~~] be in writing and be sent to the license holder or registrant by certified mail. The notice must include a summary of the alleged violation and a statement of the amount of the recommended penalty and must inform the person of [~~that the person has~~] a right to a hearing on the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty.

(f) Within 20 business days after the date the person receives the notice of violation, the person in writing may accept the determination and recommended penalty of the department or may make a written request for a hearing on the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty.

(g) If the person accepts the determination and recommended penalty, the department by order imposes [~~shall impose~~] the recommended penalty.

(h) If the person charged with the violation does not respond in writing within 20 business days after the date the person receives the notice of violation, the department determines that a violation occurred and assesses [~~shall assess~~] the penalty [~~after determining that a violation occurred and the amount of penalty~~]. The department must [~~shall~~] issue an order requiring that the person pay the penalty.

(i) If the person requests a hearing, the department refers [~~shall refer~~] the matter to the State Office of Administrative Hearings.

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

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Cynthia Hernandez
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SUBCHAPTER G. RESTRICTIONS ON SALE TO MINORS

25 TAC §300.701, §300.702

STATUTORY AUTHORITY

The new sections are authorized by Texas Health and Safety Code §1001.075, which authorizes the executive commissioner of HHSC to adopt rules for the operation and provision of health and human services by DSHS and for the administration of Texas Health and Safety Code Chapter 1001; Texas Health and Safety Code §12.001, stating that the executive commissioner of HHSC has general supervision and control over all matters relating to the health of Texas citizens; Texas Health and Safety Code Chapter 431 and §443.051, stating that the executive commissioner of HHSC shall adopt rules governing the provision of CHPs by license and registration holders; Texas Government Code §524.0151 and §524.0005; and Texas Health and Safety Code §12.001.

The new sections implement Texas Government Code §524.0151, Texas Government Code §524.0005, Texas Health and Safety Code §1001.075, Texas Health and Safety Code §12.001, and Texas Health and Safety Code Chapters 431 and 443.

§300.701. Restriction on Sale to Minors.

(a) It is prohibited to deliver, market, advertise, sell, or cause to be sold a consumable hemp product (CHP) containing a hemp-derived cannabinoid to a minor.

(b) A person who sells CHP must verify each purchaser's age by reviewing a valid proof of identification before completing the sale of any CHP.

(c) A valid proof of identification may include a driver's license issued by Texas or another state, a passport, or an identification card issued by a state or the federal government. A valid proof of identification must meet the following criteria:

(1) include a physical description and a photograph that matches the person's appearance;

(2) provide the individual's date of birth;

(3) be issued by a government agency; and

(4) is not expired.

§300.702. Grounds for Consumable Hemp License or Retail Hemp Registration Revocation.

(a) The department may, after providing an opportunity for a hearing, revoke a consumable hemp license or retail hemp registration after determining the license or registration holder, or an employee, sold, served, or delivered a consumable hemp product to a minor.

(b) An exception to subsection (a) of this section exists where the minor falsely represents to be at least 21 years of age by displaying an apparently valid proof of identification.

(c) The department may impose penalties and pursue additional enforcement actions as provided under Texas Health and Safety Code Chapters 431 and 443.

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

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TITLE 37. PUBLIC SAFETY AND CORRECTIONS

PART 11. TEXAS JUVENILE JUSTICE DEPARTMENT

CHAPTER 341. GENERAL STANDARDS FOR JUVENILE PROBATION DEPARTMENTS

The Texas Juvenile Justice Department (TJJD) proposes to amend 37 TAC, Part 11, §341.202, Policies and Procedures; §341.302, Participation in Community Resources Coordination Groups; and §341.502, Risk and Needs Assessment.

SUMMARY OF CHANGES

As required due to statutory changes, amendments to §341.202 will include: 1) adding a subparagraph titled *Diversion of Juveniles in a General Residential Operation* to the list of topics that departments must address in their policies and procedures and provide information related to including each of those specific topics; 2) removing the subparagraph titled *Deferred Prosecution* related to fees from the list of topics that departments must address in their policies and procedures; 3) providing that, if a probation department uses volunteers or interns, the juvenile board must establish policies that include a requirement to conduct criminal history searches and non-criminal background searches in accordance with 37 TAC, Part 11, Chapter 344 for volunteers and interns who will have direct, unsupervised access to juveniles or direct contact with a juvenile and prohibiting such contact if the person does not meet the requirements in Chapter 344; and 4) adding a subparagraph titled *Training Requirements* to the list of topics that departments must address in their policies and procedures and providing information related to including each of those specific topics. (The topics that must be trained are related to maintaining professional relationships with children and recognizing and reporting suspected physical and sexual abuse.)

As required due to a non-substantive statutory revision, amendments to §341.302 will include modifying a statutory reference related to participation in a community resources coordination group.

As required due to statutory changes, amendments to §341.502 will include adding that, prior to the disposition of a juvenile's case, a probation department must screen the juvenile for risk of commercial sexual exploitation.

FISCAL NOTE

Emily Anderson, Deputy Executive Director: Support Operations and Finance, has determined that, for each year of the first five years the amended sections are in effect, there will be no significant fiscal impact for state government or local governments as a result of enforcing or administering the sections.

PUBLIC BENEFITS/COSTS

Cameron Taylor, Policy Director, has determined that for each year of the first five years the amended sections are in effect, the public benefit anticipated as a result of administering the sections will be to bring TJJD into compliance with new and revised statutory requirements.

Ms. Anderson has also determined that there will be no effect on small businesses, micro-businesses, or rural communities. There is no anticipated economic cost to persons who are required to comply with the amended sections as proposed. No private real property rights are affected by adoption of the sections.

GOVERNMENT GROWTH IMPACT

TJJD has determined that, during the first five years the amended sections are in effect, the sections will have the following impacts.

(1) The proposed sections do not create or eliminate a government program.

(2) The proposed sections do not require the creation or elimination of employee positions at TJJD.

(3) The proposed sections do not require an increase or decrease in future legislative appropriations to TJJD.

(4) The proposed sections do not impact fees paid to TJJD.

(5) The proposed sections do not create a new regulation.

(6) The proposed sections do not expand, limit, or repeal an existing regulation.

(7) The proposed sections do not increase or decrease the number of individuals subject to the section's applicability.

(8) The proposed sections will not positively or adversely affect this state's economy.

PUBLIC COMMENTS

Comments on the proposal may be submitted within 30 days after publication of this notice to Texas Juvenile Justice Department, Policy and Standards Section, P.O. Box 12757, Austin, Texas 78711, or via email to policy.proposals@tjjd.texas.gov.

SUBCHAPTER B. JUVENILE BOARD RESPONSIBILITIES

37 TAC §341.202

STATUTORY AUTHORITY

The amended section is proposed under the following: 1) §221.003, Human Resources Code (as amended by HB 451, 89th Legislature, Regular Session), which requires a juvenile probation department to use a validated, evidence-informed tool as part of a youth's risk and needs assessment to screen for the risk of commercial sexual exploitation; 2) Chapter 811, Health and Safety Code (as added by HB 3153, 89th Legislature, Regular Session), which institutes requirements for certain facilities to prevent physical and sexual abuse of children; 3) §152.00145, Human Resources Code (as amended by HB 16, 89th Legislature, Regular Session), which clarifies the diversion and detention policy for certain juveniles; and §221.002, Human Resources Code, which requires the board to adopt rules to govern juvenile boards, probation departments, probation officers, programs, and facilities.

No other statute, code, or article is affected by this proposal.

§341.202. Policies and Procedures.

(a) Personnel Policies. The juvenile board must establish written personnel policies.

(b) Department Policies. The juvenile board must establish written department policies and procedures. These policies and procedures must address the following topics if they apply.

(1) Diversion of Juveniles in a General Residential Operation.

(A) As required by §152.00145, Human Resources Code, the juvenile board must establish policies that prioritize:

(i) the diversion from referral to a prosecuting attorney under Chapter 53, Family Code, juveniles residing in a general residential operation, particularly children alleged to have engaged in conduct constituting a misdemeanor involving violence to a person; and

(ii) the limitation of detention to such juveniles to circumstances of last resort.

(B) To monitor the success of policies implemented under subparagraph (A) of this paragraph, a juvenile board shall track:

(i) the number of juveniles residing in a general residential operation who are referred to the juvenile probation department or other intake entity for the juvenile court;

(ii) the number of juveniles described by clause (i) of this subparagraph who are placed on deferred prosecution; and

(iii) the general residential operation where each child tracked under this section resided at the time of the conduct that result in the referral.

(C) For purposes of this subsection, a "general residential operation" is a child-care facility that provides care for seven or more children for 24 hours a day, including facilities known as residential treatment centers and emergency shelters. General residential operations are licensed, certified, or registered by the Department of Family and Protective Services, as provided by Chapter 42, Human Resources Code.

~~[(1) Deferred Prosecution.]~~

~~[(A) If the juvenile board adopts a fee schedule for the collection of deferred prosecution fees, the board must establish a written policy that includes the following requirements.]~~

~~*[(i)* The monthly fee must be determined after obtaining a financial statement from the parent or guardian and may not exceed the maximum set by Family Code §53.03.]~~

~~*[(ii)* The fee schedule must be based on total parent/guardian income.]~~

~~*[(iii)* The chief administrative officer or his/her designee must approve in writing the fee assessed for each child, including any waiver of deferred prosecution fees.]~~

~~[(B) A deferred prosecution fee may not be imposed if the juvenile board does not adopt a fee schedule and rules for waiver of the deferred prosecution fee.]~~

(2) Volunteers and Interns. If a juvenile probation department uses volunteers or interns, the juvenile board must establish policies for the volunteer and/or internship program that include:

(A) a description of the scope, responsibilities, and limited authority of volunteers and interns who work with the department;

(B) selection and termination criteria, including disqualification based on specified criminal history;

(C) a requirement to conduct criminal history searches and non-criminal background searches as described in Chapter 344 of this title for volunteers and interns who will have direct, unsupervised access to juveniles or direct contact with a juvenile, as defined in Chapter 344 of this title;

(D) a prohibition on having unsupervised contact with juveniles for volunteers and interns whose [~~criminal~~] history does not meet the requirements in Chapter 344 of this title;

(E) the orientation and training requirements, including training on recognizing and reporting abuse, neglect, and exploitation;

(F) a requirement that volunteers and interns meet minimum professional requirements if serving in a professional capacity; and

(G) a requirement to maintain a sign-in log that documents the name of the volunteer or intern, the purpose of the visit, the date of the service, and the beginning and ending time of the service performed for the department.

(3) Zero-Tolerance for Sexual Abuse. The juvenile board must establish zero-tolerance policies and procedures regarding sexual abuse as defined in Chapter 358 of this title. The policies and procedures must:

(A) prohibit sexual abuse of juveniles under the jurisdiction of the department by department staff, volunteers, interns, and contractors;

(B) establish the actions department staff must take in response to allegations of sexual abuse and TJJD-confirmed incidents of sexual abuse; and

(C) provide for administrative disciplinary sanctions and referral for criminal prosecution.

(4) Pretrial Detention for Certain Juveniles. As required by [~~Human Resources Code~~] §152.0015, Human Resources Code, the juvenile board must establish a policy that specifies whether a person who has been transferred for criminal prosecution under [~~Family Code~~] §54.02, Family Code, and is younger than 17 years of age may be detained in a juvenile facility pending trial.

(5) Juveniles Younger Than 12 Years of Age. As required by [~~Human Resources Code~~] §152.00145, Human Resources Code, the juvenile board must establish policies that prioritize:

(A) the diversion of children younger than 12 years of age from referral to a prosecuting attorney under [~~Family Code~~] Chapter 53, Family Code; and

(B) the limitation of detention of children younger than 12 years of age to circumstances of last resort.

(6) Taking Juveniles into Custody. The juvenile board must establish a policy that specifies whether juvenile probation officers may take a juvenile into custody as allowed by [~~Family Code~~] §§52.01(a)(4), 52.01(a)(6), or 52.015, Family Code.

(A) If the policy allows juvenile probation officers to take a juvenile into custody, the policy must specify whether the officers are allowed to use force in doing so.

(B) If the policy allows juvenile probation officers to use force in taking a juvenile into custody, the policy must:

(i) address prohibited conduct, circumstances under which force is authorized, and training requirements;

(ii) require each use of force to be documented, except when the only force used is the placement of mechanical restraints on the juvenile.

(7) Training Requirements.

(A) The juvenile board must establish a policy that requires training to each employee, volunteer, or independent contractor who may be placed in direct contact with a juvenile receiving services from the department or facility. The training must include:

(i) recognition of the signs of physical and sexual abuse and reporting requirements for suspected physical and sexual abuse;

(ii) the department's or facility's policies related to reporting physical and sexual abuse; and

(iii) methods for maintaining professional and appropriate relationships with children.

(B) For purposes of this paragraph, a person may be placed in direct contact with a juvenile receiving services from the department or facility if the person's position potentially requires the person to:

(i) provide care, supervision, or guidance to a child;

(ii) exercise any form of control over a child; or

(iii) routinely interact with a child.

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

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Jana Jones
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SUBCHAPTER C. CHIEF ADMINISTRATIVE OFFICER RESPONSIBILITIES

37 TAC §341.302

STATUTORY AUTHORITY

The amended section is proposed under the following: 1) §221.003, Human Resources Code (as amended by HB 451, 89th Legislature, Regular Session), which requires a juvenile probation department to use a validated, evidence-informed tool as part of a youth's risk and needs assessment to screen for the risk of commercial sexual exploitation; 2) Chapter 811, Health and Safety Code (as added by HB 3153, 89th Legislature, Regular Session), which institutes requirements for certain facilities to prevent physical and sexual abuse of children; 3) §152.00145, Human Resources Code (as amended by HB 16, 89th Legislature, Regular Session), which clarifies the diversion and detention policy for certain juveniles; and §221.002, Human Resources Code, which requires the board to adopt rules to govern juvenile boards, probation departments, probation officers, programs, and facilities.

No other statute, code, or article is affected by this proposal.

§341.302. Participation in Community Resources Coordination Groups.

The chief administrative officer or [~~his/her~~] designee must serve as the liaison to the local community resource coordination group pursuant to the memorandum of understanding adopted under §522.0155, Government Code [~~Texas Government Code §531.055~~].

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SUBCHAPTER E. CASE MANAGEMENT

37 TAC §341.502

STATUTORY AUTHORITY

The amended section is proposed under the following: 1) §221.003, Human Resources Code (as amended by HB 451, 89th Legislature, Regular Session), which requires a juvenile probation department to use a validated, evidence-informed tool as part of a youth's risk and needs assessment to screen for the risk of commercial sexual exploitation; 2) Chapter 811, Health and Safety Code (as added by HB 3153, 89th Legislature, Regular Session), which institutes requirements for certain facilities to prevent physical and sexual abuse of children; 3) §152.00145, Human Resources Code (as amended by HB 16, 89th Legislature, Regular Session), which clarifies the diversion and detention policy for certain juveniles; and §221.002, Human Resources Code, which requires the board to adopt rules to govern juvenile boards, probation departments, probation officers, programs, and facilities.

No other statute, code, or article is affected by this proposal.

§341.502. Risk and Needs Assessment.

(a) A juvenile probation department must complete a risk and needs assessment for a juvenile:

(1) before each disposition in a juvenile's case; and

(2) at least once every six months.

(b) The risk and needs assessment instrument must be:

(1) validated; and

(2) approved or provided by TJJD.

(c) Prior to the disposition of a juvenile's case, a juvenile probation department must screen the juvenile for risk of commercial sexual exploitation using a validated, evidence-informed instrument selected by the Child Sex Trafficking Prevention Unit established under §772.0062, Government Code.

(d) [~~(c)~~] Each [~~The risk and needs assessment~~] instrument used under this section must be administered by an individual trained to administer the instrument.

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

Filed with the Office of the Secretary of State on December 12, 2025.

TRD-202504599
Jana Jones
General Counsel
Texas Juvenile Justice Department
Earliest possible date of adoption: January 25, 2026
For further information, please call: (512) 490-7130

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CHAPTER 343. SECURE JUVENILE PRE-ADJUDICATION DETENTION AND POST-ADJUDICATION CORRECTIONAL FACILITIES
SUBCHAPTER E. RESTRAINTS

37 TAC §§343.800, 343.816, 343.817

The Texas Juvenile Justice Department (TJJD) proposes to amend 37 TAC, Part 11, §343.800, Definitions, and §343.816, Chemical Restraints. TJJD also proposes new 37 TAC, Part 11, §343.817, Use of Force Review Board.

SUMMARY OF CHANGES

Amendments to §343.800 will include adding definitions of *approved chemical restraint device, detention supervisor, dorm supervisor, reasonable belief, serious bodily injury, security personnel,* and *shift supervisor.*

Amendments to §343.816 will include specifying that the use of chemical restraints is governed by this section as well as by §§343.802, 343.804, and 343.806 of this chapter, and adding that: 1) chemical restraints may be used only if the juvenile board has given approval; 2) if the board gives approval to use a chemical restraint, board policies must specify the approved chemical restraint device, which staff are authorized to use the device, which staff are authorized to carry the device, the training curriculum required for staff to be authorized to carry the device, the procedures for controlling the device, and the procedures to follow after the use of chemical restraints; 3) only approved chemical restraint devices may be used and devices must be stored in a locked, controlled area; 4) only certified juvenile supervision officers (JSOs) who have been trained in the chemical restraint device may use it; 5) as part of the training curriculum, JSOs must be sprayed with the device if the JSO is being trained in chemical restraint for the first time and exposure to the OC spray is not medically contraindicated for the JSO; 6) the only staff who may be authorized to routinely carry the chemical restraint device are the facility administrator, assistant facility administrator, shift supervisor, detention supervisor, dorm supervisor, and security personnel; 7) except for the exceptions provided, the use chemical restraints is authorized only for those instances when other interventions have failed or are not practical and chemical restraints are reasonably believed necessary to quell a riot

or major disruption; resolve a hostage situation; remove residents from behind a barricade during a riot or a situation involving self-harm; secure an object that is being used as a weapon and is capable of causing serious injury; protect residents, staff, or others from serious injury; or prevent escape; 8) any resident affected by a chemical restraint must be decontaminated as soon as the purpose of the restraint is achieved and that, after decontamination, a health care professional must examine, treat, and monitor any resident or staff member affected by the restraint; 9) authorization to use a chemical restraint must be obtained prior to each use, except in instances when it is reasonably believed necessary to prevent the loss of life or serious bodily injury; 10) standing orders authorizing chemical restraints are prohibited; 11) chemical restraints are not authorized for use on a resident when a medical provider has diagnosed the resident as having a chronic, serious respiratory problem or other serious health condition known to the facility, except in instances when it is reasonably believed necessary to prevent the loss of life or serious bodily injury; and 12) a facility that is authorized to use chemical restraints and that accepts residents from other counties is required to make those counties aware that the facility authorizes the use of chemical restraints.

The new §343.817 will include that: 1) each facility authorized to use chemical restraints must have a use of force review board comprising the facility administrator and other designated staff; 2) no later than 14 calendar days after a restraint, the review board reviews each use of force incident involving chemical restraints; 3) the review board uses all available resources to determine whether policy was followed, to determine whether documentation was completed correctly, to identify training needs, and to identify ways to expand prevention efforts; and 4) for each meeting of the review board, written documents of the names of all attendees, a list of each incident reviewed, and any corrective actions recommended must be created and saved.

FISCAL NOTE

Emily Anderson, Deputy Executive Director: Support Operations and Finance, has determined that, for each year of the first five years the new and amended sections are in effect, there will be no significant fiscal impact for state government or local governments as a result of enforcing or administering the sections.

PUBLIC BENEFITS/COSTS

Cameron Taylor, Policy Director, has determined that for each year of the first five years the new and amended sections are in effect, the public benefit anticipated as a result of administering the sections will be to clarify the rules related to using chemical restraints and to establish a board to review incidents involving the use of chemical restraints.

Ms. Anderson has also determined that there will be no effect on small businesses, micro-businesses, or rural communities. There is no anticipated economic cost to persons who are required to comply with the new and amended sections as proposed. No private real property rights are affected by adoption of the sections.

GOVERNMENT GROWTH IMPACT

TJJD has determined that, during the first five years the new and amended sections are in effect, the sections will have the following impacts.

(1) The proposed sections do not create or eliminate a government program.

(2) The proposed sections do not require the creation or elimination of employee positions at TJJD.

(3) The proposed sections do not require an increase or decrease in future legislative appropriations to TJJD.

(4) The proposed sections do not impact fees paid to TJJD.

(5) The proposed sections do not create a new regulation.

(6) The proposed sections do not expand, limit, or repeal an existing regulation.

(7) The proposed sections do not increase or decrease the number of individuals subject to the section's applicability.

(8) The proposed sections will not positively or adversely affect this state's economy.

PUBLIC COMMENTS

Comments on the proposal may be submitted within 30 days after publication of this notice to Texas Juvenile Justice Department, Policy and Standards Section, P.O. Box 12757, Austin, Texas 78711, or via email to policy.proposals@tjjd.texas.gov.

STATUTORY AUTHORITY

The new and amended sections are proposed under §221.002, Human Resources Code, which requires the board to adopt rules to govern juvenile boards, probation departments, probation officers, programs, and facilities.

No other statute, code, or article is affected by this proposal.

§343.800. Definitions.

The following words and terms, when used in this subchapter [~~chapter~~], shall have the following meanings[,] unless otherwise expressly defined within the chapter.

(1) Approved Personal Restraint Technique--A professionally trained, curriculum-based, and competency-based restraint technique that uses a person's physical exertion to completely or partially constrain another person's body movement without the use of mechanical restraints.

(2) Approved Mechanical Restraint Devices--A professionally manufactured and commercially available mechanical device designed to aid in the restriction of a person's bodily movement. TJJD-approved mechanical restraint devices are limited to the following:

(A) Ankle Cuffs--A metal band designed to be fastened around the ankle to restrain free movement of the legs.

(B) Handcuffs--Metal devices designed to be fastened around the wrist to restrain free movement of the hands and arms.

(C) Plastic Cuffs--Plastic devices designed to be fastened around the wrists or legs to restrain free movement of hands, arms, or legs. Plastic cuffs must be designed specifically for use in human restraint.

(D) Restraint Bed--A professionally manufactured and commercially available bed or integrated bed attachments that are specifically designed to facilitate safe human restraint.

(E) Restraint Chair--A professionally manufactured and commercially available restraint apparatus specifically designed for safe human restraint. The device restrains a subject in an upright, sitting position by restricting the subject's extremities, upper leg area, and torso with soft restraints. The apparatus may be fixed or wheeled for relocation.

(F) Waist Belt--A cloth, leather, or metal band designed to be fastened around the waist and used to secure the arms to the sides or front of the body.

(G) Wristlets--A cloth or leather band designed to be fastened around the wrist that may be secured to a waist belt or used in a non-ambulatory mechanical restraint.

(3) Approved Chemical Restraint Device--A professionally manufactured and commercially available defense spray containing Oleoresin Capsicum (i.e., OC pepper spray) that has been approved by TJJD for use as allowed by this chapter.

(4) [~~(3)~~] Chemical Restraint--The application of a chemical agent on one or more residents.

(5) Detention Supervisor--Regardless of title, the certified juvenile supervision officer serving as the assistant to the shift supervisor during the current shift.

(6) Dorm Supervisor--Regardless of title, the highest ranking certified juvenile supervision officer assigned to a dorm during the current shift.

(7) [~~(4)~~] Four-Point Restraint--The use of approved mechanical restraint devices on each of a resident's wrists and ankles to secure the resident in a supine position to a restraint bed.

(8) [~~(5)~~] Mechanical Restraint--The application of an approved mechanical restraint device.

(9) [~~(6)~~] Non-Ambulatory Mechanical Restraint--A method of prohibiting a resident's ability to stand upright and walk with the use of a combination of approved mechanical restraint devices, cuffing techniques, and the subject's body positioning. The four-point restraint and restraint chair are examples of acceptable non-ambulatory mechanical restraints.

(10) [~~(7)~~] Personal Restraint--The application of an approved personal restraint technique.

(11) [~~(8)~~] Physical Escort--Touching or holding a resident with a minimum use of force for the purpose of directing the resident's movement from one place to another. A physical escort is not considered a personal restraint.

(12) [~~(9)~~] Protective Devices--Professionally manufactured devices used for the protection of residents or staff that do not restrict the movement of a resident. Protective devices are not considered mechanical restraint devices.

(13) Reasonable Belief--A belief that would be held by a similarly trained staff considering the facts and circumstances known by the actor at the time of the incident.

(14) [~~(10)~~] Restraint--The application of an approved personal restraint technique, an approved mechanical restraint device, or a chemical agent to a resident so as to restrict the individual's freedom of movement.

(15) [~~(11)~~] Riot--A situation in which three or more persons in the facility intentionally participate in conduct that constitutes a clear and present danger to persons or property and substantially obstructs the performance of facility operations or a program therein. Rebellion is a form of riot.

(16) Serious Bodily Injury--An injury that creates a substantial risk of death, serious permanent disfigurement, or extended loss or impairment of the function of any bodily member or organ.

(17) Security Personnel--Staff persons whose primary responsibility is to patrol the facility and respond to security-related incidents.

(18) Shift Supervisor--The highest-ranking certified juvenile supervision officer below the facility administrator working at the facility during the current shift.

(19) [~~(12)~~] Soft Restraints--Non-metallic wristlets and anklets used as stand-alone restraint devices or in conjunction with a restraint bed or restraint chair. These devices are designed to reduce the incidence of skin, nerve, and muscle damage to the subject's extremities.

§343.816. Chemical Restraints.

(a) In addition to the requirements found in §§343.802, 343.804, and 343.806 of this chapter, the use of chemical restraints shall be governed by the criteria in this section.

(b) Chemical restraints may be used only if the juvenile board has approved such use.

(c) If the juvenile board has approved the use of a chemical restraint, the juvenile board shall develop policies that are compliant with this section and that specify:

(1) the specific chemical restraint device that has been approved;

(2) which staff are authorized to use the approved chemical restraint device;

(3) which staff are authorized to routinely carry the approved chemical restraint device on their person;

(4) the training curriculum required for staff to be authorized to use the approved chemical restraint device;

(5) the procedures for controlling the chemical restraint devices, including procedures for staff to obtain and return the approved chemical restraint device, to include weighing the device at the time it is assigned and returned to storage as well as after each use; and

(6) the procedures to be followed after the use of chemical restraints, to include decontamination procedures and post-incident review.

(d) Only approved chemical restraint devices, as defined by this subchapter, may be used.

(e) Chemical restraint devices must be stored in a locked area and must be carefully controlled at all times.

(f) Only staff with an active certification as a juvenile supervision officer who have been trained in the use of the facility's approved chemical restraint device are authorized to use it. The training curriculum must include a requirement that the juvenile supervision officer be sprayed with the chemical restraint device if:

(1) the juvenile supervision officer is being trained in using the approved chemical restraint for the first time as an employee of the facility; and

(2) exposure to OC is not medically contraindicated for the staff member.

(g) The only staff who may be authorized to routinely carry the approved chemical restraint device on-person are the facility administrator, assistant facility administrator, shift supervisor, detention supervisor, dorm supervisor, and security personnel.

(h) Except as provided in subsection (j) of this section, chemical restraints are authorized for use only when non-physical interven-

tions or other physical interventions have failed or are not practical and it is reasonably believed necessary to:

(1) quell a riot or major campus disruption;

(2) resolve a hostage situation;

(3) remove residents from behind a barricade in a riot or self-harm situation;

(4) secure an object that is being used as a weapon and that is capable of causing serious bodily injury;

(5) protect residents, staff, or others from imminent serious bodily injury; or

(6) prevent escape.

(i) Any resident affected by the chemical restraint, regardless of whether the resident was directly sprayed, must be decontaminated with cool water as soon as the purpose of the restraint has been achieved. Immediately following decontamination, a health care professional must be contacted to examine and, if necessary, treat and monitor all residents and staff affected by the chemical restraint.

(j) Unless reasonably believed necessary to prevent loss of life or serious bodily injury, the authorized user of a chemical restraint must obtain authorization from the facility administrator prior to each use. Standing orders authorizing chemical restraints are prohibited.

(k) Unless reasonably believed necessary to prevent loss of life or serious bodily injury, chemical restraints are not authorized for use on a resident when a medical provider has diagnosed the resident with a chronic, serious respiratory problem or other serious health condition identified by or known to the facility (e.g., significant eye problems, known history of severe allergic reaction to OC, or serve dermatological problems).

(l) A facility that is authorized to use chemical restraints that accepts residents from other counties is required to ensure those counties are aware that the facility authorizes the use of chemical restraints.

~~[In addition to the requirements found in §§343.802, 343.804, and 343.806 of this chapter, the use of chemical restraints shall be governed by the following criteria:]~~

~~[(1) chemical restraints shall only be used in response to episodes of resident riot and only then when other forms of approved restraints are deemed to be inappropriate or ineffective;]~~

~~[(2) the use of chemical restraints shall receive incident-specific authorization from the facility administrator. Standing orders authorizing chemical restraints are prohibited;]~~

~~[(3) chemical restraints are restricted to professionally manufactured and commercially available defense sprays and vaporizing agents containing either Oleoresin Capsicum (i.e., OC pepper sprays) or Orthochlorobenzalmalonoitrile (i.e., tear gas);]~~

~~[(4) chemical restraint deployment devices shall be stored in a locked area, and the issuance of these devices to juvenile supervision officers shall not commence until the facility administrator's authorization has been provided;]~~

~~[(5) chemical restraints shall not be used on a resident when he or she is in a personal or mechanical restraint, or otherwise under control;]~~

~~[(6) immediately following the use of a chemical restraint, the exposed resident shall be visually or physically examined by a health care professional and provided treatment if necessary; and]~~

~~[(7) chemical agent compatible neutralizers or decontaminants shall be readily available for use on residents who have been exposed to chemical restraints.]~~

§343.817. Use of Force Review Board.

(a) Each facility that is authorized to use chemical restraints must have a use of force review board consisting of the facility administrator and other staff, as designated by the juvenile board in policy.

(b) The use of force review board reviews each use of force involving chemical restraints no later than 14 calendar days after the restraint.

(c) The use of force review board reviews all available documents, videos, and sources of information to:

(1) determine whether facility policies were properly applied;

(2) determine whether documentation was accurate and complete;

(3) identify training needs; and

(4) identify ways to expand prevention efforts.

(d) Written document of the names of all in attendance, a list of each incident reviewed, and any corrective actions recommended must be created and saved for each meeting.

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

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Jana Jones
General Counsel
Texas Juvenile Justice Department
Earliest possible date of adoption: January 25, 2026
For further information, please call: (512) 490-7130

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CHAPTER 344. EMPLOYMENT, CERTIFICATION, AND TRAINING

The Texas Juvenile Justice Department (TJJD) proposes to amend 37 TAC, Part 11, §344.100, Definitions; §344.300, Criminal History Checks; §344.400, Disqualifying Criminal History; §344.430, Arrest or Conviction of Currently Certified or Employed Individuals; §344.690, Credit for Training Hours for Military Service Members, Spouses, and Veterans; and §344.864, Certification Renewal Process. TJJD also proposes new 37 TAC, Part 11, §344.350, Non-Criminal History Background Checks; and §344.360, Review of Applicant's Prior History.

SUMMARY OF CHANGES

Amendments to §344.100 will include adding definitions of *direct contact with a juvenile* and *search engine for multi-agency reportable conduct (SEMARC)*.

Amendments to §344.300 will include adding that criminal history checks must be done for those who may have direct contact with a juvenile in a juvenile justice facility and who is an employee,

volunteer, intern, or individual providing goods or services under contract on the premises of a juvenile justice facility or program.

Amendments to §344.400 will include: 1) adding that a person convicted of or placed on deferred adjudication for conviction for an offense under §§21.02. 22.011, 22.021, or 25.05, Penal Code, is prohibited from holding any position that allows direct contact with a juvenile; 2) specifying this does not apply retroactively to those certified before the effective date of the changes unless the certification expires; and 3) modifying language related to inapplicability dates.

Amendments to §344.430 will include: 1) clarifying that a police report must be provided as soon as practicable when reporting an arrest, in addition to any other information available; and 2) adding that, in addition to removing a person from unsupervised access to juveniles, those with direct contact with juveniles must also be removed if convicted or placed on deferred adjudication.

Amendments to §344.690 will include: 1) modifying language regarding certification for military service members, military veterans, and military spouses eligible for certification if they hold a current license in another state, to be consistent with changes to Chapter 55, Occupations Code; 2) adding that the military provisions apply to a juvenile probation officer certification; 3) adding a requirement for the applicant seeking certification under this section to provide the statutorily required documents; 4) adding a requirement for TJJD to maintain a list of states with similar-in-scope licenses and to post the information on its website, as provided in Chapter 55, Occupations Code; and 5) adding a requirement for TJJD to maintain a record of each complaint made against military service members, military veterans, and military spouses certified under this section, as provided in Chapter 55, Occupations Code

Amendments to §344.864 will include adding a requirement to provide verification that a SEMARC check was conducted no earlier than 14 days before a certification renewal application was submitted and that the person did not appear in a search result

New §344.350 and §344.360 modify and republish information contained in the current §§344.350, 344.360, and 344.370, which are simultaneously proposed for repeal.

Key additions and revisions to §344.350 will include: 1) reorganizing existing criminal background check requirements and adding that they also apply to any person who may have direct contact with a juvenile; 2) adding a requirement to conduct checks using the soon-to-be implemented SEMARC for all persons in positions requiring certification or otherwise having direct contact with or unsupervised access to a juvenile; 3) specifying that, if a person is found in TJJD's registry, the person may not be placed in the position; 4) requiring subsequent checks when certification is renewed or, for those without a certification, every two years, consistent with the statutory requirement to establish in rule a requirement for periodic search queries of existing employees and others who have contact with juveniles; 5) adding a requirement to conduct an employment verification, as required by new Chapter 811, Health and Safety Code, for any person who may have unsupervised access to or direct contact with a juvenile in a facility, for the purpose of determining whether the person has a history of harassment in the workplace or abuse, neglect, or exploitation of a child or member of another vulnerable population; 6) establishing that, if employment verification reveals that a person engaged in physical or sexual abuse of a child constituting the offenses of continuous sexual abuse of a young child or disabled individual, sexual assault, aggravated sexual assault, or prohibited sexual conduct, even if not convicted, the person is prohibited from having direct contact with a juvenile in a facility; 7) establishing that, if employment verification reveals that a person engaged in harassment in the workplace or any other type of abuse, neglect, exploitation, or other mistreatment of a child or member of another vulnerable population, the person is prohibited from having direct contact with a juvenile in a facility; 8) establishing that, even though the employment verification check is only required for people who will provide services in a facility, it is required before any person may do so, even if the person is already serving in a role that required the other checks; 9) modifying the current requirement to conduct a check related to a required self-disclosure form related to a history of abuse, neglect, exploitation, or mistreatment and certain actions on a certification to provide that portions of the disclosed history that have been checked through SEMARC or the employment verification check do not need to be duplicated; and 10) adding a requirement that all verifications under this section be performed using the person's current name and all former names, establishing requirements to maintain records, and adding a requirement to report to TJJD discrepancies between what the person reports and what is discovered through the background checks.

Key additions and revisions to §344.360 will include providing additional information on the review process by the juvenile board or designee, to include the purpose of the review and the use of a form promulgated by TJJD, which must be maintained.

FISCAL NOTE

Emily Anderson, Deputy Executive Director: Support Operations and Finance, has determined that, for each year of the first five years the new and amended sections are in effect, there will be no significant fiscal impact for state government or local governments as a result of enforcing or administering the sections.

PUBLIC BENEFITS/COSTS

Cameron Taylor, Policy Director, has determined that for each year of the first five years the new and amended sections are in effect, the public benefit anticipated as a result of administering the sections will be to clarify the process for criminal history checks and background checks and to bring TJJD into compliance with new and revised statutory requirements pertaining to establishing a search engine for multi-agency reportable conduct (SEMARC); preventing physical and sexual abuse of children; and licensing military service members, military veterans, and military spouses.

Ms. Anderson has also determined that there will be no effect on small businesses, micro-businesses, or rural communities. There is no anticipated economic cost to persons who are required to comply with the new and amended sections as proposed. No private real property rights are affected by adoption of the sections.

GOVERNMENT GROWTH IMPACT

TJJD has determined that, during the first five years the new and amended sections are in effect, the sections will have the following impacts.

(1) The proposed sections do not create or eliminate a government program.

(2) The proposed sections do not require the creation or elimination of employee positions at TJJD.

(3) The proposed sections do not require an increase or decrease in future legislative appropriations to TJJD.

(4) The proposed sections do not impact fees paid to TJJD.

(5) The proposed sections do not create a new regulation.

(6) The proposed sections do not expand, limit, or repeal an existing regulation.

(7) The proposed sections do not increase or decrease the number of individuals subject to the section's applicability.

(8) The proposed sections will not positively or adversely affect this state's economy.

PUBLIC COMMENTS

Comments on the proposal may be submitted within 30 days after publication of this notice to Texas Juvenile Justice Department, Policy and Standards Section, P.O. Box 12757, Austin, Texas 78711, or via email to policy.proposals@tjjd.texas.gov.

SUBCHAPTER A. DEFINITIONS AND APPLICABILITY

37 TAC §344.100

STATUTORY AUTHORITY

The amended section is proposed under the following: 1) Chapter 810, Health and Safety Code (as added by SB 1849, 89th Legislature, Regular Session), which clarifies the rules requiring a search engine for multi-agency reportable conduct; 2) Chapter 811, Health and Safety Code (as added by HB 3153, 89th Legislature, Regular Session), which institutes requirements for certain facilities to prevent physical and sexual abuse of children; 3) Chapter 55, Occupations Code (as amended by HB 5629 and SB 1818, 89th Legislature, Regular Session), which clarifies the rules pertaining to the licensing of military service members, military veterans, and military spouses; 4) §221.002, Human Resources Code, which requires the board to adopt rules to govern juvenile boards, probation departments, probation officers, programs, and facilities; and 5) §221.002(a)(3), Human Resources Code, which requires the board to adopt reasonable rules that provide appropriate educational, training, and certification standards for juvenile probation and detention officers and court-supervised community-based program personnel.

No other statute, code, or article is affected by this proposal.

§344.100. Definitions.

When used in this chapter, the following words and terms have the following meanings unless the context clearly indicates otherwise.

(1) Certification Exam--An exam required by TJJD that is given to individuals hired as a juvenile probation officer or juvenile supervision officer that tests the individual's competency in certain topics.

(2) Certification Period--The 24-month period that starts on the first day of the month following the officer's birth month and ends on the last day of the officer's birth month. The first certification period also includes the time between the date of certification and the officer's next birth month. For example: An officer's birth date is June 5. The officer receives initial certification on August 10, 2018. The first certification period starts on August 10, 2018, and ends on June 30, 2021. The second certification period starts on July 1, 2021, and ends on June 30, 2023.

(3) Certified Officer (Officer)--A juvenile probation officer, juvenile supervision officer, or community activities officer who is currently certified by TJJD.

(4) Chief Administrative Officer--Regardless of title, the person hired by a juvenile board who is responsible for the oversight of the day-to-day operations of a single juvenile probation department for a county or a multi-county judicial district.

(5) Community Activities Officer--Regardless of title, an individual other than a juvenile probation officer or juvenile supervision officer whose position may require supervising juveniles in a non-secure setting within a juvenile justice program.

(6) Continuing Education--Courses, programs, or organized learning experiences required to maintain certification and to enhance personal or professional goals.

(7) Conviction--Any conviction or deferred adjudication for criminal conduct. A conviction does not include a juvenile adjudication.

(8) Direct Contact with a Juvenile--The ability to: provide care, supervision, or guidance to a juvenile; to exercise any form of control over a juvenile; or to routinely interact with a juvenile.

(9) [~~(8)~~] Direct, Unsupervised Access--The ability to physically interact with juveniles in a juvenile justice program or facility without the accompanying physical presence of or constant visual monitoring by a certified officer or other authorized employee of the program or facility. For purposes of this chapter, direct, unsupervised access does not include interactions that are incidental and momentary.

(10) [~~(9)~~] Facility Administrator--An individual designated by the chief administrative officer or governing board of a juvenile justice facility as the on-site program director or superintendent of a juvenile justice facility.

(11) [~~(10)~~] Grace Period--The one-month period following the end of an officer's certification period.

(12) [~~(11)~~] Juvenile Justice Facility ("facility")--A facility that serves juveniles under juvenile court jurisdiction and that is operated solely or partly by or under the authority of the governing board or juvenile board or by a private vendor under a contract with the governing board, juvenile board, or governmental unit. The term includes:

(A) a public or private juvenile pre-adjudication secure detention facility, including a short-term detention facility (i.e., holdover), required to be certified in accordance with §51.12, [~~Texas~~] Family Code [~~§51.12~~];

(B) a public or private juvenile post-adjudication secure correctional facility required to be certified in accordance with §51.125, [~~Texas~~] Family Code [~~§51.125~~]; and

(C) a public or private non-secure correctional facility required to be certified in accordance with §51.126, [~~Texas~~] Family Code [~~§51.126~~].

(13) [~~(12)~~] Juvenile Justice Program ("program")--A program or department that:

(A) serves juveniles under juvenile court or juvenile board jurisdiction; and

(B) is operated solely or partly by the governing board, juvenile board, or by a private vendor under a contract with the governing board or juvenile board. The term includes:

(i) juvenile justice alternative education programs;

(ii) non-residential programs that serve juvenile offenders under the jurisdiction of the juvenile court or the juvenile board; and

(iii) juvenile probation departments.

(14) [~~(13)~~] Juvenile Probation Department ("department")--A governmental unit established under the authority of a juvenile board to facilitate the execution of the responsibilities of a juvenile probation department enumerated in Title 3, [~~of the Texas~~] Family Code, and Chapter 221, [~~of the Texas~~] Human Resources Code.

(15) [~~(14)~~] Juvenile Probation Officer--An individual whose primary responsibility and essential job function is to provide juvenile probation services and supervision duties authorized under statutory and administrative law that can be performed only by a certified juvenile probation officer.

(16) [~~(15)~~] Juvenile Supervision Officer--An individual whose primary responsibility and essential job function is the supervision of juveniles in a:

(A) juvenile justice facility; or

(B) juvenile justice alternative education program operated by a department that also operates a juvenile justice facility.

(17) [~~(16)~~] Professional--The following persons are considered professionals for purposes of this chapter:

(A) teachers certified as educators by the State Board for Educator Certification, including teachers certified by the State Board for Educator Certification with provisional or emergency certifications;

(B) educational aides or paraprofessionals certified by the State Board for Educator Certification;

(C) health-care professionals licensed or certified under the following chapters of the [~~Texas~~] Occupations Code:

(i) Chapter 301 (nurses);

(ii) Chapter 155 (physicians);

(iii) Chapter 204 (physician assistants);

(iv) Chapter 256, Subchapter A (dentists); or

(v) Chapter 401 (speech-language pathologists and audiologists);

(D) mental health providers, as defined in Chapter 343 of this title;

(E) qualified mental health professionals, as defined in Chapter 343 of this title; and

(F) commissioned law enforcement personnel.

(18) SEMARC (search engine for multi-agency reportable conduct)--A search engine that includes individuals who have engaged in conduct that has resulted in them being placed on a do not hire registry or having their occupational licenses revoked or that otherwise meets the definition of reportable conduct as set out in Chapter 810, Health and Safety Code.

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

Filed with the Office of the Secretary of State on December 12, 2025.

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Jana Jones
General Counsel
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Earliest possible date of adoption: January 25, 2026
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SUBCHAPTER C. CRIMINAL HISTORY AND BACKGROUND CHECKS

37 TAC §§344.300, 344.350, 344.360

STATUTORY AUTHORITY

The new and amended sections are proposed under the following: 1) Chapter 810, Health and Safety Code (as added by SB 1849, 89th Legislature, Regular Session), which clarifies the rules requiring a search engine for multi-agency reportable conduct; 2) Chapter 811, Health and Safety Code (as added by HB 3153, 89th Legislature, Regular Session), which institutes requirements for certain facilities to prevent physical and sexual abuse of children; 3) Chapter 55, Occupations Code (as amended by HB 5629 and SB 1818, 89th Legislature, Regular Session), which clarifies the rules pertaining to the licensing of military service members, military veterans, and military spouses; 4) §221.002, Human Resources Code, which requires the board to adopt rules to govern juvenile boards, probation departments, probation officers, programs, and facilities; and 5) §221.002(a)(3), Human Resources Code, which requires the board to adopt reasonable rules that provide appropriate educational, training, and certification standards for juvenile probation and detention officers and court-supervised community-based program personnel.

No other statute, code, or article is affected by this proposal.

§344.300. Criminal History Checks.

(a) Department or facility policy must prohibit the following from having direct, unsupervised access to juveniles in a juvenile justice program or facility [~~by the following~~]:

(1) any person with a disqualifying criminal history as described in §344.400 of this chapter; and

(2) any person with a criminal history described in §344.410(a) of this chapter, unless the person's criminal history has been reviewed by TJJD or the juvenile board or designee, as appropriate, and the review results in a determination that the person is not ineligible for certification, employment, or service in the position.

(b) A criminal history check as described in this section must be conducted for:

(1) an individual who is in a position requiring certification;

(2) an individual who is in a position eligible for optional certification who is seeking certification; [~~and~~]

(3) an individual who may have direct, unsupervised access to juveniles in a juvenile justice facility or program and who is:

(A) an employee in a position neither requiring certification nor eligible for optional certification;

(B) an employee in a position eligible for optional certification who is not seeking certification;

(C) a volunteer;

(D) an intern; or

(E) an individual who provides goods or services under contract on the premises of a juvenile justice facility or program, except as provided in subsection (c) of this section; and

(4) an individual who may have direct contact with juveniles in a juvenile justice facility and who is:

(A) an employee in a position neither requiring certification nor eligible for optional certification;

(B) an employee in a position eligible for optional certification who is not seeking certification;

(C) a volunteer;

(D) an intern; or

(E) an individual who provides goods or services under contract on the premises of a juvenile justice facility or program, except as provided in subsection (c) of this section.

(c) A criminal history check as specified in this section is not required for employees of a public school district who:

(1) provide services in a juvenile justice facility or program; and

(2) have completed all criminal history checks required by the Texas Education Agency.

(d) Before any individual listed in subsection (b) of this section begins employment or service provision:

(1) the department or facility must ensure the individual has electronically submitted fingerprints using Fingerprint Applicant Services of Texas (FAST) and verify that the department is able to subscribe to the individual's Fingerprint-Based Applicant Clearinghouse of Texas (FACT) record;

(2) the department must subscribe to that individual's record in FACT; and

(3) the department must ensure the criminal history is reviewed as specified in this chapter and must ensure the reviewing entity has determined the person is not ineligible for certification, employment, or providing services based on the person's criminal history, in accordance with this chapter.

(e) The department must maintain a FACT subscription for each individual in a position requiring a criminal history check for as long as the individual remains in such a position. This requirement applies regardless of the date employment or service provision began.

(f) The requirements of this section do not apply to the juvenile's attorney, family members, managing conservator, guardians, individuals listed as a juvenile's approved visitors, or any other individual not listed in subsection (b) of this section.

§344.350. Non-Criminal History Background Checks.

(a) Checks Using TJJD's Certification System.

(1) Before employing, contracting with, or allowing a person to volunteer, intern, or otherwise serve in a position that may be placed in direct contact with a juvenile or have direct, unsupervised access to a juvenile, regardless of whether or not the position requires or is eligible for certification under this chapter, a department or facility must use TJJD's certification system to verify that the person:

(A) has not had a TJJD certification revoked;

(B) has not been designated as ineligible for certification by TJJD;

(C) is not currently under an order of active suspension issued by TJJD; and

(D) is not currently ineligible to take the certification exam due to repeated failures to pass the exam as described in §344.700 of this chapter.

(2) A person who has had a TJJD certification revoked, has been designated as ineligible for TJJD certification, or is currently under an order of active suspension issued by TJJD may not hold a position that requires certification or that allows for direct contact with or direct, unsupervised access to a juvenile in a juvenile facility or program. A review under §344.360 of this chapter may not be requested.

(3) A person who is currently ineligible to take the certification exam may not hold a position that requires certification. A review under §344.360 of this chapter may not be requested.

(b) Checks Using the Search Engine for Multi-Agency Reportable Conduct (SEMARC).

(1) Before employing, contracting with, or allowing a person to volunteer, intern, or otherwise serve in a position that may be placed in direct contact with a juvenile or have direct, unsupervised access to a juvenile, regardless of whether or not the position requires or is eligible for certification under this chapter, a department or facility must use the search engine for multi-agency reportable conduct (SEMARC) to determine if the applicant has been included in any do-not-hire or similar registry of TJJD or the other participating state agencies.

(2) If the person has been included in TJJD's registry, the person is not eligible for certification and is not eligible to serve in a position that may be placed in direct contact with juveniles or have direct, unsupervised access to juveniles. A review under §344.360 of this chapter may not be requested.

(3) If the search results in a finding that the person has been included in any other agency's registry, the person is not eligible for certification and is not eligible to serve in a position that may be placed in direct contact with juveniles or have direct, unsupervised access to juveniles unless a review is requested under §344.360 of this chapter and that review results in a determination that the person should not be prevented from being certified or from serving in such a position.

(4) A SEMARC check must be conducted as part of the certification renewal process for each person with a certification. A SEMARC check must be conducted every two years for persons who are not certified as juvenile probation officer, juvenile supervision officer, or community activities officer. If the subsequent check results in a finding that the person is included in the SEMARC registry, the person must be immediately removed from having any contact with juveniles and TJJD's certification office must be immediately notified. TJJD will conduct a review and determine if it will take action on the certification or, if the person is not certified, if it will take action to make the person ineligible for certification. The person may not return to a position having any contact with juveniles until TJJD informs the department or facility that such is permissible.

(5) As provided by Chapter 810, Health and Safety Code, SEMARC may be used only for the purpose of making decisions about certification, employment, or other service. Information received through SEMARC is confidential and excepted from disclosure under Chapter 552, Government Code.

(c) Employment Verification.

(1) Before employing, contracting with, or allowing a person to volunteer, intern, or otherwise serve in a position in a facility that may be placed in direct contact with a juvenile, regardless of whether

or not the position requires or is eligible for certification under this chapter, a facility must conduct an employment verification with all previous employers, which includes contacting the previous employers, to the extent possible, in accordance with Chapter 811, Health and Safety Code.

(2) The purpose of the employment verification is to determine if the person was terminated for or otherwise disciplined for conduct that included harassment in the workplace or abuse, neglect, exploitation, or other mistreatment of a child or member of another vulnerable population or, if the employer is one that serves children or other vulnerable populations, if any of the criteria in subsection (d)(1) of this section exist.

(3) If the employment verification reveals that a person engaged in physical or sexual abuse of a child constituting an offense under §21.02 (Continuous Sexual Abuse of Young Child or Disabled Individual), §22.011 (Sexual Assault), §22.021 (Aggravated Sexual Assault), or §25.02 (Prohibited Sexual Conduct), Penal Code, even if not convicted, the person is not eligible to serve in any position in a facility that may be placed in direct contact with a juvenile. A review under §344.360 of this chapter may not be requested.

(4) If the employment verification reveals that a person engaged in harassment in the workplace or any other type of abuse, neglect, exploitation, or other mistreatment of a child or member of another vulnerable population or that any of the criteria in subsection (d)(1) of this section exist, the person is not eligible for certification and may not serve in a position in a facility that may be placed in direct contact with a juvenile unless a review is requested under §344.360 of this chapter and that review results in a determination that the person should not be prevented from being certified or from serving in such a position.

(5) The employment verification under this section applies only to individuals who will provide services in a facility. However, the employment verification is required before any person may begin service in a facility in a role described in paragraph (1) of this subsection, even if the person is already serving in a role not in a facility that required the other checks and verifications in this chapter.

(d) Self-Disclosure Form and Checks.

(1) Before employing, contracting with, or allowing a person to volunteer, intern, or otherwise serve in a position that may be placed in direct contact with a juvenile or have direct, unsupervised access to a juvenile, regardless of whether or not the position requires or is eligible for certification under this chapter, a department or facility must require the person to complete a form promulgated by TJJD that requires the applicant to disclose and provide additional information, if applicable, regarding whether the applicant ever:

(A) worked, contracted, volunteered, interned, or otherwise served at or held an occupational license with a child-serving entity or entity that serves other vulnerable populations, such as elderly persons, persons with disabilities, persons in mental health facilities, or persons who were incarcerated;

(B) had the employment, contract, volunteer, or other status suspended or terminated;

(C) had the occupational license revoked or suspended;

(D) had a finding of abuse, neglect, exploitation, or mistreatment made against the applicant; or

(E) had the applicant's name placed on a do-not-hire or similar registry with an entity that provides services to or regulation of services for children or members of other vulnerable populations.

(2) Except as provided by paragraph (3) of this subsection, the department or facility must, to the extent possible, contact all entities identified on the form completed in accordance with paragraph (1) of this subsection and verify whether or not the person's history includes one or more of the criteria in paragraph (1)(B)-(E) of this subsection.

(3) Entities that are identified on the form do not have to be contacted if they participate in SEMARC or are contacted as part of the employment verification check required under subsection (c) of this section.

(4) If it is determined through the check that the person's history includes one or more of the criteria in paragraph (1)(B)-(E) of this subsection, the person is not eligible for certification and may not serve in a position that may be placed in direct contact with a juvenile or have direct, unsupervised access to a juvenile unless a review is requested under §344.360 of this chapter and that review results in a determination that the person should not be prevented from being certified or from serving in such a position.

(e) Rules of General Applicability

(1) All checks and verifications required by this subsection must be conducted using the applicant's current name and all prior names.

(2) With the exception of a search using SEMARC, a written record of the check or verification must be maintained, to include the name of the person conducting the check or verification, the date the check or verification was conducted, and the information received as a result of the check or verification, to include the name of anyone who provided such information. SEMARC search histories will automatically be created in the system.

(3) If any checks or verifications conducted under this chapter reveal a discrepancy between the results and the information the person reported regarding the person's history, the department or facility must report the discrepancy to TJJD. A person's failure to accurately disclose the information requested on the form referenced in subsection (a) of this section is considered a violation of the Code of Ethics and may result in termination of service in the position, denial of certification, designation of ineligibility for certification, or revocation of certification.

(4) If a review is allowable based on the results of a check or verification and the department or facility wishes to select the person despite the history, a review must be requested as provided in §344.360 of this chapter. The person may not be hired or otherwise approved to serve in a position until the review process is completed and the outcome is a determination that the person will not be prevented from being certified or from serving in the position, as applicable.

§344.360. Review of Applicant's Prior History.

(a) Request for Review.

(1) A request for review under §344.350 of this chapter regarding a person being considered for a position requiring certification or for which the department or facility is seeking optional certification must be submitted to TJJD's certification office via email using a form promulgated by TJJD, the completion of which may require the department or facility to obtain additional information from the person, the entity with which the person held a position, and/or the agency that licensed the person or the entity with which the person held a position.

(2) Except as provided by paragraph (3) of this subsection, a request for review under §344.350 of this chapter regarding a person being considered for a position not requiring certification or for which optional certification will not be sought must be submitted to

the juvenile board or designee using a form promulgated by TJJD, the completion of which may require the department or facility to obtain additional information from the person, the entity with which the person held a position, and/or the agency that licensed the person or the entity with which the person held a position. The juvenile board shall maintain designations under this paragraph in writing.

(3) All reviews requested based on the results of a SEMARC search, regardless of the position the person is being considered for, must be submitted to TJJD's certification office via email using a form promulgated by TJJD, the completion of which may require the department or facility to obtain additional information from the person, the entity with which the person held a position, and/or the agency that licensed the person or the entity with which the person held a position.

(4) The request for review described in this subsection is required only if the department or facility wants to employ, contract with, accept the individual as a volunteer, or otherwise select the person for a position.

(b) Review by Juvenile Board.

(1) A review by the juvenile board or designee under this section must take into account the facts of the conduct engaged in by the person, the length of time since the conduct occurred, and the nature and experience of the person before and after the conduct occurred to determine if the person having direct contact with or direct, unsupervised access to juveniles poses a threat of harm. The juvenile board may seek additional information if warranted.

(2) The review must be conducted using a form promulgated by TJJD. The form must be fully completed and maintained and must including the name of the person(s) conducting the review, the date of the review, and the final decision and justification therefore.

(3) The juvenile board or designee's decision is final and not subject to appeal.

(c) Review by TJJD.

(1) A review by TJJD under this section must take into account the facts of the conduct engaged in by the person, the length of time since the conduct occurred, and the nature and experience of the person before and after the conduct occurred to determine if the person having direct contact with or direct, unsupervised access to juveniles poses a threat of harm. TJJD may seek additional information if warranted.

(2) TJJD shall notify the person and the requesting department or facility of its decision and of the opportunity to appeal that decision to the executive director. The notification shall be in writing. The person shall have 10 calendar days to appeal the decision. The appeal must be in writing and timely received. TJJD may grant an extension at its discretion.

(3) Upon receipt of an appeal, the executive director shall review the matter and determine if the person should be denied a certification or denied from serving in the requested position, as applicable. The executive director's response shall be in writing. The executive director's decision is final and not subject to appeal.

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

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SUBCHAPTER D. DISQUALIFYING CRIMINAL HISTORY

37 TAC §344.400, §344.430

STATUTORY AUTHORITY

The amended sections are proposed under the following: 1) Chapter 810, Health and Safety Code (as added by SB 1849, 89th Legislature, Regular Session), which clarifies the rules requiring a search engine for multi-agency reportable conduct; 2) Chapter 811, Health and Safety Code (as added by HB 3153, 89th Legislature, Regular Session), which institutes requirements for certain facilities to prevent physical and sexual abuse of children; 3) Chapter 55, Occupations Code (as amended by HB 5629 and SB 1818, 89th Legislature, Regular Session), which clarifies the rules pertaining to the licensing of military service members, military veterans, and military spouses; 4) §221.002, Human Resources Code, which requires the board to adopt rules to govern juvenile boards, probation departments, probation officers, programs, and facilities; and 5) §221.002(a)(3), Human Resources Code, which requires the board to adopt reasonable rules that provide appropriate educational, training, and certification standards for juvenile probation and detention officers and court-supervised community-based program personnel.

No other statute, code, or article is affected by this proposal.

§344.400. Disqualifying Criminal History.

(a) Applicants for Certification. An individual with the following criminal history is not eligible for certification or for employment in a position requiring certification:

(1) deferred adjudication or conviction for a felony listed in [~~Texas Code of Criminal Procedure~~] Article 42A.054, Code of Criminal Procedure (formerly known as "3(g) offenses" under former Article 42.12), or a substantially equivalent violation against the laws of another state or the United States (as determined by TJJD), regardless of the date of disposition; or

(2) deferred adjudication or conviction for a sexually violent offense as defined in Article 62.001, Texas Code of Criminal Procedure, or a substantially equivalent violation against the laws of another state or the United States (as determined by TJJD), regardless of the date of disposition.

(b) Other Individuals Subject to Criminal Background Checks. An individual with the criminal history described in subsection (a) of this section is not eligible to serve in a position listed in §344.300(b)(3) of this chapter.

(c) Additional Prohibitions Based on Criminal History. An individual who has been convicted of or placed on deferred adjudication for an offense under §21.02 (Continuous Sexual Abuse of Young Child or Disabled Individual), §22.011 (Sexual Assault), §22.021 (Aggravated Sexual Assault), or §25.02 (Prohibited Sexual Conduct), Penal Code, is prohibited from holding a position as an employee, volunteer, or independent contractor and from holding any other position that allows direct contact with a juvenile.

(d) [(c)] General Provisions.

(1) Subsection (a)(1) of this section does not apply to individuals certified before February 1, 2018, unless the certification expires.

(2) Subsection (a)(1) of this section does not apply to individuals in a position listed in §344.300(b)(3) of this chapter who began service provision before February 1, 2018, with no break in service after that date.

(3) Subsection (a)(2) of this section does not apply to individuals certified before December 30, 2022, [the most recent effective date of this section] unless the certification expires.

(4) Subsection (a)(2) of this section does not apply to individuals in a position listed in §344.300(b)(3) of this chapter who began service provision before December 30, 2022, [the most recent effective date of this section] with no break in service after that date.

(5) Subsection (c) of this section does not apply to individuals in a position to which the subsection applies who began service provision before the most recent effective date of this section with no break in service after that date.

§344.430. Arrest or Conviction of Currently Certified or Employed Individuals [Current Employees].

(a) This section applies to individuals employed by, under contract with, or otherwise providing services at a department or facility who are certified or for whom the department or facility is seeking certification, whether they are serving in a position requiring certification or in a position for which certification is optional under §344.802 of this chapter.

(b) If a department or facility receives notification that an individual to whom this section applies has been arrested for criminal conduct described in §344.400(a) or §344.410(a) of this chapter, the department or facility must notify TJJD's certification office in writing no later than 10 calendar days after receiving notice of the arrest. The department or facility must, as soon as practicable, provide copies of related reports, completed by any participating law enforcement agency and any available [provide] information regarding the circumstances of the arrest and must respond to any questions from TJJD regarding the arrest.

(c) If a department or facility receives notification that an individual to whom this section applies has been convicted of or placed on deferred adjudication for criminal conduct described in §344.400(a) or §344.410(a) of this chapter, the department or facility must:

(1) remove the person from the position requiring certification and from any position allowing the person direct, unsupervised access to juveniles; [and]

(2) if the person and the conduct are covered under §344.400(c), remove the person from any position allowing direct contact with juveniles in a facility; and

(3) [(2)] notify TJJD's certification office in writing no later than 10 calendar days after receiving such notice. The department or facility must provide information regarding the conviction or deferred adjudication and respond to any questions from TJJD regarding the disposition.

(d) Upon receipt of a notification under subsection (c) of this section for criminal conduct described in §344.400(a) of this chapter, TJJD will:

(1) deny certification if the person is not yet certified; or

(2) revoke certification if the person is certified.

(e) Upon receipt of a notification under subsection (c) of this section for criminal conduct described in §344.410(a) of this chapter, TJJD will conduct the review described in §344.420 to determine if certification should be denied if the person is not yet certified or if certification should be revoked or suspended if the person is certified.

(f) Notwithstanding subsection (d) of this section, TJJD will revoke or deny certification if the individual is imprisoned following a felony conviction, revocation of community supervision, revocation of probation, or revocation of mandatory supervision.

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

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SUBCHAPTER E. TRAINING AND CONTINUING EDUCATION

37 TAC §344.690

STATUTORY AUTHORITY

The amended section is proposed under the following: 1) Chapter 810, Health and Safety Code (as added by SB 1849, 89th Legislature, Regular Session), which clarifies the rules requiring a search engine for multi-agency reportable conduct; 2) Chapter 811, Health and Safety Code (as added by HB 3153, 89th Legislature, Regular Session), which institutes requirements for certain facilities to prevent physical and sexual abuse of children; 3) Chapter 55, Occupations Code (as amended by HB 5629 and SB 1818, 89th Legislature, Regular Session), which clarifies the rules pertaining to the licensing of military service members, military veterans, and military spouses; 4) §221.002, Human Resources Code, which requires the board to adopt rules to govern juvenile boards, probation departments, probation officers, programs, and facilities; and 5) §221.002(a)(3), Human Resources Code, which requires the board to adopt reasonable rules that provide appropriate educational, training, and certification standards for juvenile probation and detention officers and court-supervised community-based program personnel.

No other statute, code, or article is affected by this proposal.

§344.690. Credit for Training Hours for Military Service Members, Spouses, and Veterans.

(a) This subsection applies only to a person who is a military service member, military veteran, or military spouse as those terms are defined in Chapter 55, Occupations Code, and who:

(1) holds a current license issued by another state that is similar in scope of practice [jurisdiction with licensing requirements that are substantially similar] to TJJD's certification requirements for a juvenile probation officer, supervision officer, or community activities officer, as determined by TJJD, and that is in good standing with the other state's licensing authority; or

(2) held a certification from TJJD as a juvenile probation officer, supervision officer, or community activities officer that was active within the five years preceding the person's most recent employment in a position requiring or otherwise eligible for certification.

(b) A person is considered in good standing with another state's licensing authority if the person:

(1) holds a license that is current, has not been suspended or revoked, and has not been voluntarily surrendered during an investigation for unprofessional conduct;

(2) has not been disciplined by the licensing authority with respect to the license or person's practice of the occupation for which the license is issued; and

(3) is not currently under investigation by the licensing authority for unprofessional conduct related to the person's license or profession.

(c) [~~(b)~~] As provided by this section, TJJD may grant credit toward the training hours required in §344.600 to persons described by subsection (a) of this section. Any credit granted will be based on the person's verified military service, training, or education that is directly relevant to the position for which certification is sought.

(d) [~~(c)~~] No credit may be given for topics required by §§344.620, 344.622, 344.624, or 344.626.

(e) [~~(d)~~] The department or facility that employs a person described by subsection (a) of this section may submit an application to TJJD for possible credit. TJJD will consider the person's experience and training to determine if credit should be granted and, if so, how much.

(f) [~~(e)~~] An individual to whom this section applies is also eligible to receive credit as otherwise provided by this chapter, as applicable.

(g) In order to receive a certification as provided by this section, a person to whom this section applies must submit the documents required by §55.0041, Occupations Code.

(h) TJJD shall maintain a list of states that issue licenses similar in scope of practice to those issued by TJJD and post this information on its website.

(i) TJJD shall maintain a record of each complaint made against a military service member, military veteran, or military spouse that is certified as provided by this section and publish the information on its website at least quarterly, to include a brief description of the disposition of each complaint.

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

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SUBCHAPTER G. CERTIFICATION

37 TAC §344.864

STATUTORY AUTHORITY

The amended section is proposed under the following: 1) Chapter 810, Health and Safety Code (as added by SB 1849, 89th Legislature, Regular Session), which clarifies the rules requiring a search engine for multi-agency reportable conduct; 2) Chapter 811, Health and Safety Code (as added by HB 3153, 89th Legislature, Regular Session), which institutes requirements for certain facilities to prevent physical and sexual abuse of children; 3) Chapter 55, Occupations Code (as amended by HB 5629 and SB 1818, 89th Legislature, Regular Session), which clarifies the rules pertaining to the licensing of military service members, military veterans, and military spouses; 4) §221.002, Human Resources Code, which requires the board to adopt rules to govern juvenile boards, probation departments, probation officers, programs, and facilities; and 5) §221.002(a)(3), Human Resources Code, which requires the board to adopt reasonable rules that provide appropriate educational, training, and certification standards for juvenile probation and detention officers and court-supervised community-based program personnel.

No other statute, code, or article is affected by this proposal.

§344.864. Certification Renewal Process.

(a) Submission of Renewal Applications. All applications for renewal must be submitted through TJJD's certification system.

(b) Training Documentation. The department or facility must use TJJD's certification system to document continuing education received by individuals seeking a certification renewal.

(c) Criminal History and SEMARC Checks.

(1) A certification renewal application must include verification that the applicant for certification currently meets the criminal history standards set forth in this chapter.

(2) A certification renewal application must include verification that a SEMARC check was conducted no earlier than 14 days before the renewal application was submitted and that the person did not appear in a search result.

(d) Deadline for Submission of Renewal Application.

(1) Renewal applications:

(A) must be submitted before the end of an officer's certification period; and

(B) may not be submitted earlier than 30 days before the end of the officer's certification period.

(2) If an application to renew an officer's certification has not been submitted by the end of the officer's certification period plus any applicable grace period or extension, the officer's certification expires.

(e) Approval of Applications.

(1) TJJD reviews information contained in a renewal application to determine whether the officer has met the requirements to be granted a renewed certification.

(2) TJJD may request additional information or documentation when reviewing an application. The department or facility must respond to such requests within 14 calendar days. If the department or facility fails to respond within 14 calendar days, the officer is ineligible to perform the duties of a certified officer and may not count in any staff-to-juvenile ratio.

(f) Denial of Applications. Any individual whose application is denied because TJJD has determined a certification renewal will not be granted may not perform the duties of a certified officer or be employed in any position requiring certification.

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

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SUBCHAPTER C. CRIMINAL HISTORY AND BACKGROUND CHECKS

37 TAC §§344.350, 344.360, 344.370

The Texas Juvenile Justice Department (TJJD) proposes to repeal 37 TAC, Part 11, §§344.350, Background Checks; 344.360, Disclosure and Review of Applicant's Prior History; and 344.370, Review by TJJD Regarding Eligibility for Certification.

SUMMARY OF REPEAL

The repeal of §344.350 and §344.360 will allow the content to be revised and republished as new §344.350 and §344.360. The repeal of §344.370 will allow the substance of the section to be moved to new §344.360.

FISCAL NOTE

Emily Anderson, Deputy Executive Director: Support Operations and Finance, has determined that, for each year of the first five years the repeals are in effect, there will be no significant fiscal impact for state government or local governments as a result of enforcing or administering the repeals.

PUBLIC BENEFITS/COSTS

Cameron Taylor, Policy Director, has determined that for each year of the first five years the repeals are in effect, the public benefit anticipated as a result of administering the repeals will be to clarify the process for criminal history checks and background checks and to bring TJJD into compliance with new and revised statutory requirements pertaining to establishing a search engine for multi-agency reportable conduct (SEMARC) and preventing physical and sexual abuse of children.

Ms. Anderson has also determined that there will be no effect on small businesses, micro-businesses, or rural communities. There is no anticipated economic cost to persons who are required to comply with the repeals as proposed. No private real property rights are affected by adoption of the repeals.

GOVERNMENT GROWTH IMPACT

TJJD has determined that, during the first five years the repeals are in effect, the repeals will have the following impacts.

(1) The proposed repeals do not create or eliminate a government program.

(2) The proposed repeals do not require the creation or elimination of employee positions at TJJD.

(3) The proposed repeals do not require an increase or decrease in future legislative appropriations to TJJD.

(4) The proposed repeals do not impact fees paid to TJJD.

(5) The proposed repeals do not create a new regulation.

(6) The proposed repeals do not expand, limit, or repeal an existing regulation.

(7) The proposed repeals do not increase or decrease the number of individuals subject to the section's applicability.

(8) The proposed repeals will not positively or adversely affect this state's economy.

PUBLIC COMMENTS

Comments on the proposal may be submitted within 30 days after publication of this notice to Texas Juvenile Justice Department, Policy and Standards Section, P.O. Box 12757, Austin, Texas 78711, or via email to policy.proposals@tjjd.texas.gov.

STATUTORY AUTHORITY

The repeals are proposed under the following: 1) Chapter 810, Health and Safety Code (as added by SB 1849, 89th Legislature, Regular Session), which clarifies the rules requiring a search engine for multi-agency reportable conduct; 2) Chapter 811, Health and Safety Code (as added by HB 3153, 89th Legislature, Regular Session), which institutes requirements for certain facilities to prevent physical and sexual abuse of children; 3) Chapter 55, Occupations Code (as amended by HB 5629 and SB 1818, 89th Legislature, Regular Session), which clarifies the rules pertaining to the licensing of military service members, military veterans, and military spouses; 4) §221.002, Human Resources Code, which requires the board to adopt rules to govern juvenile boards, probation departments, probation officers, programs, and facilities; and 5) §221.002(a)(3), Human Resources Code, which requires the board to adopt reasonable rules that provide appropriate educational, training, and certification standards for juvenile probation and detention officers and court-supervised community-based program personnel.

No other statute, code, or article is affected by this proposal.

§344.350. Background Checks.
§344.360. Disclosure and Review of Applicant's Prior History.
§344.370. Review by TJJD Regarding Eligibility for Certification.
The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on December 12, 2025.

TRD-202504601
Jana Jones
General Counsel
Texas Juvenile Justice Department
Earliest possible date of adoption: January 25, 2026
For further information, please call: (512) 490-7130

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TITLE 40. SOCIAL SERVICES AND ASSISTANCE

PART 20. TEXAS WORKFORCE COMMISSION

CHAPTER 803. SKILLS DEVELOPMENT FUND

The Texas Workforce Commission (TWC) proposes amendments to the following sections of Chapter 803, relating to the Skills Development Fund:

Subchapter A. General Provisions Regarding the Skills Development Fund, §§803.1 - 803.3

Subchapter B. Program Administration, §803.14

PART I. PURPOSE, BACKGROUND, AND AUTHORITY

The purpose of the proposed Chapter 803 rule change is to implement Senate Bill 856 (SB 856) as enacted by the 89th Texas Legislature, Regular Session, 2025. SB 856 amends Chapter 303 of the Texas Labor Code by adding the Texas A&M Engineering Experiment Station (TEES) as an eligible applicant for the Skills Development Fund.

PART II. EXPLANATION OF INDIVIDUAL PROVISIONS

(Note: Minor editorial changes are made that do not change the meaning of the rules and, therefore, are not discussed in the Explanation of Individual Provisions.)

SUBCHAPTER A. GENERAL PROVISIONS REGARDING THE SKILLS DEVELOPMENT FUND

TWC proposes the following amendments to Subchapter A:

§803.1. Scope and Purpose

Section 803.1(a) is amended to add "the Texas A&M Engineering Experiment Station (TEES)" in accordance with SB 856.

§803.2. Definitions

Section 803.2(1)(B) is amended to add TEES to the definition of "Customized training project" in accordance with SB 856.

Section 803.2(2) is amended to add TEES to the definition of "Eligible applicant" in accordance with SB 856.

Section 803.2(4) is amended to add TEES to the definition of "Grant recipient" in accordance with SB 856.

Section 803.2(6) is amended to add TEES to the definition of "Private partner" in accordance with SB 856.

New §803.2(10) adds the definition of "Texas A&M Engineering Experiment Station."

Existing §803.2(10) is renumbered as §803.2(11).

Existing §803.2(11) is renumbered as §803.2(12) and amended to add TEES to the definition of "Training provider" in accordance with SB 856.

§803.3. Uses of the Fund

Section 803.3(b) is amended to add TEES in accordance with SB 856.

SUBCHAPTER B. PROGRAM ADMINISTRATION

TWC proposes the following amendments to Subchapter B:

§803.14. Procedure for Requesting Funding

Section 803.14(d) and (h)(6) and (8) are amended to add TEES in accordance with SB 856.

PART III. IMPACT STATEMENTS

Chris Nelson, Chief Financial Officer, has determined that for each year of the first five years the rules will be in effect, the following statements will apply:

There are no additional estimated costs to the state or local governments expected as a result of enforcing or administering the rules.

There are no estimated cost reductions to the state or local governments as a result of enforcing or administering the rules.

There are no estimated losses or increases in revenue to the state or local governments as a result of enforcing or administering the rules.

There are no foreseeable implications relating to costs or revenue of the state or local governments as a result of enforcing or administering the rules.

There are no anticipated economic costs to individuals required to comply with the rules.

There is no anticipated adverse economic impact on small businesses, microbusinesses, or rural communities as a result of enforcing or administering the rules.

Based on the analyses required by Texas Government Code, §2001.024, TWC has determined that the requirement to repeal or amend a rule, as required by Texas Government Code, §2001.0045, does not apply to this rulemaking.

Takings Impact Assessment

Under Texas Government Code, §2007.002(5), "taking" means a governmental action that affects private real property, in whole or in part or temporarily or permanently, in a manner that requires the governmental entity to compensate the private real property owner as provided by the Fifth and Fourteenth Amendments to the US Constitution or the Texas Constitution, Article I, Section 17 or Section 19, or restricts or limits the owner's right to the property that would otherwise exist in the absence of the governmental action, and is the producing cause of a reduction of at least 25 percent in the market value of the affected private real property, determined by comparing the market value of the property as if the governmental action is not in effect and the market value of the property determined as if the governmental action is in effect. TWC completed a Takings Impact Assessment for the proposed rulemaking action under Texas Government Code, §2007.043. The primary purpose of this proposed rulemaking action, as discussed elsewhere in this preamble, is to implement SB 856 as enacted by the 89th Texas Legislature.

The proposed rulemaking action will not create any additional burden on private real property or affect private real property in a manner that would require compensation to private real property owners under the US Constitution or the Texas Constitution. The proposal also will not affect private real property in a manner that restricts or limits an owner's right to the property that would otherwise exist in the absence of the governmental action. Therefore, the proposed rulemaking will not cause a taking under Texas Government Code, Chapter 2007.

Government Growth Impact Statement

TWC has determined that during the first five years the rules will be in effect, they:

--will not create or eliminate a government program;

--will not require the creation or elimination of employee positions;

--will not require an increase or decrease in future legislative appropriations to TWC;

--will not require an increase or decrease in fees paid to TWC;

--will not create a new regulation;

--will not expand, limit, or eliminate an existing regulation;

--will not change the number of individuals subject to the rules; and

--will not positively or adversely affect the state's economy.

Economic Impact Statement and Regulatory Flexibility Analysis

TWC has determined that the rules will not have an adverse economic impact on small businesses or rural communities, as the proposed rules place no requirements on small businesses or rural communities.

Mariana Vega, Director, Labor Market Information, has determined that there is not a significant negative impact upon employment conditions in the state as a result of the rules.

Mary York, Director, Workforce Development Division, has determined that for each year of the first five years the rules are in effect, the public benefit anticipated as a result of enforcing the proposed rules will be to expand the pool of eligible applicants for the Skills Development Fund.

PART IV. COORDINATION ACTIVITIES

TWC informed Local Workforce Development Boards (Boards) of the rulemaking through the regularly scheduled conference calls with representatives from all Boards. The Boards were also advised of their opportunity to submit comments during the public comment period.

PART V. REQUEST FOR IMPACT INFORMATION

TWC requests, from any person required to comply with the proposed rules or any other interested person, information related to the cost, benefit, or effect of the proposed rules, including any applicable data, research, or analysis. Please submit the requested information to TWCPolicyComments@twc.texas.gov no later than January 26, 2026.

PART VI. PUBLIC COMMENTS

Comments on the proposed rules may be submitted to TWCPolicyComments@twc.texas.gov and must be received no later than January 26, 2026.

SUBCHAPTER A. GENERAL PROVISIONS REGARDING THE SKILLS DEVELOPMENT FUND

40 TAC §§803.1 - 803.3

PART VII. STATUTORY AUTHORITY

These rules are proposed under Texas Labor Code, §301.0015(a)(6) and §302.002(d), which provide TWC with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of TWC services and activities.

The proposed rules relate to Title 4, Texas Labor Code, particularly Chapter 303.

§803.1. Scope and Purpose.

(a) Purpose. The purpose of the Skills Development Fund is to develop customized training projects for businesses and trade unions and to support employers expanding or relocating to Texas by enhancing the ability of public community and technical colleges, Local Workforce Development Boards (Boards), [~~and~~] the Texas A&M Engineering Extension Service (TEEX), and the Texas A&M Engineering Experiment Station (TEES) to respond to industry and workforce training needs and to develop incentives for Boards, public community and technical colleges, TEEX, TEES, or community-based organizations to provide customized assessment and training in a timely and efficient manner.

(b) Goal. The goal of the Skills Development Fund is to increase the skills level and wages of the Texas workforce.

§803.2. Definitions.

In addition to the definitions contained in §800.2 of this title, the following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise.

(1) Customized training project--A project that:

(A) provides workforce training, with the intent of either adding to the workforce or preventing a reduction in the workforce, and is specifically designed to meet the needs and special requirements of:

(i) employers and employees or prospective employees of the private business or business consortium; or

(ii) members of the trade union; and

(B) is designed by a private business or business consortium, or trade union in partnership with:

(i) a public community college;

(ii) a technical college;

(iii) TEEX;

(iv) TEES;

(v) [~~(iv)~~] a Board; or

(vi) [~~(v)~~] a community-based organization only in partnership with the public community and technical colleges, [~~or~~] TEEX, or TEES.

(2) Eligible applicant--An entity identified in Texas Labor Code, Chapter 303, as eligible to apply for funds:

(A) a public community college;

(B) a technical college;

(C) TEEX;

(D) TEES;

(E) [~~(D)~~] a Board; or

(F) [~~(E)~~] a community-based organization only in partnership with the public community and technical colleges, [~~or~~] TEEX, or TEES.

(3) Executive director--The executive director of the Texas Workforce Commission.

(4) Grant recipient--A recipient of a Skills Development Fund grant that is:

(A) a public community college;

(B) a technical college;

(C) TEEX;

(D) TEES;

(E) [~~(D)~~] a Board; or

(F) [~~(E)~~] a community-based organization only in partnership with the public community and technical colleges, [~~or~~] TEEX, or TEES.

(5) Non-local public community and technical college--A public community or technical college providing training outside of its local taxing district.

(6) Private partner--A sole proprietorship, partnership, corporation, association, consortium, or private organization that enters into a partnership for a customized training project with:

(A) a public community college;

(B) a technical college;

(C) TEEX;

(D) TEES;

(E) [~~(D)~~] a Board; or

(F) [~~(E)~~] a community-based organization only in partnership with the public community and technical colleges, [~~or~~] TEEX, or TEES.

(7) Public community college--A state-funded, two-year educational institution primarily serving its local taxing district and service area in Texas and offering vocational, technical, and academic courses for certification or associate's degrees.

(8) Public technical college--A state-funded coeducational institution of higher education offering courses of study in vocational and technical education, for certification or associate's degrees.

(9) Texas A&M Engineering Extension Service (TEEX)--A higher education agency and service established by the Board of Regents of the Texas A&M University System.

(10) Texas A&M Engineering Experiment Station (TEES)--A higher education agency and station established by the Board of Regents of the Texas A&M University System.

(11) [~~(10)~~] Trade union--An organization, agency, or employee committee in which employees participate and which exists for the purpose of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

(12) [~~(11)~~] Training provider--An entity or individual that provides training, including:

(A) a public community college;

(B) a technical college;

(C) TEEX;

(D) TEES;

(E) [~~(D)~~] a community-based organization only in partnership with the public community or technical college, [~~or~~] TEEX, or TEES; or

(F) [~~(E)~~] An individual, sole proprietorship, partnership, corporation, association, consortium, governmental subdivision, or public or private organization with whom a Board, public community or technical college, [~~or~~] TEEX, or TEES, has subcontracted to provide training.

§803.3. Uses of the Fund.

(a) The Skills Development Fund may be used by a grant recipient as start-up or emergency funds for the following purposes:

(1) to develop customized training projects for businesses and trade unions; and

(2) to sponsor small and medium-sized business networks and consortiums for the purpose of developing customized training.

(b) TEEX and TEES training activities shall focus on projects that are statewide or are not available from a local public community and junior college district, a local technical college, or a consortium of public community and junior college districts. In developing such projects, TEEX or TEES may participate in a consortium of public community and junior college districts or with a technical college that provides training under Texas Labor Code, Chapter 303.

(c) Technical college training activities shall focus on projects that are not available from a local public community college, except in the technical college's local service area, and shall be encouraged to focus on projects that are statewide.

(d) The Skills Development Fund may not be used:

(1) to pay the training costs and related costs of an employer that relocates the employer's worksite from one place in Texas to another;

(2) for the purchase of any proprietary or production equipment required for the training project of a single local employer;

(3) for wages for trainees; or

(4) to pay for trainee or instructor travel costs or trainee drug tests.

(e) The Skills Development Fund may not be used to pay for the lease of equipment if any one of the following four criteria is characteristic of the lease transaction:

(1) The lease transfers ownership of the equipment to the lessee at the end of the lease term;

(2) The lease contains a bargain purchase option;

(3) The lease term is equal to 75 percent [~~%~~] or more of the estimated economic life of the leased equipment; or

(4) The present value of the minimum lease payments at the inception of the lease, excluding executory costs, equals at least 90 percent [~~%~~] of the fair value of the leased equipment.

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

Filed with the Office of the Secretary of State on December 9, 2025.

TRD-202504484
Les Trobman
General Counsel
Texas Workforce Commission
Earliest possible date of adoption: January 25, 2026
For further information, please call: (737) 301-9662

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SUBCHAPTER B. PROGRAM ADMINISTRATION

40 TAC §803.14

This rule is proposed under Texas Labor Code, §301.0015(a)(6) and §302.002(d), which provide TWC with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of TWC services and activities.

The proposed rule relates to Title 4, Texas Labor Code, particularly Chapter 303.

§803.14. Procedure for Requesting Funding.

(a) An eligible applicant shall present to the executive director or his or her designee, an application for funding, in order to acquire grant funds for the provision of customized training as may be identified by the eligible applicant. Except as provided in subsection (b) of this section, the eligible applicant will request the review and comments of the Board in the applicable workforce area(s), where there is a significant impact on job creation or incumbent worker training, and submit these comments to the executive director or his or her designee with the application for funding.

(b) An eligible applicant is not required to obtain or provide the comments if the Board informs the applicant that the Board is preparing an application or has submitted an application that has not been approved or rejected. A Board is not required to comment on its own applications.

(c) An eligible applicant shall submit any updates to the original application for funding in accordance with subsections (a) and (b) of this section.

(d) TEEX, TEES, or the public community or technical college that is a partner to a training proposal for a grant from the Skills Development Fund, may be non-local.

(e) The training proposal shall not duplicate a training project available in the workforce area in which the private partner or trade union is located.

(f) Proposals shall disclose other grant funds sought or awarded from the Agency or other state and federal entities for the proposed job training project.

(g) Applicants shall indicate whether they are submitting concurrent proposals for the Skills Development Fund and the Texas Enterprise Fund. For the purposes of this subsection, "concurrent proposal" shall mean:

(1) a proposal for the Skills Development Fund that has been submitted and is pending at the time an applicant submits a proposal for the Texas Enterprise Fund; or

(2) a proposal for the Texas Enterprise Fund that has been submitted and is pending at the time an applicant submits a proposal for the Skills Development Fund.

(h) Proposals shall be written and contain the following information:

(1) The number of proposed jobs created and/or retained;

(2) A brief outline of the proposed training project, including the skills acquired through training and the employer's involvement in the planning and design;

(3) A brief description of the measurable training objectives and outcomes;

(4) The occupation and wages for participants who complete the customized training project;

(5) A budget summary, disclosing anticipated project costs and resource contributions, including the dollar amount the private partner is willing to commit to the project;

(6) A signed agreement between the private partner or trade union and the Board, public community or technical college, [~~or~~] TEEX, or TEES outlining each entity's roles and responsibilities if a grant is awarded;

(7) A statement explaining the basis for the determination that there is an actual or projected labor shortage in the occupation in which the proposed training project will be provided that is not being met by an existing institution or program in the workforce area;

(8) A comparison of costs per trainee for the customized training project and costs for similar instruction at the public community or technical college, TEEX, TEES, and the Board;

(9) A statement describing the private partner's or trade union's equal opportunity employment policy;

(10) A list of the proposed employment benefits;

(11) An indication of a concurrent proposal as required by subsection (g) of this section; and

(12) Any additional information deemed necessary by the Agency to complete evaluation of a proposal.

(i) An applicant may, with the approval of the executive director or his or her designee, submit a proposal for funding that does not contain or identify all of the required elements under subsection (h) of this section. The release of any funding is contingent upon the applicant's submission, and the Agency's approval, of all the required elements in subsection (h) of this section.

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

Filed with the Office of the Secretary of State on December 9, 2025.

TRD-202504485
Les Trobman
General Counsel
Texas Workforce Commission
Earliest possible date of adoption: January 25, 2026
For further information, please call: (737) 301-9662

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TITLE 43. TRANSPORTATION

PART 10. TEXAS DEPARTMENT OF MOTOR VEHICLES

CHAPTER 206. MANAGEMENT

SUBCHAPTER D. ADVISORY COMMITTEES

43 TAC §206.101, §206.102

INTRODUCTION. The Texas Department of Motor Vehicles (department) proposes to amend 43 Texas Administrative Code (TAC) §206.101 and proposes new 43 TAC §206.102. These proposed revisions are necessary to create an Automated Vehicle Regulation Advisory Committee to assist the board and the executive director with recommendations regarding the

regulation of automated motor vehicles in Texas, including the protection of consumers of automated motor vehicle services.

EXPLANATION.

Senate Bill (SB) 2807, 89th Legislature, Regular Session (2025), tasked the department with regulating automated motor vehicles by issuing authorizations to transport property or passengers in furtherance of a commercial enterprise on Texas streets and highways without a human driver. To create an efficient means for the department to get input on issues that arise in the regulation of automated motor vehicles, proposed new §206.102 would create the Automated Vehicle Regulation Advisory Committee (AVRAC) as a stand-alone advisory committee pursuant to the Transportation Code, §1001.031, which requires the department to retain or establish one or more advisory committees to make recommendations to the board or the executive director. The department may seek advice and recommendations from the AVRAC when the department proposes rule amendments pursuant to Transportation Code §545.453 and §545.456, as amended by SB 2807. Proposed new §206.102(c) would set the expiration date for the AVRAC as July 7, 2031, to align with the renewal schedule for the other department advisory committees without requiring the department to renew the AVRAC within the next two years.

Proposed amendments to §206.101(b)(1) would include the new AVRAC in the list of department advisory committees that take public comment on matters within the scope of the advisory committee. For the AVRAC, the scope of the advisory committee is set out in proposed new §206.102(a) as "topics related to the regulation of automated motor vehicles."

FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT. Glenna Bowman, Chief Financial Officer, has determined that for each year of the first five years the proposed new section and amendment will be in effect, there will be no significant fiscal impact to state or local governments as a result of the enforcement or administration of the proposal. Clint Thompson, Director of the Motor Carrier Division, has determined that there will be no measurable effect on local employment or the local economy as a result of the proposal.

PUBLIC BENEFIT AND COST NOTE. Mr. Thompson has determined that, for each year of the first five years the proposed new and amended sections are in effect, the anticipated public benefits are increased opportunities for stakeholders and the public to provide input into rulemaking and policy development by the department on issues relevant to automated motor vehicle regulation in Texas. Mr. Thompson anticipates that there will be no costs to comply with the new section and amendment because the new section and amendment do not establish any additional requirements on regulated persons. Advisory committee members serve on a voluntary basis.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS. As required by Government Code, §2006.002, the department has determined that the proposed new section and amendment will not have an adverse economic effect on small businesses, micro-businesses, and rural communities because the new section and amendment do not add new requirements on, or directly affect, small businesses, micro-businesses, or rural communities. The proposed new section and amendment do not require small businesses, micro-businesses, or rural communities to comply. Therefore, the department is not required to prepare a regulatory flexibility analysis under Government Code, §2006.002.

TAKINGS IMPACT ASSESSMENT. The department has determined that no private real property interests are affected by this proposal and that this proposal does not restrict or limit an owner's right to property that would otherwise exist in the absence of government action and, therefore, does not constitute a taking or require a takings impact assessment under Government Code, §2007.043.

GOVERNMENT GROWTH IMPACT STATEMENT. The department has determined that each year of the first five years the proposed new section and amendment are in effect, no government program would be created or eliminated. Implementation of the proposed new section and amendment would not require the creation of new employee positions or elimination of existing employee positions. Implementation would not require an increase or decrease in future legislative appropriations to the department, or an increase or decrease of fees paid to the department. Proposed new §206.102 creates a new regulation, which creates the AVRAC. The proposed revisions do not expand, limit, or repeal an existing regulation. Lastly, the proposed new section and amendment do not affect the number of individuals subject to the applicability of the rules and will not affect this state's economy.

REQUEST FOR PUBLIC COMMENT. If you want to comment on the proposal, submit your written comments by 5:00 p.m. CST on January 26, 2026. The department requests information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research, or analysis, from any person required to comply with the proposed rule or any other interested person. A request for a public hearing must be sent separately from your written comments. Send written comments or hearing requests by email to *rules@txdmv.gov* or by mail to Office of General Counsel, Texas Department of Motor Vehicles, 4000 Jackson Avenue, Austin, Texas 78731. If a hearing is held, the department will consider written comments and public testimony presented at the hearing.

STATUTORY AUTHORITY. The department proposes an amendment to §206.101 and proposes new §206.102 under Transportation Code, §1001.031, which authorizes the department to retain or establish one or more advisory committees to make recommendations to the board or the executive director; Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department; Government Code, §2110.005, which requires state agencies establishing advisory committees to make rules stating the purpose and tasks of the committee and describing the manner in which the committee will report to the agency; and Government Code, §2110.008, which allows state agencies establishing advisory committees to designate by rule the date an advisory committee will be abolished.

CROSS REFERENCE TO STATUTE. Transportation Code Chapters 1001 and 1002; and Government Code Chapter 2110.

§206.101. Public Access to Advisory Committee Meetings.

(a) Posted agenda items. A person may speak before an advisory committee on any matter on a posted agenda by submitting a request, in a form and manner as prescribed by the department, prior to the matter being taken up by the advisory committee. A person speaking before an advisory committee on an agenda item will be allowed an opportunity to speak:

(1) prior to a motion by the advisory committee on the item; and

(2) for a maximum of three minutes, except as provided in subsections (d)(6) and (e) of this section.

(b) Open comment period.

(1) At each regular advisory committee meeting, the advisory committee shall allow an open comment period, not to exceed one hour, to receive public comment on any other matter that is within the scope of the specific advisory committee under §206.94(a) of this title (relating to Motor Vehicle Industry Regulation Advisory Committee (MVIRAC)), §206.95(a) of this title (relating to Motor Carrier Regulation Advisory Committee (MCRAC)), §206.96(a) of this title (relating to Vehicle Titles and Registration Advisory Committee (VTRAC)), §206.97(a) of this title (relating to Customer Service and Protection Advisory Committee (CSPAC)), [~~or~~] §206.98(a) of this title (relating to Household Goods Rules Advisory Committee (HGRAC)), or §206.102(a) of this title (relating to Automated Vehicle Regulation Advisory Committee (AVRAC)).

(2) A person wanting to make a comment under this subsection shall complete a registration form, as provided by the department, prior to the beginning of the open comment period.

(3) Except as provided in subsections (d)(6) and (e) of this section, each person shall be allowed to speak for a maximum of three minutes for each comment in the order in which the requests to speak were received.

(c) Disability accommodation. Persons who have special communication or accommodation needs and who plan to attend a meeting, may contact the department's contact listed in the posted meeting agenda for the purpose of requests for auxiliary aids or services. Requests shall be made at least two days before a meeting. The department shall make every reasonable effort to accommodate these needs.

(d) Conduct and decorum. An advisory committee shall receive public input as authorized by this section, subject to the following guidelines:

(1) questioning of speakers shall be reserved to advisory committee members and the department's administrative staff;

(2) organizations, associations, or groups are encouraged to present their commonly held views, and same or similar comments, through a representative member where possible;

(3) comments shall remain pertinent to the issue being discussed;

(4) a person who disrupts an advisory committee meeting shall leave the meeting room and the premises if ordered to do so by the acting advisory committee chair;

(5) time allotted to one speaker may not be reassigned to another speaker; and

(6) the time allotted for comments under this section may be increased or decreased by the acting advisory committee chair, as may be appropriate to assure opportunity for the maximum number of persons to appear.

(e) Waiver. Subject to the approval of the acting advisory committee chair, a requirement of this section may be waived in the public interest if necessary for the performance of the responsibilities of the advisory committee or the department.

§206.102. Automated Vehicle Regulation Advisory Committee (AVRAC).

(a) The AVRAC is created to make recommendations, as requested by the department and board, on topics related to the regulation of automated motor vehicles.

(b) The AVRAC shall comply with the requirements of §206.93 of this title (relating to Advisory Committee Operations and Procedures.

(c) The AVRAC shall expire on July 7, 2031.

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

Filed with the Office of the Secretary of State on December 11, 2025.

TRD-202504526
Laura Moriaty
General Counsel
Texas Department of Motor Vehicles
Earliest possible date of adoption: January 25, 2026
For further information, please call: (512) 465-4160

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CHAPTER 211. CRIMINAL HISTORY OFFENSE AND ACTION ON LICENSE

INTRODUCTION. The Texas Department of Motor Vehicles (department) proposes to revise 43 Texas Administrative Code (TAC) Subchapter A, General Provisions, by repealing current §211.1 and §211.2, and proposing new §211.1. The department also proposes to amend current 43 TAC Subchapter B, Criminal History Evaluation Guidelines and Procedures, by retitling current Subchapter B, amending current §211.11, and adding new §211.7 and §211.9. In addition, the department proposes to add new Subchapter C, Criminal Offense Guidelines: Motor Carriers; §211.23 and §211.25. New §211.1 and new Subchapter C are necessary to implement Senate Bill (SB) 1080, 89th Legislature, Regular Session (2025) regarding motor carriers. The revisions to Subchapter B are necessary to make conforming changes to Chapter 211 due to the proposed addition of new Subchapter C. The proposed repeals are also published in this issue of the *Texas Register*.

Prior to the effective date of SB 1080 on May 27, 2025, Occupations Code, §53.021(b) automatically revoked licenses by operation of law without any action by the department following the license holder's imprisonment for any felony. SB 1080 amended Occupations Code, §53.021(b) to narrow the law so that a license is automatically revoked upon imprisonment only for specific felonies, including offenses that directly relate to the duties and responsibilities of the licensed occupation. For purposes of Occupations Code Chapter 53, a certificate of registration that the department issues to a motor carrier under Transportation Code, Chapter 643 is a license. Occupations Code, §53.001 and Government Code, §2001.003 define the word "license" as "the whole or part of a state agency permit, certificate, approval, registration, or similar form of permission required by law." The department must therefore define in rule which offenses directly relate to the duties and responsibilities of a licensed motor carrier, so that the department will be able to determine which licenses are revoked by operation of law under Occupations Code, §53.021(b)(1)(A).

EXPLANATION.

Subchapter A. General Provisions

The proposed repeal of §211.1 would allow the department to propose a new §211.1 that would apply to the entire Chapter 211, including new Subchapter C regarding motor carriers.

Proposed new §211.1(a) would state that the purpose of Chapter 211 is to implement Occupations Code, Chapter 53 regarding the consequences of a criminal conviction on a license that the department is authorized to issue. Proposed new §211.1(b) would incorporate laws by reference to provide the applicable definitions regarding specific offenses referenced in Chapter 211. Occupations Code, §53.021 references "an offense that directly relates to the duties and responsibilities of the licensed occupation," and does not limit the language to offenses under Texas law. Proposed new §211.1(b) therefore incorporates definitions from federal laws, other states' laws, and the laws of foreign jurisdictions. Proposed new §211.1(c) would define "department" as the Texas Department of Motor Vehicles for clarity and consistency.

Subchapter B. Criminal History Evaluation Guidelines and Procedures

The department proposes to retitle Subchapter B to only apply to the motor vehicle, salvage vehicle, and trailer industries because the department's proposed revisions to Chapter 211 include new Subchapter C regarding motor carriers.

The proposed repeal of current §211.1 and §211.2 would allow the department to propose modified versions of the current text of these sections as new §211.7 and §211.9 to only apply to Subchapter B, regarding the motor vehicle, salvage vehicle and trailer industries, due to the proposed new Subchapter C regarding motor carriers.

Proposed new §211.7 would modify the language in current §211.1 to apply only to Subchapter B, clarify that the referenced statutes are Texas statutes, move the definitions to subsection (a) so that they appear before the use of the defined terms in proposed new §211.7, and make the format of the definitions consistent with the department's other administrative rules. Proposed new §211.9 would modify the language in current §211.2 to only apply to Subchapter B and clarify that the reference to the Occupations Code is a reference to the Texas Occupations Code. The text in proposed new §211.7 and §211.9 clarify that the statutory citations are to Texas law, and are necessary due to references to the laws in other jurisdictions in Chapter 211 and the proposed revisions to Chapter 211.

Proposed amendments to §211.11 would update cross-references to proposed new §211.9, update the language to only apply to Subchapter B, and clarify the statutory citations are to Texas law for the reasons stated above. Proposed amendments to §211.11 would also modify the current citations to statutes for consistency with the citations to Texas law throughout Chapter 211.

Subchapter C. Criminal Offense Guidelines: Motor Carriers

Proposed new Subchapter C would implement SB 1080 for motor carriers by defining which offenses directly relate to the duties and responsibilities of motor carriers for purposes of Occupations Code, §53.021(b)(1)(A).

Proposed new §211.23(a) would provide the definition for the word "license" as used in proposed new Subchapter C, limiting the term to a certificate of registration issued by the department under Texas Transportation Code, Chapter 643 to a sole proprietor motor carrier. This definition prevents confusion about the application of Occupations Code, §53.021(b)(1)(A) by excluding legal entities with multiple employees or representatives, because such entities cannot be imprisoned for offenses. Only an individual can be imprisoned. Proposed new §211.23(a) would also clarify that a license authorizes a motor carrier to engage in certain operations under Transportation Code, Chapter 643. Although the department issues one type of license under Transportation Code, Chapter 643, a licensed motor carrier may engage in different types of operations, such as transporting cargo, passengers, household goods, or hazardous materials, subject to compliance with the applicable laws regarding that type of operation. Occupations Code, §53.025 requires each state agency to issue guidelines that "must state the reasons a particular crime is considered to relate to a particular license." To fulfill that requirement, proposed new §211.23(b) would state the reasons each offense referenced in proposed new §211.25 is considered to relate to the particular duties and responsibilities of a license for a motor carrier. Proposed new §211.23(b) would explain why the different offenses listed in proposed new §211.25 would relate to the different types of motor carrier operations that are authorized under a motor carrier license, depending on how the specific duties and responsibilities of each type of motor carrier operation would provide a greater opportunity for an individual, who is predisposed to commit specific types of violations, to commit those offenses.

Proposed new §211.25 would state the felony offenses that directly relate to the duties and responsibilities of a licensed motor carrier under Occupations Code, §53.021(b)(1)(A). Proposed new §211.25(a) would explain that under Occupations Code, §53.021(b)(1)(A), a license holder's license is automatically revoked by operation of law on the license holder's imprisonment after a conviction of a felony offense that directly relates to the duties and responsibilities of a license holder. Proposed new §211.25(b) would explain that the department used the factors listed in Occupations Code, §53.022 to determine that the offenses detailed in proposed new §211.25(c) through (g) directly relate to the duties and responsibilities of a license holder under Transportation Code, Chapter 643. Proposed new §211.25(b) would also clarify that the listed offenses include offenses under the laws of the United States or another state of the United States if the offense contains elements that are substantially similar to the elements of an offense under the laws of Texas, except as stated otherwise in proposed new Subchapter C.

While the offenses listed in proposed new §211.25(c) would apply to all licensed motor carriers, the offenses listed in proposed new §211.25(d) through (g) would apply only to specific types of motor carrier operations due to the particular opportunities to commit certain offenses under a specific type of motor carrier operation. A licensed motor carrier controls, operates, or directs the operation of one or more motor vehicles that transport persons or cargo, which enables the license holder to commit certain offenses that involve the use of a motor vehicle. Also, a licensed motor carrier provides the department with certain information and documents that the department uses to administer and enforce Texas Transportation Code, Chapter 643 and that law enforcement uses to enforce certain laws, including Texas Transportation Code, Chapter 644 and the administrative rules that the Texas Department of Public Safety adopted under Texas Transportation Code, Chapter 644. In addition, a potential customer of a motor carrier has access to certain information on the department's website to determine whether to use the services of a particular licensed motor carrier, and the licensed motor car-

rier must provide the department with most of this information as part of a license application and any required updates. A licensed motor carrier is in a position of trust with the department because a licensed motor carrier must provide accurate information and documents to the department, so the department's records are reliable for the department, law enforcement, and potential shippers or passengers of the motor carrier.

The offenses that would relate to all licensed motor carriers under proposed new §211.25(c) would include offenses that involve the smuggling of a person, the use of a motor vehicle for trafficking or smuggling persons, bribery, perjury, obstructing a road, intoxication while operating a motor vehicle, delivery of a controlled substance, fraudulent emissions inspections, and knowingly operating a commercial motor vehicle in violation of an out-of-service order if the commercial motor vehicle was involved in a motor vehicle collision that resulted in bodily injury or death of a person. Some of these offenses, like the smuggling of a person, the use of a motor vehicle for trafficking or smuggling persons, and delivery of a controlled substance address Occupations Code, §53.022(3) because being a licensed motor carrier would give an individual an opportunity to engage in that sort of criminal activity again. Other offenses listed in proposed new §211.25(c), like intoxication while operating a motor vehicle, align with Occupations Code, §53.022(4) because intoxication would inhibit a person from being able to fulfill the duties of a licensed motor carrier, including safe operation. Still other offenses--such as those involving fraudulent emissions inspections, bribery, perjury, and knowingly operating a commercial motor vehicle in violation of an out-of-service order during which the commercial motor vehicle was involved in a motor vehicle collision that resulted in bodily injury or death of a person--align with Occupations Code, §53.022(5) because they implicate the duties and responsibilities of motor carriers to comply with safety laws, to remain safe on the road, and to cooperate with, provide accurate information to, and follow the orders of government officials, including law enforcement. The offenses listed in §211.25(c) are thus all equally relevant to all motor carriers, regardless of their specific type of operation.

Proposed new §211.25(d) would set out offenses that relate only to a passenger motor carrier due to the position of trust and close physical proximity between the motor carrier and its passengers. The offenses listed in proposed new §211.25(d) would be in addition to the offenses listed in proposed new §211.25(c). A passenger loses some of their autonomy over themselves and their tangible personal property, documents, and cargo while they are in another person's motor vehicle. If the passenger is a child, there is even more risk of a crime involving the child or the child's tangible personal property, documents, or cargo. These would include offenses that harm or endanger another person as set out in Texas Penal Code Title 5, such as criminal homicide, kidnapping, sexual offenses and assaultive offenses. They would also include offenses that endanger families or children, such as enticing a child from their parent's custody, violating court protective orders, selling or purchasing children, continuous family violence, using a minor to sell or display harmful material to a minor, employing a child to work in a sexually-oriented commercial activity, possessing child pornography, and any offense for which the person convicted must register as a sex offender. The listed offenses in proposed new §211.25(d) would also include offenses against tangible personal property, a document, or cargo belonging to another person, such as the offenses of criminal mischief, robbery, and theft. All of these offenses fit within Occupations Code, §53.022(3) in that employment as a passenger carrier would provide an increased opportunity to engage in this sort of criminal activity again.

Proposed new §211.25(e) would define offenses that relate only to a for-hire motor carrier of cargo, including household goods and hazardous materials, due to the motor carrier's specific position of trust with the shipper and access to the shipper's cargo. A shipper and an individual associated with the shipper may interact with the motor carrier in person, which provides an opportunity for the motor carrier to commit an offense against the individual. Also, a shipper loses control over their cargo when the motor carrier has possession of the cargo. The offenses listed in proposed new §211.25(e) would be in addition to the offenses listed in proposed new §211.25(c). These offenses would include any offense for which the person must register as a sex offender, and the offenses set out in Texas Penal Code Title 5, such as criminal homicide, kidnapping, sexual offenses, and assaultive offenses. In keeping with Occupations Code, §53.022(3), a motor carrier's contact with a shipper would give the carrier an increased opportunity to engage in these offenses against the shipper and individuals associated with the shipper. The offenses listed in proposed new §211.25(e) would also include offenses against tangible personal property, a document, or cargo belonging to another person, such as the offenses of criminal mischief, robbery, burglary of a vehicle, criminal trespass, theft, and fraud. Since a motor carrier of cargo is entrusted with a shipper's cargo for transport, the motor carrier would have an increased opportunity to engage in these property crimes. In keeping with Occupations Code, §53.022(3), a motor carrier's contact with a shipper and the shipper's property would give the motor carrier an increased opportunity to engage in these offenses against the shipper.

Proposed new §211.25(f) would enumerate offenses that relate only to a household goods carrier because they are allowed access to the shipper's home, household goods, and household members, including children. These offenses would be in addition to the offenses listed in §211.25(c) and (e). Proposed new §211.25(f) would include offenses related to real property, including arson, criminal mischief, and burglary. Household goods carriers are not just entrusted with personal property, but they also have access to and gain knowledge of the customer's home from or to which they are moving. A household goods carrier therefore has an increased opportunity to commit these offenses by virtue of their licensed profession, in accordance with Occupations Code, §53.022(3). The offenses listed in proposed new §211.25(f) would also include using a minor to sell or display harmful material to a minor, employing a child to work in a sexually-oriented commercial activity, and possession of child pornography. These offenses align with Occupations Code, §53.022(3) because a household goods carrier has more access to children as the carrier moves household goods from one home to another for families.

Proposed new §211.25(g) would list offenses that relate only to a motor carrier who transports hazardous materials, which create opportunities for those motor carriers to commit offenses that endanger the public and the environment. The offenses in proposed new §211.25(g) would apply to these motor carriers in addition to the offenses listed in §211.25(c) and (e). These offenses would include any offense related to hazardous material, waste disposal, water contamination, air pollution, or other environmental offenses under Texas law, federal law, or the law of another state. For example, 49 U.S.C. §5124 provides for a criminal penalty of imprisonment for up to 10 years for a person who violates certain provisions of federal law regarding the

transportation of hazardous materials. The offenses under proposed new §211.25(g) address Occupations Code, §53.022(3) because by virtue of having access to hazardous materials, a motor carrier that transports hazardous materials has an increased opportunity to engage in environmental offenses, such as improper transportation, disposal, or discharge of those materials.

Proposed new §211.25(h) would state that if a license holder's imprisonment occurs on or after May 1, 2026, for a conviction for any offense described by proposed new §211.25(c) through (g), the license holder's license is automatically revoked on the date of the imprisonment if at least one of the offenses that resulted in the imprisonment falls within the scope of any offense described by proposed new §211.25(c) through (g). These proposed revisions to Chapter 211 are anticipated to become effective on May 1, 2026, if the department's board approves the adoption of these proposed revisions. The department intends to apply the proposed revisions prospectively, so that only those imprisoned on or after May 1, 2026, would be automatically revoked by operation of law for an offense specified under proposed new §211.25(c) through (g). Proposed new §211.25(h) would require that at least one of the offenses that resulted in the imprisonment falls within the scope of any offense described in proposed new §211.25(c) through (g) because these new subsections identify the offenses that directly relate to the duties and responsibilities of a licensed motor carrier as required by Occupations Code, §53.021(b)(1)(A).

FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT. Glenna Bowman, Chief Financial Officer, has determined that for each year of the first five years the new sections, amendments and repeals will be in effect, there will be no significant fiscal impact to state or local governments as a result of the enforcement or administration of the proposal. Clint Thompson, Director of the Motor Carrier Division, has determined that there will be no significant impact on local employment or the local economy as a result of the proposal.

PUBLIC BENEFIT AND COST NOTE. Mr. Thompson has also determined that, for each year of the first five years the revisions are in effect, there is one anticipated public benefit.

Anticipated Public Benefits. The public benefit anticipated as a result of the proposal is clarity, consistency, enforceability, and predictability with regard to which offenses cause automatic revocation of a motor carrier's license by operation of law when the licensee is imprisoned for the offense.

Anticipated Costs To Comply With The Proposal. Mr. Thompson anticipates that there will be no costs to comply with the proposed rule revisions. The cost to persons required to comply with the proposal are due to the language in Occupations Code, §53.021(b)(1)(A) regarding the automatic revocation of a license by operation of law following imprisonment for a felony conviction for an offense that directly relates to the duties and responsibilities of the licensed occupation.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS. As required by Government Code, §2006.002, the department has determined that the proposed revisions will not have an adverse economic effect on small businesses, micro-businesses, and rural communities because the proposed revisions merely specify the felony offenses that directly relate to the duties and responsibilities of a motor carrier's license under Transportation Code, Chapter 643 as required by Occupations Code, §53.021(b)(1)(A). Therefore, the department is not required to prepare a regulatory flexibility analysis under Government Code, §2006.002.

TAKINGS IMPACT ASSESSMENT. The department has determined that no private real property interests are affected by this proposal and that this proposal does not restrict or limit an owner's right to property that would otherwise exist in the absence of government action and, therefore, does not constitute a taking or require a takings impact assessment under Government Code, §2007.043.

GOVERNMENT GROWTH IMPACT STATEMENT. The department has determined that each year of the first five years the proposed revisions are in effect, no government program would be created or eliminated. Implementation of the proposed revisions would not require the creation of new employee positions or elimination of existing employee positions. Implementation would not require an increase or decrease in future legislative appropriations to the department or an increase or decrease of fees paid to the department. The proposed revisions technically create a new regulation, as required by SB 1080, to define which offenses are directly related to the occupation of a licensed motor carrier. The proposed revisions do not expand, limit, or repeal an existing regulation. Lastly, the proposed revisions technically affect the number of individuals subject to the rule's applicability, because the department had previously only defined offenses related to the occupations of the motor vehicle, salvage vehicle and trailer industries, while the proposed rule revisions would add the list of felony offenses that directly relate to the duties and responsibilities of a motor carrier licensed under Transportation Code, Chapter 643. However, since motor carriers were previously subject to automatic revocation for imprisonment for any felony under Occupations Code, §53.021(b) prior to the effective date of SB 1080 on May 27, 2025, these proposed rule revisions would actually narrow the offenses for which a motor carrier will be automatically revoked upon imprisonment, in keeping with SB 1080. The proposed revisions will not affect this state's economy.

REQUEST FOR PUBLIC COMMENT.

If you want to comment on the proposal, submit your written comments by 5:00 p.m. CST on January 26, 2026. The department requests information related to the cost, benefit, or effect of the proposed revisions, including any applicable data, research, or analysis, from any person required to comply with the proposed revisions or any other interested person. A request for a public hearing must be sent separately from your written comments. Send written comments or hearing requests by email to *rules@txdmv.gov* or by mail to Office of General Counsel, Texas Department of Motor Vehicles, 4000 Jackson Avenue, Austin, Texas 78731. If a hearing is held, the department will consider written comments and public testimony presented at the hearing.

SUBCHAPTER A. CRIMINAL OFFENSE AND ACTION ON LICENSE

43 TAC §211.1, §211.2

STATUTORY AUTHORITY. The Texas Department of Motor Vehicles (department) proposes the repeals under Occupations Code, §2301.151, which gives the board authority to regulate the distribution, sale, and lease of motor vehicles and the authority to take any action that is necessary or convenient to exercise that authority; Occupations Code, §2301.152, which authorizes the board to establish the qualifications of license holders, ensure that the distribution, sale, and lease of motor

vehicles is conducted as required by statute and board rules, to prevent fraud, unfair practices, discrimination, impositions, and other abuses in connection with the distribution and sale of motor vehicles, and to enforce and administer Occupations Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code, §2301.155, which authorizes the board to adopt rules as necessary or convenient to administer Occupations Code, Chapter 2301 and to govern practice and procedure before the board; Occupations Code, §2301.651, which gives the board authority to deny an application for a license, to revoke or suspend a license, to place on probation, or to reprimand a license holder if the applicant or license holder is unfit, makes a material misrepresentation, violates any law relating to the sale, distribution, financing, or insuring of motor vehicles, willfully defrauds a purchaser, or fails to fulfill a written agreement with a retail purchaser of a motor vehicle; Occupations Code, §2302.051, which authorizes the board to adopt rules as necessary to administer Occupations Code, Chapter 2302; Transportation Code, §503.002, which authorizes the board to adopt rules for the administration of Transportation Code, Chapter 503; Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department; and the statutory authority referenced throughout this preamble and in the rule text, which is incorporated herein by reference.

CROSS REFERENCE TO STATUTE. The proposed repeals would implement Occupations Code, Chapters 53, 2301 and 2302; and Transportation Code, Chapters 503 and 1002.

§211.1. Purpose and Definitions.

§211.2. Application of Chapter.

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

Filed with the Office of the Secretary of State on December 11, 2025.

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Laura Moriaty
General Counsel
Texas Department of Motor Vehicles
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For further information, please call: (512) 465-4160

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SUBCHAPTER A. GENERAL PROVISIONS

43 TAC §211.1

STATUTORY AUTHORITY. The Texas Department of Motor Vehicles (department) proposes the new section under Occupations Code, §2301.151, which gives the board authority to regulate the distribution, sale, and lease of motor vehicles and the authority to take any action that is necessary or convenient to exercise that authority; Occupations Code, §2301.152, which authorizes the board to establish the qualifications of license holders, ensure that the distribution, sale, and lease of motor vehicles is conducted as required by statute and board rules, to prevent fraud, unfair practices, discrimination, impositions, and other abuses in connection with the distribution and sale of motor vehicles, and to enforce and administer Occupations Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code, §2301.155, which authorizes the board to adopt rules as necessary or convenient to administer Occupations Code, Chapter 2301 and to govern practice and procedure before the board; Occupations Code, §2301.651, which gives the board authority to deny an application for a license, to revoke or suspend a license, to place on probation, or to reprimand a license holder if the applicant or license holder is unfit, makes a material misrepresentation, violates any law relating to the sale, distribution, financing, or insuring of motor vehicles, willfully defrauds a purchaser, or fails to fulfill a written agreement with a retail purchaser of a motor vehicle; Occupations Code, §2302.051, which authorizes the board to adopt rules as necessary to administer Occupations Code, Chapter 2302; Transportation Code, §503.002, which authorizes the board to adopt rules for the administration of Transportation Code, Chapter 503; Transportation Code, §643.003, which authorizes the department to adopt rules to administer Transportation Code, Chapter 643; Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department; and the statutory authority referenced throughout this preamble and in the rule text, which is incorporated herein by reference.

CROSS REFERENCE TO STATUTE. The proposed new section would implement Occupations Code, Chapters 53, 2301 and 2302; and Transportation Code, Chapters 503, 643, and 1002.

§211.1. Purpose and Definitions.

(a) The purpose of this chapter is to implement Texas Occupations Code, Chapter 53 regarding the consequences of a criminal conviction on a license that the department is authorized to issue.

(b) Except as stated otherwise in this chapter, the definitions contained in the following laws apply to this chapter regarding specific offenses, control in the event of a conflict with this chapter, and are incorporated by reference into this chapter:

(1) the Texas Code of Criminal Procedure, Texas Health and Safety Code, Texas Occupations Code, Texas Penal Code, Texas Transportation Code, other Texas statutes, and Texas administrative rules;

(2) the federal statutes and regulations of the United States;

(3) the laws of other states of the United States; and

(4) the laws of a foreign jurisdiction.

(c) When used in this chapter, the word "department" means the Texas Department of Motor Vehicles.

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

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SUBCHAPTER B. CRIMINAL HISTORY EVALUATION GUIDELINES AND PROCEDURES: MOTOR VEHICLE, SALVAGE VEHICLE, AND TRAILER INDUSTRIES

43 TAC §§211.7, 211.9, 211.11

STATUTORY AUTHORITY. The Texas Department of Motor Vehicles (department) proposes the revisions under Occupations Code, §2301.151, which gives the board authority to regulate the distribution, sale, and lease of motor vehicles and the authority to take any action that is necessary or convenient to exercise that authority; Occupations Code, §2301.152, which authorizes the board to establish the qualifications of license holders, ensure that the distribution, sale, and lease of motor vehicles is conducted as required by statute and board rules, to prevent fraud, unfair practices, discrimination, impositions, and other abuses in connection with the distribution and sale of motor vehicles, and to enforce and administer Occupations Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code, §2301.155, which authorizes the board to adopt rules as necessary or convenient to administer Occupations Code, Chapter 2301 and to govern practice and procedure before the board; Occupations Code, §2301.651, which gives the board authority to deny an application for a license, to revoke or suspend a license, to place on probation, or to reprimand a license holder if the applicant or license holder is unfit, makes a material misrepresentation, violates any law relating to the sale, distribution, financing, or insuring of motor vehicles, willfully defrauds a purchaser, or fails to fulfill a written agreement with a retail purchaser of a motor vehicle; Occupations Code, §2302.051, which authorizes the board to adopt rules as necessary to administer Occupations Code, Chapter 2302; Transportation Code, §503.002, which authorizes the board to adopt rules for the administration of Transportation Code, Chapter 503; Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department; and the statutory authority referenced throughout this preamble and in the rule text, which is incorporated herein by reference.

CROSS REFERENCE TO STATUTE. The proposed revisions would implement Occupations Code, Chapters 53, 2301 and 2302; and Transportation Code, Chapters 503 and 1002.

§211.7. Definitions and Purpose.

(a) When used in this subchapter, the following words and terms have the following meanings, unless the context clearly indicates otherwise.

(1) License--Any license issued by the department under:

(A) Texas Transportation Code, Chapter 503;

(B) Texas Occupations Code, Chapter 2301; or

(C) Texas Occupations Code, Chapter 2302.

(2) Retail license types--Those license types which require holders to interact directly with the public, but does not include other license types that do not generally interact directly with the public, including manufacturers, distributors, and general distinguishing number holders for the following vehicle categories: ambulance, axle, bus, engine, fire truck/fire fighting vehicle, heavy duty truck, transmission, wholesale motor vehicle dealer, and wholesale motor vehicle auction.

(b) The licenses issued by the department create positions of trust. License holder services involve access to confidential information; conveyance, titling, and registration of private property; possession of monies belonging to or owed to private individuals, creditors, and governmental entities; and compliance with federal and state environmental and safety regulations. License holders are provided with opportunities to engage in fraud, theft, money laundering, and related crimes, and to endanger the public through violations of environmental and safety regulations. Many license holders provide services directly to the public, so licensure provides persons predisposed to commit assaultive or sexual crimes with greater opportunities to engage in such conduct. To protect the public from these harms, the department shall review the criminal history of license applicants before issuing a new or renewal license and may take action on a license holder who commits an offense during the license period based on the guidelines in this subchapter.

§211.9. Application of Subchapter B.

(a) This subchapter applies to the following persons:

(1) applicants and holders of a license; and

(2) persons who are acting at the time of application, or will later act, in a representative capacity for an applicant or holder of a license, including the applicant's or holder's officers, directors, members, managers, trustees, partners, principals, or managers of business affairs.

(b) In this subchapter a "conviction" includes a deferred adjudication that is considered to be a conviction under Texas Occupations Code, §53.021(d).

§211.11. Imprisonment.

(a) The department shall deny a license application if the applicant or a person described by §211.9(a)(2) [~~§211.2(a)(2)~~] of this title [~~chapter~~] (relating to Application of Subchapter B [~~Chapter~~]) is imprisoned while a new or renewal license application is pending.

(b) The department shall revoke a license upon the imprisonment of a license holder following a:

(1) felony conviction for:

(A) an offense that directly relates to the duties and responsibilities of the licensed occupation;

(B) an offense listed in Texas [~~Article 42A.054,~~] Code of Criminal Procedure, Article 42A.054; or

(C) a sexually violent offense, as defined by Texas [~~Article 62.001,~~] Code of Criminal Procedure, Article 62.001;

(2) felony community supervision revocation;

(3) revocation of parole; or

(4) revocation of mandatory supervision.

(c) A person currently imprisoned because of a felony conviction may not obtain a license, renew a previously issued license, or act in a representative capacity for an application or license holder as described by §211.9(a)(2) of this title. [~~§211.2(a)(2).~~]

(d) The department may revoke a license upon the imprisonment for a felony conviction, felony community supervision revocation, revocation of parole, or revocation of mandatory supervision of a person described by §211.9(a)(2) [~~§211.2(a)(2)~~] of this title [~~chapter~~] who remains employed with the license holder.

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

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SUBCHAPTER C. CRIMINAL OFFENSE GUIDELINES: MOTOR CARRIERS

43 TAC §211.23, §211.25

STATUTORY AUTHORITY. The Texas Department of Motor Vehicles (department) proposes new Subchapter C under Transportation Code, §643.003, which authorizes the department to adopt rules to administer Transportation Code, Chapter 643; Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and duties of the department under the Transportation Code and other laws of this state; and the statutory authority referenced throughout this preamble and in the rule text, which is incorporated herein by reference.

CROSS REFERENCE TO STATUTE. The proposed new subchapter would implement Occupations Code, §53.021(b)(1)(A) and Transportation Code, Chapter 643.

§211.23. Definition and Criminal Offense Guidelines.

(a) When used in this subchapter, the word "license" means a certificate of registration issued by the department under Texas Transportation Code, Chapter 643 to a sole proprietor motor carrier. A license authorizes a motor carrier to engage in certain operations under Transportation Code, Chapter 643.

(b) The particular offenses referenced in §211.25 of this title (relating to Criminal Offense Guidelines; Imprisonment) relate to the duties and responsibilities of a license holder under Texas Transportation Code, Chapter 643 because an individual who is predisposed to commit violations of certain laws may have a greater opportunity to commit such offenses with a license, in addition to the following reasons regarding particular types of motor carrier operations under Texas Transportation Code, Chapter 643:

(1) For the felony offenses referenced in §211.25(c) of this title, a licensed motor carrier controls, operates, or directs the operation of one or more motor vehicles that transport persons or cargo, which enables the license holder to commit certain offenses that involve the use of a motor vehicle. Also, a licensed motor carrier provides the department with certain information and documents that the department uses to administer and enforce Texas Transportation Code, Chapter 643 and that law enforcement uses to enforce certain laws, including Texas Transportation Code, Chapter 644 and the administrative rules that the Texas Department of Public Safety adopted under Texas Transportation Code, Chapter 644. In addition, a potential customer of a motor carrier has access to certain information on the department's website to determine whether to use the services of a particular licensed motor carrier, and the licensed motor carrier must provide the department with most of this information as part of a license application and any required updates. A licensed motor carrier is in a position of trust with the department because a licensed motor carrier must provide accurate information and documents to the department, so the department's records are reliable for the department, law enforcement, and potential shippers or passengers of the motor carrier.

(2) For the offenses referenced in §211.25(d) of this title regarding a motor carrier of passengers, a license creates a position of trust between the motor carrier and their passengers. Passengers lose some of their autonomy over themselves and their tangible personal property, documents, and cargo while they are in another person's motor vehicle. If the passenger is a child, there is even more risk of a crime involving the child or the child's tangible personal property, documents, or cargo.

(3) For the offenses referenced in §211.25(e) of this title regarding a for-hire motor carrier of any cargo (including any tangible personal property or a document), a license creates a position of trust between the motor carrier and its shipper. A shipper and an individual associated with the shipper may interact with the motor carrier in person, which provides an opportunity for the motor carrier to commit an offense against the individual. Also, a shipper loses control over their cargo when the motor carrier has possession of the cargo. In addition, the motor carrier likely has access to information regarding the location and description of the shipper's cargo at least a day before the contractual deadline for loading the cargo for transport, which may provide an opportunity for the motor carrier to commit offenses regarding a shipper's cargo.

(4) For the offenses referenced in §211.25(f) of this title regarding a household goods carrier, a license creates a position of trust between the motor carrier and its shipper and potentially provides the household goods carrier with access to the shipper's home, the shipper, and other individuals located in or around the shipper's home, including children.

(5) For the offenses referenced in §211.25(g) of this title regarding a motor carrier who transports hazardous materials, a license provide such motor carriers with access to hazardous materials, which are potentially dangerous to the public and the environment if the motor carrier does not comply with the applicable laws.

§211.25 Criminal Offense Guidelines; Imprisonment.

(a) Under Texas Occupations Code, §53.021(b)(1)(A), a license holder's license is automatically revoked by operation of law on the license holder's imprisonment after a felony conviction for an offense that directly relates to the duties and responsibilities of the licensed occupation.

(b) The department has determined, under the factors listed in Texas Occupations Code, §53.022, that the offenses detailed in subsections (c) through (g) of this section directly relate to the duties and responsibilities of license holders under Texas Occupations Code, §53.021(b)(1)(A). Such offenses include offenses under the laws of the United States or another state of the United States if the offense contains elements that are substantially similar to the elements of an offense under the laws of this state, except as otherwise stated in this subchapter.

(c) The following offenses apply to a license:

(1) an offense involving the smuggling of a person, as described by Texas Penal Code, Chapter 20;

(2) an offense involving the use or intended use of a motor vehicle, as described by Texas Penal Code, §20.07;

(3) an offense against public administration, as described by Texas Penal Code, Chapters 36 or 37; or Texas Penal Code, §42.03;

(4) an offense involving intoxication while operating a motor vehicle, as described by Texas Penal Code, Chapter 49;

(5) an offense involving the delivery or intent to deliver a controlled substance, simulated controlled substance, or dangerous drug, as described by Texas Health and Safety Code, Chapter 481, 482, or 483;

(6) an offense as described by Texas Transportation Code, §548.6035 or §644.151; and

(7) an offense of attempting or conspiring to commit any of the foregoing offenses.

(d) The following additional felony offenses apply to a motor carrier of passengers:

(1) an offense against the person, as described by Texas Penal Code, Title 5;

(2) an offense against the family, as described by Texas Penal Code, §§25.04, 25.07, 25.072, 25.08, or 25.11;

(3) an offense against tangible personal property, a document, or cargo belonging to another, as described by Texas Penal Code, Chapters 28, 29, or 31;

(4) an offense against public order and decency, as described by Texas Penal Code §§43.24, 43.251, or 43.262;

(5) a reportable offense conviction under Texas Code of Criminal Procedure, Chapter 62 for which the person must register as a sex offender; and

(6) an offense of attempting or conspiring to commit any of the foregoing offenses.

(e) The following additional felony offenses apply to a for-hire motor carrier of any cargo, including household goods and hazardous materials:

(1) an offense against the person, as described by Texas Penal Code, Title 5;

(2) an offense against tangible personal property, a document, or cargo belonging to another, as described by Texas Penal Code, Chapters 28, 29, 30, 31, or 32;

(3) a reportable offense conviction under Texas Code of Criminal Procedure, Chapter 62 for which the person must register as a sex offender; and

(4) an offense of attempting or conspiring to commit any of the foregoing offenses.

(f) The following additional felony offenses apply to a household goods carrier:

(1) an offense against real property belonging to another, as described by Texas Penal Code, Chapters 28 or 30;

(2) an offense against public order and decency, as described by Texas Penal Code §§43.24, 43.251, or 43.262; and

(3) an offense of attempting or conspiring to commit any of the foregoing offenses.

(g) The following additional felony offenses apply to a motor carrier who transports hazardous materials:

(1) an offense related to hazardous material, waste disposal, water contamination, air pollution, or other environmental offense under a Texas statute or administrative rule;

(2) a federal statute or regulation of the United States related to hazardous material, waste disposal, water contamination, air pollution, or other environmental offense; or

(3) the laws of another state of the United States related to hazardous material, waste disposal, water contamination, air pollution, or other environmental offense, if the offense contains elements that are substantially similar to the elements of an offense under Texas law or a law of the United States.

(h) If a license holder's imprisonment occurs on or after May 1, 2026, for a conviction for any offense described by subsections (c) through (g) of this section, the license holder's license is automatically revoked on the date of the imprisonment if at least one of the offenses that resulted in the imprisonment falls within the scope of any offense described in subsections (c) through (g) of this section.

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

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Laura Moriaty
General Counsel
Texas Department of Motor Vehicles
Earliest possible date of adoption: January 25, 2026
For further information, please call: (512) 465-4160

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CHAPTER 218. MOTOR CARRIERS

INTRODUCTION. The Texas Department of Motor Vehicles (department) proposes amendments to 43 Texas Administrative Code (TAC) Chapter 218, Motor Carriers; Subchapter A, General Provisions, §218.2; and Subchapter B, Motor Carrier Registration, §218.13 regarding clarifications to the rule text and the requirement for a sole proprietor motor carrier to provide notice to the department when the sole proprietor is imprisoned after an event described by Occupations Code, §53.021(b) as amended by Senate Bill (SB) 1080, 89th Legislature, Regular Session (2025). The proposed amendments are necessary to provide the department with information to update its records regarding the automatic revocation of a motor carrier's certificate of registration under Occupations Code, §53.021(b). A proposed amendment to §218.2 is necessary to add a definition for the term "for-hire motor carrier." Proposed amendments to §218.13 are also necessary to clarify the rule text regarding motor carriers that are required to provide updates to the department and the use of an authorized representative to file an application with the department or provide the department with any required information and updates.

EXPLANATION.

A proposed amendment to §218.2 would add a definition for the term "for-hire motor carrier" for clarity and consistency because the term is included in current §218.2(b)(14) in the definition for "farm vehicle" and in proposed new §218.13(k). Proposed amendments to §218.2 would also renumber the definitions due to the proposed new definition for the term "for-hire motor carrier."

A proposed amendment to §218.13(a)(3)(A) would delete a sentence that says, "An authorized representative of the applicant

who files an application with the department on behalf of an applicant may be required to provide written proof of authority to act on behalf of the applicant." The deletion is necessary to prevent any conflict with proposed new language in §218.13(j) and (l). As stated below, proposed new §218.13(l) would expand this language for all applicants under Chapter 218 and for a motor carrier with a certificate of registration. A person who submits an application on behalf of a motor carrier might not be the only authorized representative or the current authorized representative for the motor carrier.

Proposed amendments to §218.13(i) would clarify that the requirement for a motor carrier to update certain information in the department's online system only applies if the motor carrier has a certificate of registration that has not expired and has not been revoked.

Proposed new §218.13(j) would require a sole proprietor motor carrier with an unexpired certificate of registration to notify the department, through the sole proprietor's authorized representative, of the sole proprietor's imprisonment for a reason that would cause automatic revocation of the motor carrier's certificate of registration by operation of law under Occupations Code, §53.021(b). This reporting is necessary as a means for the department to learn about a motor carrier's imprisonment because this information is not automatically reported to the department by state or federal law enforcement agencies. The department has access to criminal history record information regarding convictions under Texas law under Government Code, §411.122(d)(24), but the department is not notified when a motor carrier is imprisoned due to a conviction under Texas law. Also, the department does not receive notice regarding convictions under federal law or the law of a U.S. state other than Texas because the department does not have access to criminal history record information that is maintained or indexed through the Federal Bureau of Investigation under Government Code, §411.12511 regarding a conviction of a motor carrier under Transportation Code, Chapter 643.

Proposed new §218.13(j)(1)(A) would refer to proposed new 43 TAC §211.25 of this title (relating to Criminal Offense Guidelines; Imprisonment), which the department published in this issue of the *Texas Register*, because proposed new 43 TAC §211.25 defines the offenses that the department has determined are directly related to the duties and responsibilities of a motor carrier with a certificate of registration under Transportation Code, Chapter 643.

Proposed new §218.13(k) would provide the deadline for the notice under proposed new §218.13(j), so the department can timely update its records, which the department, law enforcement, and potential customers of a motor carrier rely on. Under proposed new §218.13(k), the deadline for the notice under proposed new §218.13(j) would be within 15 days of the date the sole proprietor is imprisoned if the imprisonment occurs on or after May 1, 2026. The proposed deadline would only apply to an imprisonment that occurs on or after May 1, 2026, because the proposed amendments to §218.13 and proposed new §211.25 are anticipated to become effective on May 1, 2026, if the department's board approves the adoption of these proposed revisions.

Proposed new §218.13(k) would also require the notice under proposed new §218.13(j) to be sent to the department using the email address listed on the department's website for this purpose because the department's system is not currently programmed to allow such notices to be provided within the department's system. In addition, proposed new §218.13(k) would require the notice to the department under proposed new §218.13(j) to contain the sole proprietor's name; the sole proprietor's certificate of registration number under Transportation Code, Chapter 643; the date the sole proprietor was imprisoned; the reason the sole proprietor was imprisoned using one of the reasons listed in proposed new §218.13(j); the citation to the statute, administrative rule, or regulation regarding the felony offense for which the sole proprietor was imprisoned if the sole proprietor was imprisoned for a felony offense that falls under proposed new §218.13(j)(1); whether the sole proprietor is a motor carrier of passengers, a for-hire motor carrier of cargo, a household goods carrier, or a motor carrier who transports hazardous materials under Transportation Code, Chapter 643; and the name and phone number of the sole proprietor's authorized representative. The references to Transportation Code, Chapter 643 indicate that the sole proprietor shall provide the requested information regarding the sole proprietor's certificate of registration regarding intrastate operating authority. Proposed new §218.13(k) would require the notice to include the specified pieces of information so the department can verify whether the sole proprietor motor carrier's certificate of registration was automatically revoked by operation of law under Occupations Code, §53.021(b), including whether a felony conviction directly relates to the duties and responsibilities of the motor carrier under proposed new §211.25, and to allow the department to contact the motor carrier through their authorized representative while the motor carrier is imprisoned.

Proposed new §218.13(j) and (k) only apply to a sole proprietor motor carrier because only an individual can be imprisoned. Also, the department does not have the statutory authority to apply these amendments to individuals who are associated with a license holder. If the motor carrier is a sole proprietor, the sole proprietor has the license under Transportation Code, Chapter 643. The statutory authority for the automatic revocation of a license under Occupations Code, §53.021(b) only applies to the license holder.

Proposed new §218.13(l) would expand the language in current §218.13(a)(3)(A) by expressly authorizing an applicant under Chapter 218 and a motor carrier with a certificate of registration to submit an application to the department or provide the department with any required information or updates through an authorized representative. Proposed new §218.13(l) would also state that, upon request by the department, any representative of an applicant or motor carrier shall provide the department with written proof of authority to act on behalf of the applicant or motor carrier. Proposed new §218.13(l) addresses the reality that authorized representatives are sometimes necessary to run a business, and would allow motor carriers to fulfill their duties to provide notice to the department even when their communication was limited because they were imprisoned. In addition, proposed new §218.13(l) clarifies the department's authority to verify that an individual is authorized to act on behalf of an applicant or motor carrier, so the department can ensure the integrity of its records.

The proposed amendments are necessary for the department to maintain accurate records for the department's administration of Transportation Code, Chapter 643 and for law enforcement to enforce certain laws regarding motor carriers, including Transportation Code, Chapter 644 and the administrative rules that the Texas Department of Public Safety adopted under Transportation Code, Chapter 644. In addition, a potential customer of a motor carrier has access to certain information on the department's website to help the potential customer decide whether to use the services of the motor carrier. These pro-

posed amendments require sole proprietor motor carriers to provide the department with the necessary information to enable the department to verify whether the sole proprietor's certificate of registration under Transportation Code, Chapter 643 was automatically revoked by operation of law under Occupations Code, §53.021(b), and the date of the automatic revocation. Proposed new §218.13(k) would require a sole proprietor to tell the department whether the sole proprietor is a motor carrier of passengers, a for-hire motor carrier of cargo, a household goods carrier, or a motor carrier who transports hazardous materials because certain felony offenses under proposed new §211.25 would only apply to a motor carrier based on the motor carrier's type of operation. The department would use the information that a sole proprietor provides to the department under proposed new §218.13(j) and (k) to update the department's system to indicate whether the sole proprietor's certificate of registration was revoked, the date of the revocation, and that the revocation occurred under Occupations Code, §53.021(b). Transportation Code, §643.054(a-1) authorizes the department to deny a certificate of registration if the applicant had a registration revoked under Transportation Code, §643.252, so the department's records need to indicate whether a revocation occurred under authority other than Transportation Code, §643.252.

FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT. Glenna Bowman, Chief Financial Officer, has determined that for each year of the first five years the amendments will be in effect, there will be no significant fiscal impact to state or local governments as a result of the enforcement or administration of the proposal. Clint Thompson, Director of the Motor Carrier Division, has determined that there will be no significant impact on local employment or the local economy as a result of the proposal.

PUBLIC BENEFIT AND COST NOTE. Mr. Thompson has also determined that, for each year of the first five years the amended sections are in effect, there is an anticipated public benefit.

Anticipated Public Benefits. A public benefit anticipated as a result of the proposal is that the department would have the information it needs to maintain accurate records and provide accurate public information regarding the automatic revocation of a sole proprietor's certificate of registration under Occupations Code, §53.021(b).

Anticipated Costs To Comply With The Proposal. Mr. Thompson anticipates that there will be no costs to comply with these amendments.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS. As required by Government Code, §2006.002, the department has determined that the proposed amendments will not have an adverse economic effect on small businesses, micro-businesses, and rural communities because the amendments require a sole proprietor motor carrier to provide the department with certain minimal information that is only required if the motor carrier is imprisoned due to a reason listed in Occupations Code, §53.021(b). Therefore, the department is not required to prepare a regulatory flexibility analysis under Government Code, §2006.002.

TAKINGS IMPACT ASSESSMENT. The department has determined that no private real property interests are affected by this proposal and that this proposal does not restrict or limit an owner's right to property that would otherwise exist in the absence of government action and, therefore, does not constitute a taking or require a takings impact assessment under Government Code, §2007.043.

GOVERNMENT GROWTH IMPACT STATEMENT. The department has determined that each year of the first five years the proposed amendments are in effect, no government program would be created or eliminated. Implementation of the proposed amendments would not require the creation of new employee positions or elimination of existing employee positions. Implementation would not require an increase or decrease in future legislative appropriations to the department or an increase or decrease of fees paid to the department. The proposed amendments create a new regulation. The proposed amendments expand an existing regulation regarding the use of an authorized representative, as stated above. The proposed amendments do not limit or repeal an existing regulation. Lastly, the proposed amendments do not affect the number of individuals subject to the rule's applicability and will not affect this state's economy.

REQUEST FOR PUBLIC COMMENT.

If you want to comment on the proposal, submit your written comments by 5:00 p.m. CST on January 26, 2026. The department requests information related to the cost, benefit, or effect of the proposed amendments, including any applicable data, research, or analysis, from any person required to comply with the proposed amendments or any other interested person. A request for a public hearing must be sent separately from your written comments. Send written comments or hearing requests by email to rules@txdmv.gov or by mail to Office of General Counsel, Texas Department of Motor Vehicles, 4000 Jackson Avenue, Austin, Texas 78731. If a hearing is held, the department will consider written comments and public testimony presented at the hearing.

SUBCHAPTER A. GENERAL PROVISIONS

43 TAC §218.2

STATUTORY AUTHORITY. The Texas Department of Motor Vehicles (department) proposes amendments under Transportation Code, §643.003, which authorizes the department to adopt rules to administer Transportation Code, Chapter 643; Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and duties of the department under the Transportation Code and other laws of this state; and the statutory authority referenced throughout this preamble and in the rule text, which is incorporated herein by reference.

CROSS REFERENCE. The proposed amendments would implement Transportation Code, Chapter 643.

§218.2. Definitions.

(a) The definitions contained in Transportation Code, Chapter 643 apply to this chapter. In the event of a conflict with this chapter, the definitions contained in Transportation Code, Chapter 643 control; however, the definition of the word "director" in this section controls over the definition in Transportation Code, Chapter 643.

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

(1) Advertisement--An oral, written, graphic, or pictorial statement or representation made in the course of soliciting intrastate household goods transportation services, including, without limitation, a statement or representation made in a newspaper, magazine, or other publication, or contained in a notice, sign, poster, display, circular, pamphlet, or letter, or on radio, the Internet, or via an online service,

or on television. The term does not include direct communication between a household goods carrier or carrier's representative and a prospective shipper, and does not include the following:

(A) promotional items of nominal value such as ball caps, tee shirts, and pens;

(B) business cards;

(C) listings not paid for by the household goods carrier or its household goods carrier's agent; and

(D) listings of a household goods carrier's business name or assumed name as it appears on the motor carrier certificate of registration, and the household goods carrier's address, and contact information in a directory or similar publication.

(2) Approved association--A group of household goods carriers, its agents, or both, that has an approved collective ratemaking agreement on file with the department under §218.64 of this title (relating to Rates).

(3) Binding proposal--A written offer stating the exact price for the transportation of specified household goods and any related services.

(4) Board--Board of the Texas Department of Motor Vehicles.

(5) Certificate of insurance--A certificate prescribed by and filed with the department in which an insurance carrier or surety company warrants that a motor carrier for whom the certificate is filed has the minimum coverage as required by §218.16 of this title (relating to Insurance Requirements).

(6) Certificate of registration--A certificate issued by the department to a motor carrier and containing a unique number.

(7) Certified scale--Any scale designed for weighing motor vehicles, including trailers or semitrailers not attached to a tractor, and certified by an authorized scale inspection and licensing authority. A certified scale may also be a platform-type or warehouse-type scale properly inspected and certified.

(8) Commercial motor vehicle--As defined in Transportation Code, §548.001. The definition for commercial motor vehicle does not include:

(A) a farm vehicle with a gross weight, registered weight, or gross weight rating of less than 48,000 pounds;

(B) a cotton vehicle registered under Transportation Code, §504.505;

(C) a vehicle registered with the Railroad Commission under Natural Resources Code, §113.131 and §116.072;

(D) a vehicle operated by a governmental entity;

(E) a motor vehicle exempt from registration by the Unified Carrier Registration Act of 2005; and

(F) a tow truck, as defined by Occupations Code, §2308.002.

(9) Conspicuous--Written in a size, color, and contrast so as to be readily noticed and understood.

(10) Conversion--A change in an entity's organization that is implemented with a Certificate of Conversion issued by the Texas Secretary of State under Business Organizations Code, §10.154.

(11) Director--The director of the department's Motor Carrier Division, whom the executive director of the department designated as the director under Transportation Code, §643.001(2).

(12) Estimate--An informal oral calculation of the approximate price of transporting household goods.

(13) Farmer--A person who operates a farm or is directly involved in cultivating land, crops, or livestock that are owned by or are under the direct control of that person.

(14) Farm vehicle--A commercial motor vehicle that is:

(A) controlled and operated by a farmer to transport either:

(i) agricultural products; or

(ii) farm machinery, farm supplies, or both, to and from a farm;

(B) not being used in the operation of a for-hire motor carrier;

(C) not carrying hazardous materials of a type or quantity that requires the commercial motor vehicle to be placarded in accordance with 49 C.F.R. §177.823; and

(D) being used within 150 air-miles of the farmer's farm.

(15) FMCSA--Federal Motor Carrier Safety Administration.

(16) For-hire motor carrier--A motor carrier that provides transportation of persons or cargo for compensation in one or more motor vehicles.

(17) [~~(16)~~] Foreign commercial motor vehicle--As defined in Transportation Code, §648.001.

(18) [~~(17)~~] Gross weight rating--The maximum loaded weight of any combination of truck, tractor, and trailer equipment as specified by the manufacturer of the equipment. If the manufacturer's rating is unknown, the gross weight rating is the greater of:

(A) the actual weight of the equipment and its lading; or

(B) the maximum lawful weight of the equipment and its lading.

(19) [~~(18)~~] Household goods agent--A motor carrier who transports household goods on behalf of another motor carrier.

(20) [~~(19)~~] Household goods carrier--A motor carrier who transports household goods for compensation, regardless of the size of the vehicle.

(21) [~~(20)~~] Inventory--A list of the items in a household goods shipment and the condition of the items.

(22) [~~(21)~~] Leasing business--A person that leases vehicles requiring registration under Subchapter B of this chapter to a motor carrier that must be registered.

(23) [~~(22)~~] Mediation--A non-adversarial form of alternative dispute resolution in which an impartial person, the mediator, facilitates communication between two parties to promote reconciliation, settlement, or understanding.

(24) [~~(23)~~] Motor Carrier or carrier--As defined in Transportation Code, §643.001(6).

(25) [~~(24)~~] Motor transportation broker--As defined in Transportation Code, §646.001.

(26) [~~(25)~~] Moving services contract--A contract between a household goods carrier and shipper, such as a bill of lading, receipt, order for service, or work order, that sets out the terms of the services to be provided.

(27) [~~(26)~~] Multiple user--An individual or business who has a contract with a household goods carrier and who used the carrier's services more than 50 times within the preceding 12 months.

(28) [~~(27)~~] Not-to-exceed proposal--A formal written offer stating the maximum price a shipper can be required to pay for the transportation of specified household goods and any related services. The offer may also state the non-binding approximate price. Any offer based on hourly rates must state the maximum number of hours required for the transportation and related services unless there is an acknowledgment from the shipper that the number of hours is not necessary.

(29) [~~(28)~~] Principal business address--A single location that serves as a motor carrier's headquarters and where it maintains its operational records or can make them available.

(30) [~~(29)~~] Print advertisement--A written, graphic, or pictorial statement or representation made in the course of soliciting intrastate household goods transportation services, including, without limitation, a statement or representation made in or contained in a newspaper, magazine, circular, or other publication. The term does not include direct communication between a household goods carrier or carrier's representative and a prospective shipper, and does not include the following:

(A) promotional items of nominal value such as ball caps, tee shirts, and pens;

(B) business cards;

(C) Internet websites;

(D) listings not paid for by the household goods carrier or its household goods carrier's agent; and

(E) listings of a household goods carrier's business name or assumed name as it appears on the motor carrier certificate of registration, and the household goods carrier's address, and contact information in a directory or similar publication.

(31) [~~(30)~~] Public highway--Any publicly owned and maintained street, road, or highway in this state.

(32) [~~(31)~~] Replacement vehicle--A vehicle that takes the place of another vehicle that has been removed from service.

(33) [~~(32)~~] Revocation--The withdrawal of registration and privileges by the department or a registration state.

(34) [~~(33)~~] Shipper--The owner of household goods or the owner's representative.

(35) [~~(34)~~] Short-term lease--A lease of 30 days or less.

(36) [~~(35)~~] Substitute vehicle--A vehicle that is leased from a leasing business and that is used as a temporary replacement for a vehicle that has been taken out of service for maintenance, repair, or any other reason causing the temporary unavailability of the permanent vehicle.

(37) [~~(36)~~] Suspension--Temporary removal of privileges granted to a registrant by the department or a registration state.

(38) [~~(37)~~] Unified Carrier Registration System or UCR--A motor vehicle registration system established under 49 U.S.C. §14504a or a successor federal registration program.

(39) [~~(38)~~] USDOT--United States Department of Transportation.

(40) [~~(39)~~] USDOT number--An identification number issued by or under the authority of the FMCSA or its successor.

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

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Laura Moriaty
General Counsel
Texas Department of Motor Vehicles
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For further information, please call: (512) 465-4160

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SUBCHAPTER B. MOTOR CARRIER REGISTRATION

43 TAC §218.13

STATUTORY AUTHORITY. The Texas Department of Motor Vehicles (department) proposes amendments under Transportation Code, §643.003, which authorizes the department to adopt rules to administer Transportation Code, Chapter 643; Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and duties of the department under the Transportation Code and other laws of this state; Government Code, §2001.004(1), which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures; and the statutory authority referenced throughout this preamble and in the rule text, which is incorporated herein by reference.

CROSS REFERENCE TO STATUTE. The proposed amendments would implement Transportation Code, Chapter 643; and Government Code, §2001.004(1).

§218.13. Application for Motor Carriers Registration.

(a) Form of original application. An original application for motor carrier registration must be filed electronically in the department's designated motor carrier registration system, must be in the form prescribed by the director and must contain, at a minimum, the following information and documents.

(1) USDOT number. A valid USDOT number issued to the applicant.

(2) Applicant information and documents. All applications must include the following information and documents:

(A) The applicant's name, business type (e.g., sole proprietor, corporation, or limited liability company), telephone number, email address, and Secretary of State file number, as applicable. The applicant's name and email address must match the information the applicant provided to FMCSA to obtain the USDOT number that the applicant provided in its application to the department.

(B) An application submitted by an entity, such as a corporation, general partnership, limited liability company, limited liability corporation, limited partnership, or partnership, must include the entity's Texas Comptroller's Taxpayer Number or the entity's Federal Employer Identification Number.

(C) A legible and accurate electronic image of each applicable required document:

(i) The certificate of filing, certificate of incorporation, or certificate of registration on file with the Texas Secretary of State; and

(ii) each assumed name certificate on file with the Secretary of State or county clerk.

(3) Information and documents regarding applicant's owners, representatives, and affiliates. All applications must include the following information and documents on the applicant's owners, representatives, and affiliates, as applicable:

(A) The contact name, email address, and telephone number of the person submitting the application. [~~An authorized representative of the applicant who files an application with the department on behalf of an applicant may be required to provide written proof of authority to act on behalf of the applicant.~~]

(B) The name, social security number or Individual Taxpayer Identification Number (to the extent the natural person is authorized by law to obtain one of these numbers), date of birth, business address, and ownership percentage for each owner, partner, member, or principal if the applicant is not a publicly traded company.

(C) The name, social security number or Individual Taxpayer Identification Number (to the extent the natural person is authorized by law to obtain one of these numbers), date of birth, and business address for the following if the applicant is owned in full or in part by a legal entity:

(i) each officer, director, or trustee authorized to act on behalf of the applicant; and

(ii) each manager or representative who has or exercises authority to direct some or all of the applicant's operational policy regarding compliance with applicable laws regarding a motor carrier, excluding sales functions, on behalf of the applicant.

(D) The name, employer identification number, ownership percentage, and non-profit or publicly traded status for each legal entity that owns the applicant in full or in part.

(E) The name, social security number or Individual Taxpayer Identification Number (to the extent the natural person is authorized by law to obtain one of these numbers), date of birth, and business address for each person who serves or will serve as the applicant's manager, operator, or representative who has or exercises authority to direct some or all of the applicant's operational policy regarding compliance with applicable laws regarding a motor carrier, excluding sales functions.

(F) A legible and accurate electronic image of at least one of the following unexpired identity documents for each natural person identified in the application:

(i) a driver license issued by a state or territory of the United States. If the driver license was issued by the Texas Department of Public Safety, the image must also include the audit number listed on the Texas driver license;

(ii) Texas identification card issued by the Texas Department of Public Safety under Transportation Code, Chapter 521, Subchapter E, or an identification certificate issued by a state or territory of the United States;

(iii) license to carry a handgun issued by the Texas Department of Public Safety under Government Code, Chapter 411, Subchapter H;

(iv) United States passport; or

(v) United States military identification.

(4) Principal business address and mailing address. The applicant must provide the applicant's principal business address, which must be a physical address. If the mailing address is different from the principal business address, the applicant must also provide the applicant's mailing address.

(5) Legal agent.

(A) A Texas-domiciled motor carrier must provide the name, telephone number, and address of a legal agent for service of process if the agent is different from the motor carrier.

(B) A motor carrier domiciled outside Texas must provide the name, telephone number, and Texas address of the legal agent for service of process.

(C) A legal agent for service of process shall be a Texas resident, a domestic corporation, or a foreign corporation authorized to transact business in Texas with a Texas physical address, rather than a post office box, for service of process.

(6) Description of vehicles. An application must include a motor carrier equipment report identifying each motor vehicle that requires registration and that the carrier proposes to operate. Each motor vehicle must be identified by its vehicle identification number, make, model year, and type of cargo and by the unit number assigned to the motor vehicle by the motor carrier. Any subsequent registration of vehicles must be made under subsection (e) of this section.

(7) Type of motor carrier operations. An applicant must state if the applicant proposes to transport passengers, household goods, or hazardous materials.

(8) Insurance coverage. An applicant must indicate insurance coverage as required by §218.16 of this title (relating to Insurance Requirements).

(9) Safety certification. Each motor carrier must complete, as part of the application, a certification stating that the motor carrier knows and will conduct operations in accordance with all federal and state safety regulations.

(10) Drug-testing certification. Each motor carrier must certify, as part of the application, that the motor carrier is in compliance with the drug-testing requirements of 49 C.F.R. Part 382. If the motor carrier belongs to a consortium, as defined by 49 C.F.R. Part 382, the applicant must provide the names of the persons operating the consortium.

(11) Duration of registration.

(A) An applicant must indicate the duration of the desired registration. Except as provided otherwise in this section, registration may be for seven calendar days, 90 calendar days, one year, or two years. The duration of registration chosen by the applicant will be applied to all vehicles.

(i) Household goods carriers may not obtain seven-day or 90-day certificates of registration.

(ii) Motor carriers that transport passengers in a commercial motor vehicle as defined by Transportation Code,

§548.001(1)(B) may not obtain seven-day or 90-day certificates of registration, unless approved by the director.

(B) Interstate motor carriers that operate in intrastate commerce and meet the requirements under §218.14(c) of this title (relating to Expiration and Renewal of Commercial Motor Vehicles Registration) are not required to renew a certificate of registration issued under this section.

(12) Additional requirements. The following fees, documents, and information must be submitted with the application.

(A) An application must be accompanied by an application fee of:

(i) $100 for annual and biennial registrations;

(ii) $25 for 90-day registrations; or

(iii) $5 for seven-day registrations.

(B) An application must be accompanied by a vehicle registration fee of:

(i) $10 for each vehicle that the motor carrier proposes to operate under a seven-day, 90-day, or annual registration; or

(ii) $20 for each vehicle that the motor carrier proposes to operate under a biennial registration.

(C) An application must be accompanied by proof of insurance or financial responsibility and the insurance filing fee as required by §218.16.

(D) An application must include the completed New Applicant Questionnaire (Applicant Questionnaire), which consists of questions and requirements, such as the following:

(i) Have you ever had another motor carrier certificate of registration number issued by the department in the three years prior to the date of this application? If your answer is yes, provide the certificate of registration number for the motor carrier(s). In the Applicant Questionnaire, the word "you" means the applicant or any business that is operated, managed, or otherwise controlled by or affiliated with the applicant or a family member, corporate officer, manager, operator, or owner (if the business is not a publicly traded company) of the applicant. In the Applicant Questionnaire, the word "manager" means a person who has or exercises authority to direct some or all of the applicant's operational policy regarding compliance with applicable laws regarding a motor carrier, excluding sales functions.

(ii) Have you had a Compliance Review or a New Entrant Audit by the Texas Department of Public Safety that resulted in an Unsatisfactory Safety Rating in the three years prior to the date of your application? If your answer is yes, provide the USDOT number(s) and the certificate of registration number(s) issued by the department.

(iii) Are you currently under an Order to Cease from the Texas Department of Public Safety? If your answer is yes, provide the motor carrier's USDOT number(s) and the Carrier Profile Number(s). The Texas Department of Public Safety assigns a Carrier Profile Number (CP#) when they perform a compliance review on a motor carrier's operations to determine whether the motor carrier meets the safety fitness standards.

(iv) Are you related to another motor carrier, or have you been related to another motor carrier within the three years prior to the date of your application? The relationship may be through a person (including a family member), corporate officer, or partner who also operates or has operated as a motor carrier in Texas. If your answer is yes, state how you are related and provide the motor carrier's name and the motor carrier's USDOT number, or the certificate of registration number issued by the department for each related motor carrier.

(v) Do you currently owe any administrative penalties to the department, regardless of when the final order was issued to assess the administrative penalties? If your answer is yes, provide the following information under which the administrative penalties were assessed:

(I) department's notice number(s); and

(II) the motor carrier's USDOT number and certificate of registration number issued by the department;

(vi) Name and title of person completing the Applicant Questionnaire; and

(vii) Is the person completing the Applicant Questionnaire an authorized representative of the applicant? If your answer is yes, please add the person's name, job title, phone number, and address.

(E) An applicant must state if the applicant is domiciled in a foreign country.

(F) An application must include a certification that the information and documents provided in the application are true and correct and that the applicant complied with the application requirements under Chapter 218 of this title (relating to Motor Carriers) and Transportation Code, Chapter 643.

(G) An application must be accompanied by any other information and documents required by the department to evaluate the application under current law, including board rules.

(13) Additional requirements for household goods carriers. The following information, documents, and certification must be submitted with all applications by household goods carriers:

(A) A copy of the tariff that sets out the maximum charges for transportation of household goods, or a copy of the tariff governing interstate transportation services. If an applicant is governed by a tariff that its association has already filed with the department under §218.65 of this title (relating to Tariff Registration), the applicant complies with the requirement in this subparagraph by checking the applicable box on the application to identify the association's tariff.

(B) If the motor vehicle is not titled in the name of the household goods carrier, the following lease information and documentation, notwithstanding §218.18(a) of this title (relating to Short-term Lease and Substitute Vehicles):

(i) a copy of a valid lease agreement for each motor vehicle that the household goods carrier will operate; and

(ii) the name of the lessor and their USDOT number for each motor vehicle leased to the household goods carrier under a short-term lease.

(C) A certification that the household goods carrier has procedures that comply with Code of Criminal Procedure, Article 62.063(b)(3), which prohibits certain people who are required to register as a sex offender from providing moving services in the residence of another person without supervision.

(14) Additional requirements for passenger carriers. The following information and documents must be submitted with all applications for motor carriers that transport passengers in a commercial motor vehicle as defined by Transportation Code, §548.001(1)(B):

(A) If the commercial motor vehicle is titled in the name of the motor carrier, a copy of the International Registration Plan registration receipt or a copy of the front and back of the title for each commercial motor vehicle; or

(B) If the commercial motor vehicle is not titled in the name of the motor carrier, the following lease information and documentation, notwithstanding §218.18(a) of this title:

(i) A copy of a valid lease agreement for each commercial motor vehicle; and

(ii) The name of the lessor and their USDOT number for each commercial motor vehicle leased to the motor carrier under a short-term lease.

(b) Conditional acceptance of application. If an application has been conditionally accepted by the director pursuant to Transportation Code, §643.055, the applicant may not operate the following until the department has issued a certificate under Transportation Code, §643.054:

(1) a commercial motor vehicle or any other motor vehicle to transport household goods for compensation, or

(2) a commercial motor vehicle to transport persons or cargo.

(c) Approved application. An applicant meeting the requirements of this section and whose registration is approved shall be issued the following documents:

(1) Certificate of registration. The department shall issue a certificate of registration. The certificate of registration must contain the name and address of the motor carrier and a single registration number, regardless of the number of vehicles requiring registration that the carrier operates.

(2) Insurance cab card. The department shall issue an insurance cab card listing all vehicles to be operated under the carrier's certificate of registration. The insurance cab card shall be continuously maintained at the motor carrier's principal business address. The insurance cab card must be valid for the same period as the motor carrier's certificate of registration and shall contain information regarding each vehicle registered by the motor carrier.

(A) A current copy of the page of the insurance cab card on which the vehicle is shown shall be maintained in each vehicle listed, unless the motor carrier chooses to maintain a legible and accurate image of the insurance cab card on a wireless communication device in the vehicle or chooses to display such information on a wireless communication device by accessing the department's online system from the vehicle. The appropriate information concerning that vehicle shall be highlighted if the motor carrier chooses to maintain a hard copy of the insurance cab card or chooses to display an image of the insurance cab card on a wireless communication device in the vehicle. The insurance cab card or the display of such information on a wireless communications device shall serve as proof of insurance as long as the motor carrier has continuous insurance or financial responsibility on file with the department.

(B) On demand by a department investigator or any other authorized government personnel, the driver shall present the highlighted page of the insurance cab card that is maintained in the vehicle or that is displayed on a wireless communication device in the vehicle. If the motor carrier chooses to display the information on a wireless communication device by accessing the department's online system, the driver shall locate the vehicle in the department's online system upon request by the department-certified inspector or other authorized government personnel.

(C) The motor carrier shall notify the department in writing if it discontinues use of a registered motor vehicle before the expiration of its insurance cab card.

(D) Any erasure or alteration of an insurance cab card that the department printed out for the motor carrier renders it void.

(E) If an insurance cab card is lost, stolen, destroyed, or mutilated; if it becomes illegible; or if it otherwise needs to be replaced, the department shall print out a new insurance cab card at the request of the motor carrier. Motor carriers are authorized to print out a copy of a new insurance cab card using the department's online system.

(F) The department is not responsible for a motor carrier's inability to access the insurance cab card using the department's online system.

(d) Additional and replacement vehicles. A motor carrier required to obtain a certificate of registration under this section shall not operate additional vehicles unless the carrier identifies the vehicles on a form prescribed by the director and pays applicable fees as described in this subsection.

(1) Additional vehicles. To add a vehicle, a motor carrier must pay a fee of $10 for each additional vehicle that the motor carrier proposes to operate under a seven-day, 90-day, or annual registration. To add a vehicle during the first year of a biennial registration, a motor carrier must pay a fee of $20 for each vehicle. To add a vehicle during the second year of a biennial registration, a motor carrier must pay a fee of $10 for each vehicle.

(2) Replacement vehicles. No fee is required for a vehicle that is replacing a vehicle for which the fee was previously paid. Before the replacement vehicle is put into operation, the motor carrier must notify the department, identify the vehicle being taken out of service, and identify the replacement vehicle on a form prescribed by the department. A motor carrier registered under seven-day registration may not replace vehicles.

(e) Supplement to original application. A motor carrier required to register under this section shall electronically file in the department's designated motor carrier registration system a supplemental application under the following circumstances.

(1) Change of cargo. A registered motor carrier may not begin transporting household goods or hazardous materials unless the carrier submits a supplemental application to the department and shows the department evidence of insurance or financial responsibility in the amounts specified by §218.16.

(2) Change of name. A motor carrier that changes its name shall file a supplemental application for registration no later than the effective date of the change. The motor carrier shall include evidence of insurance or financial responsibility in the new name and in the amounts specified by §218.16. A motor carrier that is a corporation must have its name change approved by the Texas Secretary of State before filing a supplemental application. A motor carrier incorporated outside the state of Texas must complete the name change under the law of its state of incorporation before filing a supplemental application.

(3) Change of address or legal agent for service of process. A motor carrier shall file a supplemental application for any change of address or any change of its legal agent for service of process no later than the effective date of the change. The address most recently filed will be presumed conclusively to be the current address.

(4) Change in principal officers and titles. A motor carrier that is a corporation shall file a supplemental application for any change

in the principal officers and titles no later than the effective date of the change.

(5) Conversion of corporate structure. A motor carrier that has successfully completed a corporate conversion involving a change in the name of the corporation shall file a supplemental application for registration and evidence of insurance or financial responsibility reflecting the new company name. The conversion must be approved by the Office of the Secretary of State before the supplemental application is filed.

(6) Change in drug-testing consortium status. A motor carrier that changes consortium status shall file a supplemental application that includes the names of the persons operating the consortium.

(7) Retaining a revoked or suspended certificate of registration number. A motor carrier may retain a prior certificate of registration number by:

(A) filing a supplemental application to reregister instead of filing an original application; and

(B) providing adequate evidence that the carrier has satisfactorily resolved the issue that gave rise to the suspension or revocation.

(f) Change of ownership. A motor carrier must file an original application for registration when there is a corporate merger or a change in the ownership of a sole proprietorship or of a partnership.

(g) Alternative vehicle registration for household goods agents. To avoid multiple registrations of a motor vehicle, a household goods agent's vehicles may be registered under the motor carrier's certificate of registration under this subsection.

(1) The carrier must notify the department on a form approved by the director of its intent to register its agent's vehicles under this subsection.

(2) When a carrier registers vehicles under this subsection, the carrier's certificate shall include all vehicles registered under its agent's certificates of registration. The carrier must register under its certificate of registration all vehicles operated on its behalf that do not appear on its agent's certificate of registration.

(3) The department may send the carrier a copy of any notification sent to the agent concerning circumstances that could lead to denial, suspension, or revocation of the agent's certificate.

(h) Substitute vehicles leased from leasing businesses. A registered motor carrier is not required to comply with the provisions of subsection (e) of this section for a substitute vehicle leased from a business registered under §218.18 of this title (relating to Short-term Lease and Substitute Vehicles). A motor carrier is not required to carry proof of registration as described in subsection (d) of this section if a copy of the lease agreement for the originally leased vehicle is carried in the cab of the temporary replacement vehicle.

(i) A [~~Once the~~] motor carrier with an unexpired [~~obtains a~~] certificate of registration that has not been revoked [~~, the motor carrier~~] shall update its principal business address, mailing address, and email address in the department's online system within 30 days of a change to the information.

(j) A sole proprietor with an unexpired certificate of registration shall notify the department as specified in subsection (k) of this section, through the sole proprietor's authorized representative, of the sole proprietor's imprisonment for any of the following:

(1) a felony conviction for any of the following:

(A) an offense that directly relates to the duties and responsibilities of a motor carrier as defined in §211.25 of this title (relating to Criminal Offense Guidelines; Imprisonment);

(B) an offense listed in Code of Criminal Procedure, Article 42A.054; or

(C) a sexually violent offense, as defined by Code of Criminal Procedure, Article 62.001;

(2) felony community supervision revocation;

(3) revocation of parole; or

(4) revocation of mandatory supervision.

(k) The notice under subsection (j) of this section shall be provided to the department:

(1) for an imprisonment that occurs on or after May 1, 2026;

(2) within 15 days of the date the sole proprietor is imprisoned;

(3) using the email address listed on the department's website for this purpose; and

(4) with the following information:

(A) the name of the sole proprietor;

(B) the sole proprietor's certificate of registration number under Transportation Code, Chapter 643;

(C) the date the sole proprietor was imprisoned;

(D) the reason the sole proprietor was imprisoned, using one of the reasons listed in subsection (j) of this section;

(E) the citation to the statute, administrative rule, or regulation regarding the felony offense for which the sole proprietor was imprisoned if the sole proprietor was imprisoned for a felony conviction that falls under subsection (j)(1) of this section;

(F) whether the sole proprietor is a motor carrier of passengers, a for-hire motor carrier of cargo, a household goods carrier, or a motor carrier who transports hazardous materials under Transportation Code, Chapter 643; and

(G) the name and phone number of the sole proprietor's authorized representative.

(l) An applicant under this chapter and a motor carrier with a certificate of registration may submit an application to the department or provide the department with any required information and updates through an authorized representative. Upon request by the department, a representative shall provide the department with written proof of authority to act on behalf of the applicant or motor carrier.

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

Filed with the Office of the Secretary of State on December 11, 2025.

TRD-202504564
Laura Moriaty
General Counsel
Texas Department of Motor Vehicles
Earliest possible date of adoption: January 25, 2026
For further information, please call: (512) 465-4160

WITHDRAWN RULES

Withdrawn Rules include proposed rules and emergency rules. A state agency may specify that a rule is withdrawn immediately or on a later date after filing the notice with the Texas Register. A proposed rule is withdrawn six months after the date of publication of the proposed rule in the Texas Register if a state agency has failed by that time to adopt, adopt as amended, or withdraw the proposed rule. Adopted rules may not be withdrawn. (Government Code, §2001.027)

TITLE 13. CULTURAL RESOURCES

PART 7. STATE PRESERVATION BOARD

CHAPTER 111. RULES AND REGULATIONS OF THE BOARD

13 TAC §111.27

Proposed amended 13 TAC §111.27, published in the June 6, 2025, issue of the *Texas Register* (50 TexReg 3314), is withdrawn. The agency failed to adopt the proposal within six months of publication. (See Government Code, §2001.027, and 1 TAC §91.38(d).)

Published by the Office of the Secretary of State on December 10, 2025.

TRD-202504517

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ADOPTED RULES

Adopted rules include new rules, amendments to existing rules, and repeals of existing rules. A rule adopted by a state agency takes effect 20 days after the date on which it is filed with the Secretary of State unless a later date is required by statute or specified in the rule (Government Code, §2001.036). If a rule is adopted without change to the text of the proposed rule, then the *Texas Register* does not republish the rule text here. If a rule is adopted with change to the text of the proposed rule, then the final rule text is included here. The final rule text will appear in the Texas Administrative Code on the effective date.

TITLE 1. ADMINISTRATION

PART 2. TEXAS ETHICS COMMISSION

CHAPTER 22. RESTRICTIONS ON CONTRIBUTIONS AND EXPENDITURES

1 TAC §§22.1, 22.7, 22.9, 22.17, 22.19, 22.23, 22.29, 22.37

The Texas Ethics Commission (the TEC) adopts amendments to Texas Ethics Commission Rules in Chapter 22 (relating to Restrictions on Contributions and Expenditures). Specifically, the TEC proposes amendments to §22.1 regarding Certain Campaign Treasurer Appointments Required Before Political Activity Begins, §22.7 regarding Contribution from out-of-State Committee, §22.9 regarding Cash Contributions Exceeding $100 Prohibited, §22.17 regarding Prohibition on Personal Use of Political Contributions, §22.19 regarding General Restrictions on Reimbursement of Personal Funds, §22.23 regarding Restrictions on Certain Payments, §22.29 regarding Activity After Death or Incapacity of Candidate or Officeholder, and §22.37 regarding Virtual Currency Contributions.

The amended rules are adopted without changes to the proposed text as published in the October 24, 2025, issue of the *Texas Register* (50 TexReg 6941). The amended rules will not be republished.

This adoption, along with the contemporaneous adoption of repeals in Chapter 22, amends the rules relating to restrictions on contributions and expenditures at the Ethics Commission.

State law requires state agencies to "review and consider for readoption each of its rules … not later than the fourth anniversary of the date on which the rule takes effect and every four years after that date." Tex. Gov't Code §2001.039. The law further requires agencies to "readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule under this section." *Id*.

The TEC is continuing its comprehensive review with a review of the TEC's rules regarding restrictions on contributions and expenditures, which are codified in Chapter 22. The repeal of some rules and adoption of amendments to other rules will shorten, simplify, and reorganize the rules to eliminate surplusage and improve clarity on these restrictions.

No public comments were received on these proposed amended rules.

The amended rules are adopted under Texas Government Code §571.062, which authorizes the Commission to adopt rules to administer Title 15 of the Election Code and Chapter 571 of the Government Code.

The adopted amended rules affect Title 15 of the Election Code.

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 December 11, 2025.

TRD-202504568
Amanda Arriaga
General Counsel
Texas Ethics Commission
Effective date: December 31, 2025
Proposal publication date: October 24, 2025
For further information, please call: (512) 463-5800

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1 TAC §§22.3, 22.6, 22.11, 22.21, 22.27

The Texas Ethics Commission (the TEC) adopts the repeal of certain Texas Ethics Commission Rules in Chapter 22 (relating to Restrictions on Contributions and Expenditures), including §22.3 regarding Disclosure of True Source of Contribution or Expenditure, §22.6 regarding Reporting Direct Campaign Expenditures, §22.11 regarding Prohibition on Contributions during Regular Session, §22.21 regarding Additional Restrictions on Reimbursement of Personal Funds and Payments on Certain Loans, and §22.27 regarding Time Limit on Retaining Unexpended Contributions.

These repeals are adopted without changes to the proposed text as published in the October 24, 2025, issue of the *Texas Register* (50 TexReg 6944). The rules will not be republished.

This adoption, along with the contemporaneous adoption of new rules in Chapter 22, amends the rules relating to restrictions on contributions and expenditures at the Ethics Commission.

State law requires state agencies to "review and consider for readoption each of its rules … not later than the fourth anniversary of the date on which the rule takes effect and every four years after that date." Tex. Gov't Code §2001.039. The law further requires agencies to "readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule under this section." *Id*.

The TEC is continuing its comprehensive review with a review of the TEC's rules regarding restrictions on contributions and expenditures, which are codified in Chapter 22. The repeal of some rules and adoption of amendments to other rules seek to shorten, simplify, and reorganize the rules to eliminate surplusage and improve clarity on these restrictions.

No public comments were received on these proposed changes.

The repealed rules are adopted under Texas Government Code §571.062, which authorizes the Commission to adopt rules to administer Title 15 of the Election Code and Chapter 571 of the Government Code.

The adopted repealed rules affect Title 15 of the Election Code.

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 December 11, 2025.

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Amanda Arriaga
General Counsel
Texas Ethics Commission
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For further information, please call: (512) 463-5800

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CHAPTER 24. RESTRICTIONS ON CONTRIBUTIONS AND EXPENDITURES APPLICABLE TO CORPORATIONS AND LABOR ORGANIZATIONS

1 TAC §24.1, §24.17

The Texas Ethics Commission (the TEC) adopts amendments to Texas Ethics Commission Rules in Chapter 24 (relating to Restrictions on Contributions and Expenditures Applicable to Corporations and Labor Organizations). Specifically, the TEC proposes amendments to §24.1 regarding Corporations and Certain Associations Covered, and §24.17 regarding Corporate Expenditures for Get-Out-the Vote Campaigns Permitted.

These amendments are adopted without changes to the proposed text as published in the October 24, 2025, issue of the *Texas Register* (50 TexReg 6944). The rules will not be republished.

These adoptions, along with the contemporaneous adoption of the repeal of one other rule in Chapter 24, amend the rules regarding restrictions on contributions and expenditures that are applicable to corporations and labor organizations.

State law requires state agencies to "review and consider for readoption each of its rules … not later than the fourth anniversary of the date on which the rule takes effect and every four years after that date." Tex. Gov't Code §2001.039. The law further requires agencies to "readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule under this section." *Id*.

The TEC is continuing its comprehensive review with a review of the TEC's rules regarding restrictions on contributions and expenditures applicable to corporations and labor organizations, which are codified in Chapter 24. The repeal of one rule and adoption of amendments to other rules will shorten, simplify, and reorganize the rules to eliminate surplusage and improve clarity on these restrictions.

The amended rules are adopted under Texas Government Code §571.062, which authorizes the Commission to adopt rules to administer Title 15 of the Election Code and Chapter 571 of the Government Code.

The adopted amended rules affect Title 15 of the Election Code.

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 December 11, 2025.

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Amanda Arriaga
General Counsel
Texas Ethics Commission
Effective date: December 31, 2025
Proposal publication date: October 24, 2025
For further information, please call: (512) 463-5800

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1 TAC §24.5

The Texas Ethics Commission (the TEC) adopts the repeal of Texas Ethics Commission §24.5 (regarding Corporate Loans) in Chapter 24 (relating to Restrictions On Contributions And Expenditures Applicable To Corporations And Labor Organizations).

This repeal is adopted without changes to the proposed text as published in the October 24, 2025, issue of the *Texas Register* (50 TexReg 6946). The rule will not be republished.

This adoption, along with the contemporaneous adoption of amendments of certain other rules in Chapter 24, amends the rules regarding restrictions on contributions and expenditures that are applicable to corporations and labor organizations.

State law requires state agencies to "review and consider for readoption each of its rules … not later than the fourth anniversary of the date on which the rule takes effect and every four years after that date." Tex. Gov't Code §2001.039. The law further requires agencies to "readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule under this section." *Id*.

The TEC is continuing its comprehensive review with a review of the TEC's rules regarding restrictions on contributions and expenditures applicable to corporations and labor organizations, which are codified in Chapter 24. The repeal of some rules and adoption of amendments to other rules seek to shorten, simplify, and reorganize the rules to eliminate surplusage and improve clarity on these restrictions.

No public comments were received on these proposed changes.

The repealed rule is adopted under Texas Government Code §571.062, which authorizes the Commission to adopt rules to administer Title 15 of the Election Code and Chapter 571 of the Government Code.

The adopted repealed rule affects Title 15 of the Election Code.

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 December 11, 2025.

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Amanda Arriaga
General Counsel
Texas Ethics Commission
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Proposal publication date: October 24, 2025
For further information, please call: (512) 463-5800

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PART 4. OFFICE OF THE SECRETARY OF STATE

CHAPTER 87. NOTARY PUBLIC

The Office of the Secretary of State (Office) adopts, in Title 1, Part 4, Texas Administrative Code, Chapter 87, new §§87.5, 87.8, and 87.9, concerning the qualification requirements of Texas notary public applicants. The Office adopts these rules to implement the new education requirements for notaries in Senate Bill 693, enacted by the 89th Legislature, Regular Session, codified at Chapter 406 of the Texas Government Code (SB 693).

The Office further adopts amendments to Chapter 87, §§87.13, 87.14, and 87.20, to clarify that, in accordance with Chapter 406 of the Texas Government Code, an applicant is not qualified to be commissioned as a traditional or online Texas notary public unless the applicant satisfies the mandatory education requirements.

Sections 87.5, 87.8, 87.9, 87.13, 87.14, and 87.20 are adopted with changes to the proposed text as published in the October 24, 2025, issue of the *Texas Register* (50 TexReg 6946). These rules will be republished. The changes to §87.5 provide that the fee for the notary education or continuing education course will be $20. The changes to §87.8 and §87.9 reflect that the Office will establish and offer the education and continuing education courses, as required by SB 693; an applicant must successfully answer a minimum of 70% of questions presented to the applicant during the education or continuing education course; and an applicant must take the education or continuing education course on or before the 90th day after the date on which the Office receives the course fee from the applicant. The changes to §87.13, §87.14, and §87.20 clarify that the proof of successful completion of the notary education or continuing education course remains valid for a year before the applicant submits a notary public application to the Office. The Office made each of these changes in response to public comments received, as described below.

BACKGROUND INFORMATION AND JUSTIFICATION

The adoption implements SB 693 (89th Legislature, Regular Session), which creates a framework in Chapter 406 of the Texas Government Code to require and provide education for the appointment of a notary public applicant and continuing education for the reappointment of a notary public. The bill took effect on September 1, 2025.

As enacted by SB 693, Chapter 406 of the Texas Government Code requires the Office to adopt rules necessary to establish education requirements for appointment and continuing education requirements for reappointment as a notary public not later than January 1, 2026.

Texas Government Code §406.023(d)(1) specifies that the Office may not require a person to complete more than two hours of education for appointment or two hours of continuing education for reappointment as a notary public. Texas Government Code §406.023(d)(2) directs the Office to establish and offer education and continuing education courses and allows the Office to charge a reasonable fee for those courses. Texas Government Code §406.023(d)(3) directs the Office to require that the education and continuing education course hours required for appointment or reappointment as a notary public may only be completed through a course established and offered by the Office. In addition, Texas Government Code §406.023(d)(4) prohibits the Office from requiring a person appointed as a notary public before September 1, 2025 to complete education requirements required for initial appointment as a notary public on or after that date. SB 693 also established that the successful completion of a notary education course or continuing education course is now a mandatory qualification for commissioning as a Texas notary public or renewal of an existing Texas notary public commission under Texas Government Code §406.006 and Texas Government Code §406.011.

The purpose of these new rules under Chapter 87 (Notary Public) is to provide information regarding the education requirements for persons applying for or renewing a Texas notary public commission in accordance with SB 693. The changes will apply to notary public appointment and reappointment applications submitted to the Office on or after January 1, 2026.

COMMENTS

The 30-day comment period ended on November 23, 2025. During this period, the Office received comments regarding the proposed rules from 12 interested parties. A summary of the comments relating to the proposed rules and the Office's responses follows.

Comment: Several commenters noted that proposed §87.8 and §87.9 did not indicate that the Office would "offer" the education and continuing education courses, as required under Texas Government Code §406.023(d)(2), or otherwise describe how the Office would develop, review, and maintain the curriculum for each course.

Response: The Office appreciates the request for clarity regarding the presentation of the education and continuing education courses. The Office has established a curriculum for each course and secured a technological platform to provide the notary education, the details of which are outside the scope of the proposed rules. The Office has revised §87.8(c) and §87.9(c) to reflect that the Office will establish and offer the courses.

Comment: The Office received 11 comments expressing opposition to the proposed $50 fee to take the initial education course or the continuing education course. The commenters suggested a range of alternative fee options ranging from no cost to $35 per course.

Response: The Office appreciates the comments related to the proposed fees and has revised §87.5 to provide that the fee for the education or continuing education course is $20.

Comment: Several commenters suggested that §87.8(d) and §87.9(d) be revised to allow an applicant 90 daysâ€"rather than 60 daysâ€"to complete the education or continuing education course after submitting payment to the Office. One of the commenters stated that a 90-day period would provide greater flexibility for applicants with professional or personal obligations.

Response: The Office appreciates these comments and has revised §87.8(d) and §87.9(d) to require an applicant to take the education or continuing education course on or before the 90th day after the date on which the Office receives the course fee from the applicant.

Comment: Several commenters suggested that §87.13, §87.14, and §87.20 be revised to specify the length of time for which the proof of course completion remains valid before an individual applies for a notary public commission.

Response: The Office appreciates these comments and has revised §87.13(a)(2)(E), §87.14(a)(2)(D), and §87.20(e)(2)(D) to clarify that the proof that the applicant has successfully completed the notary education or continuing education course remains valid for one year before the applicant submits a notary public application to the Office.

Comment: Several commenters suggested that §87.13, §87.14, and §87.20 be revised to remove the requirement that an applicant provide proof of payment of the course fee with a notary public application. The commenters believed that the course completion certificate should suffice as proof of payment because the course is established and offered directly by the Office.

Response: The Office declines to revise §87.13, §87.14, or §87.20 as suggested. The existing wording in §87.13(a)(2)(F), §87.14(a)(2)(E), and §87.20(e)(2)(E) is intended to ensure clarity regarding the course fee. In these provisions, the Office intends to address instances in which a person pays for and successfully completes the notary education course, later requests a refund or chargeback of the fee, and seeks to be commissioned as a notary public based on their completion of the education course.

Comment: Several commenters expressed their opposition to the requirement in §87.5(c), §87.8(d), and §87.9(d) that an applicant pay a new fee for each attempt of the education or continuing education course. The commenters suggested that the Office should assess only a nominal fee, if any, for an applicant to retake the course.

Response: The Office appreciates the comments and took these considerations into account in the proposed rules. The Office believes that requiring an applicant to pay the course fee for each attempt will help maintain the integrity of the notary education process and encourage the applicant to adequately prepare for the questions presented during the course. In addition, the Office determined that this provision was consistent with other professional examinations administered in Texas. The Office made no changes to the rules in response to these comments.

Comment: Several commenters stated that the Office should not limit the number of times that an applicant may attempt to take the education or continuing education course over a defined time period.

Response: The Office appreciates the comments and took these considerations into account in the proposed rules. The Office determined that imposing a limit on the number of times that an applicant may attempt to complete the course in a 3-month period, as provided in proposed §87.8(e) and §87.9(e), would promote the effective training of well-prepared notaries public. The Office made no changes to the rules in response to these comments.

Comment: Several commenters suggested that §87.8(c) and §87.9(c) be revised to require only completion of the education or continuing education course rather than a passing score on an examination. On the other hand, some commenters expressed their support for the testing provisions in §87.8(c) and §87.9(c).

Response: The Office appreciates the comments and took these considerations into account in the proposed rules. The Office strongly supports testing to verify that an applicant demonstrates the requisite knowledge of the laws and rules governing notaries public. In addition, the testing provisions in §87.8 and §87.9 are consistent with Texas Government Code §406.006 and Texas Government Code §406.011, which provide that the successful completion of an education or continuing education course is a mandatory qualification for commissioning as a Texas notary public or renewal of an existing Texas notary public commission. The Office made no changes to the rules in response to these comments.

Comment: Several commenters expressed their opposition to the 80% passing-score threshold in §87.8(c) and §87.9(c), including suggesting that the minimum passing score be reduced to 70%, consistent with other professional examinations administered in Texas.

Response: The Office appreciates these comments and has revised §87.8(c) and §87.9(c) to provide that an applicant must successfully answer a minimum of 70% of questions presented to the applicant during the education or continuing education course.

Comment: Several commenters suggested that the proposed rules be amended to remove the requirement that an applicant applying for an online notary commission take a separate education course containing online notary public subject matter. Some of the commenters recommended that the Office establish a single notary-practices course, with one fee, containing education encompassing the responsibilities of a traditional notary public and an online notary public.

Response: The Office declines to revise any of the proposed rules as suggested. The education courses for traditional notary commissions and online notary commissions are two separate curricula. Most of the topics in the two courses do not overlap, as the Office has strived to limit the amount of duplicative information in the courses. As traditional notarizations and online notarizations are subject to different laws and rules, the Office believes it is important that the processes for these notarizations are taught in their respective courses.

SUBCHAPTER A. GENERAL PROVISIONS

1 TAC §87.5

STATUTORY AUTHORITY

The new rule is adopted as authorized by Texas Government Code §406.023 and Texas Government Code §2001.004(1). Texas Government Code §406.023 authorizes the Office to adopt rules necessary to implement the notary public education requirements in Chapter 406 of the Texas Government Code. Texas Government Code §2001.004 requires a state agency to adopt rules of practice stating the nature and requirements of formal and informal procedures.

§87.5. Notary Education Fees.

(a) The nonrefundable fee for the notary education course is $20.00.

(b) The nonrefundable fee for the notary continuing education course is $20.00.

(c) An applicant must pay a separate notary education course fee or notary continuing education course fee each time the applicant takes a course.

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 December 12, 2025.

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Adam Bitter
General Counsel
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For further information, please call: (512) 475-2813

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SUBCHAPTER B. ELIGIBILITY AND QUALIFICATION

1 TAC §87.8, §87.9

STATUTORY AUTHORITY

The new rules are adopted as authorized by Texas Government Code §406.023 and Texas Government Code §2001.004(1). Texas Government Code §406.023 authorizes the Office to adopt rules necessary to implement the notary public education requirements in Chapter 406 of the Texas Government Code. Texas Government Code §2001.004 requires a state agency to adopt rules of practice stating the nature and requirements of formal and informal procedures.

§87.8. Notary Education.

(a) An applicant must fulfill the education requirement under Texas Government Code §406.006 before the applicant may apply for appointment as a Texas notary public.

(b) To fulfill the education requirement, an applicant must first pay the notary education course fee specified in §87.5(a) of this title (relating to Notary Education Fees).

(c) After payment of the required notary education course fee, an applicant must take a notary education course that does not exceed two hours and has been established and offered by the secretary of state. The applicant must successfully answer a minimum of 70% of questions presented to the applicant during the education course.

(1) If an applicant is applying for a traditional notary public commission, the applicant fulfills the education requirement by taking a notary education course and successfully answering questions on traditional notary subject matter.

(2) If an applicant is also applying for an online notary public commission, the applicant fulfills the education requirement by taking a notary education course and successfully answering questions on online notary public subject matter.

(d) An applicant must take the notary education course on or before the 90th day after the date on which the secretary of state receives the course fee from the applicant. Failure to take the education course within 90 days will result in forfeiture of the course fee, and any completion of the course after the 90-day period has expired will not fulfill the education requirement. The applicant must pay a new fee to reattempt the notary education course.

(e) An applicant may not complete a notary education course more than 3 times in a 3-month period to fulfill the education requirement.

§87.9. Continuing Education.

(a) A Texas notary public must fulfill the continuing education requirement under Texas Government Code §406.011 before the notary public may apply for reappointment as a Texas notary public.

(b) To fulfill the continuing education requirement, a notary public must first pay the notary continuing education course fee specified in §87.5(b) of this title (relating to Notary Education Fees).

(c) After payment of the required notary continuing education course fee, a notary public must take a continuing education course that does not exceed two hours and has been established and offered by the secretary of state. The notary public must successfully answer a minimum of 70% of questions presented to the notary during the continuing education course.

(1) If an applicant is applying for the renewal of a traditional notary public commission, the applicant fulfills the continuing education requirement by taking a notary continuing education course and successfully answering questions on traditional notary subject matter.

(2) If an applicant is also applying for the renewal of an online notary public commission, the applicant fulfills the continuing education requirement by taking a notary continuing education course and successfully answering questions on online notary public subject matter.

(d) A notary public must take the notary continuing education course on or before the 90th day after the date on which the secretary of state receives the course fee from the notary. Failure to take the continuing education course within 90 days will result in forfeiture of the course fee, and any completion of the course after the 90-day period has expired will not fulfill the continuing education requirement. The notary public must pay a new fee to reattempt the notary continuing education course.

(e) A notary public may not complete a notary continuing education course more than 3 times in a 3-month period to fulfill the continuing education requirement.

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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Adam Bitter
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1 TAC §87.13, §87.14

STATUTORY AUTHORITY

The amendments are adopted as authorized by Texas Government Code §406.023 and Texas Government Code §2001.004(1). Texas Government Code §406.023 authorizes

the Office to adopt rules necessary to implement the notary public education requirements in Chapter 406 of the Texas Government Code. Texas Government Code §2001.004 requires a state agency to adopt rules of practice stating the nature and requirements of formal and informal procedures.

§87.13. Issuance of the Traditional Notary Public Commission by the Secretary of State.

(a) The secretary of state shall issue a traditional notary public commission to a qualified applicant. An applicant is qualified if:

(1) the applicant meets the eligibility requirements stated in §87.10 of this title (relating to Eligibility to Hold the Office of Notary Public);

(2) the applicant submits:

(A) a properly completed and executed application;

(B) the bond as provided in §406.010, Government Code, if required;

(C) the statement of officer required by article XVI, §1 Texas Constitution;

(D) payment to the secretary of state of fees required by §406.007, Government Code; and

(E) proof that the applicant has successfully completed the notary education course required by §406.006(6), Government Code, within one year preceding the date on which the applicant submits the application; and

(F) proof of payment of the notary education course fee under §87.5 of this title (relating to Notary Education Fees); and

(3) no good cause exists for rejecting the application.

(b) The secretary of state shall not commission an applicant if the applicant had a prior application rejected or a commission revoked due to a finding of ineligibility or good cause and the reason for ineligibility or grounds for good cause continues to exist.

(c) When all conditions for qualification have been met, the application shall be approved and filed. The secretary of state shall cause a commission to be issued and sent to each traditional notary public who has qualified. A commission is effective as of the date of qualification.

§87.14. Issuance of the Online Notary Public Commission by the Secretary of State.

(a) The secretary of state shall issue an online notary public commission to a qualified applicant. An applicant is qualified if:

(1) the applicant meets the eligibility requirements stated in §87.11 of this title (relating to Eligibility to be Commissioned as an Online Notary Public);

(2) the applicant submits:

(A) a properly completed and executed application;

(B) the statement of officer required by article XVI, §1 Texas Constitution;

(C) payment to the secretary of state the application fee of $50; and

(D) proof that the applicant has successfully completed the notary education course required by §406.006(6), Government Code, within one year preceding the date on which the applicant submits the application; and

(E) proof of payment of the notary education course fee under §87.5 of this title (relating to Notary Education Fees); and

(3) no good cause exists for rejecting the application.

(b) The secretary of state shall not commission an applicant if the applicant had a prior application rejected or a commission revoked due to a finding of ineligibility or good cause and the reason for ineligibility or grounds for good cause continues to exist.

(c) When all conditions for qualification have been met, the application shall be approved and filed. The secretary of state shall cause a commission to be issued and sent to each online notary public who has qualified. A commission is effective as of the date of qualification and shall expire on the same date as applicant's corresponding traditional notary public 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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Adam Bitter
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SUBCHAPTER C. NOTARIES WITHOUT BOND

1 TAC §87.20

STATUTORY AUTHORITY

The amendment is adopted as authorized by Texas Government Code §406.023 and Texas Government Code §2001.004(1). Texas Government Code §406.023 authorizes the Office to adopt rules necessary to implement the notary public education requirements in Chapter 406 of the Texas Government Code. Texas Government Code §2001.004 requires a state agency to adopt rules of practice stating the nature and requirements of formal and informal procedures.

§87.20. Qualification by an Officer or Employee of a State Agency.

(a) An applicant who is an officer or employee of a state agency is not required to provide a surety bond. For the purpose of this chapter, "state agency" has the meaning assigned by §2052.101, Government Code.

(b) An applicant who is an officer or employee of a state agency and does not provide a surety bond must complete the traditional notary public application entitled "Application for Appointment as a Notary Public Without Bond" (Form 2301-NB).

(c) The State Agency employing the applicant must submit the completed application to the State Office of Risk Management.

(d) The State Office of Risk Management shall complete the verification certificate on the application and forward the completed application to the Office of the Secretary of State for processing.

(e) The secretary of state shall commission the applicant if:

(1) the applicant meets the eligibility requirements stated in §87.10 of this title (relating to Eligibility to Hold the Office of Notary Public);

(2) the applicant submits:

(A) a properly completed and executed application verified by the State Office of Risk Management;

(B) the statement of officer required by article XVI, §1 Texas Constitution;

(C) the payment of fees required by §406.007(a)(2) and§406.007(b), Government Code; and

(D) proof that the applicant has successfully completed the notary education course required by §406.006(6), Government Code, within one year preceding the date on which the applicant submits the application; and

(E) proof of payment of the notary education course fee under §87.5 of this title (relating to Notary Education Fees); and

(3) no good cause exists for rejecting the application.

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 15. TEXAS HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 354. MEDICAID HEALTH SERVICES

SUBCHAPTER A. PURCHASED HEALTH SERVICES

DIVISION 20. PHYSICAL THERAPY SERVICES

1 TAC §354.1291

The executive commissioner of the Texas Health and Human Services Commission (HHSC) adopts an amendment to §354.1291, concerning Benefits and Limitations.

Section 354.1291 is adopted with changes to the proposed text as published in the July 4, 2025, issue of the *Texas Register* (50 TexReg 3845). The rule will be republished.

BACKGROUND AND JUSTIFICATION

The purpose of the amendment is to expand Medicaid reimbursement for physical therapy (PT) services provided to a Medicaid recipient. The rule currently provides that PT services must be prescribed by a physician to be reimbursed by Medicaid. This amendment permits Medicaid reimbursement for PT services that are prescribed by a licensed physician assistant (PA) or an advanced practice registered nurse (APRN) licensed as a certified nurse practitioner (CNP) or a clinical nurse specialist (CNS), as authorized by their professional licensure and state law. This amendment aligns with the rules governing physical therapy as a home health benefit in Texas Administrative Code Title 1, §354.1031(b)(1)(B) and §354.1039(a)(5)(C).

COMMENTS

The 31-day comment period ended August 4, 2025.

During this period, HHSC received comments regarding the proposed rule from four commenters. HHSC received comments from the Texas Nurse Practitioners (TNP), the Texas Academy of Physician Assistants (TAPA), the Texas Medical Association (TMA), and one individual. A summary of comments relating to the rule and HHSC's responses follows.

Comment: TNP and the TAPA expressed support for the proposed amendment to §354.1291 and encouraged HHSC to adopt the amendment.

Response: HHSC appreciates this support to adopt the proposed rule.

Comment: One individual disagreed with the removal of "licensed" from subsection (f) of the rule proposal, when referring to a physical therapist. The individual stated that by removing "licensed," the rule indicates that physical therapists, both licensed and non-licensed, can provide PT services.

Response: HHSC agrees that physical therapists and physical therapy assistants are required to be licensed to provide PT services. Definitions of "physical therapist" and "physical therapy assistant" were added to the proposed rule in subsection (a)(2) and (3) and defined to mean licensed individuals. Therefore, "licensed" was removed from subsection (f).

Comment: The TMA suggests removal of APRNs from the definition of an allowed practitioner because the Nursing Practice Act excludes the prescription of therapeutic or corrective measures. TMA states prescribing PT services is therefore outside of a nurse's scope of practice. TMA asserts that APRNs are limited to ordering "drugs or devices" under Texas Occupations Code Chapter 157, Subchapter B. TMA also states that the statutory authority for PAs to make referrals does not come from Chapter 157, Subchapter B. Rather, under a PA's scope of practice, services may be delegated by a supervising physician, including ordering therapeutic procedures and making appropriate referrals, under Texas Occupations Code §204.202. The TMA states a physical therapist is prohibited from providing treatment without a referral from a referring practitioner including a physician, dentist, chiropractor, or podiatrist.

Response: HHSC appreciates the comment and agrees that PAs and APRNs must follow state law and scope of practice requirements according to their professional licensure with regard to prescribing PT services. This rule is not intended to authorize PAs and APRNs to prescribe PT services; rather, it is intended to permit Medicaid reimbursement for PT services prescribed by a PA or APRN if prescribing PT services is within their professional licensure and consistent with any other state law governing prescriptive authority. HHSC made changes to the definition of "allowed practitioner" in subsection (a)(1) to clarify this intent and correct references to licensure statutes. All Medicaid providers

are presumed to know and act within state law and their professional licensure when providing services to Medicaid recipients.

STATUTORY AUTHORITY

The amendment is adopted under Texas Government Code §524.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services system, and provides the executive commissioner of HHSC with broad rulemaking authority; and Texas Human Resources Code §32.021, which provides HHSC with the authority to administer the federal medical assistance program in Texas and to adopt rules and standards for program administration.

§354.1291. Benefits and Limitations.

(a) The following words and terms when used in this division, have the following meanings, unless the context clearly indicates otherwise.

(1) Allowed practitioner--An individual who follows state law and scope of practice requirements according to the individual's professional licensure with regard to prescribing physical therapy services and:

(A) is licensed as a physician assistant under Texas Occupations Code Chapter 204; or

(B) is licensed as an advanced practice registered nurse under Texas Occupations Code Chapter 301 as a:

(i) certified nurse practitioner; or

(ii) clinical nurse specialist.

(2) Physical therapist--An individual licensed under Texas Occupations Code Chapter 453.

(3) Physical therapist assistant--An individual licensed under Texas Occupations Code Chapter 453.

(4) Physical therapy--This term has the meaning assigned in Texas Occupations Code §453.001.

(5) Physician--A Doctor of Medicine or Doctor of Osteopathy legally authorized to practice medicine or osteopathy at the time and place the service is provided.

(6) Prescribing provider--A physician or an allowed practitioner.

(b) Subject to the specifications, conditions, requirements, and limitations established by HHSC, physical therapy services, which include necessary equipment and supplies provided by a licensed physical therapist, are covered by Texas Medicaid. Covered services also include the services of a physical therapist assistant when the services are provided under the direction of and billed by the licensed physical therapist.

(c) To be reimbursable, physical therapy services must be:

(1) provided by a physician, physical therapist, or a physical therapist assistant under the supervision of the physical therapist;

(2) reasonable and medically necessary, as determined by HHSC, or its designee;

(3) expected to significantly improve the recipient's condition in a reasonable and generally predictable period of time, based on the prescribing provider's assessment of the recipient's restorative potential after any needed consultation with the physical therapist; and

(4) prescribed by the recipient's prescribing provider.

(d) The following are not reimbursable physical therapy services under Texas Medicaid:

(1) services relating to activities for the general good and welfare of a recipient such as general exercises to promote overall fitness and flexibility;

(2) services relating to activities to provide diversion or general motivation; and

(3) repetitive services designed to maintain a recipient's function after the recipient reaches the maximum level of improvement.

(e) The physician or physical therapist who provides physical therapy services must have on file and available for inspection for each Medicaid recipient treated:

(1) a signed and dated physical therapy treatment plan based on the prescribing provider's prescription. The treatment plan addresses:

(A) diagnosis;

(B) modalities, if any;

(C) frequency of treatment;

(D) expected duration of treatment; and

(E) anticipated goals; and

(2) a prescription signed and dated by the recipient's prescribing provider for therapy services.

(f) Physical therapists who are employed by or remunerated by a physician, hospital, facility, or other provider may not bill Texas Medicaid directly for physical therapy services if the therapist's billing would result in duplicate payment for the same services. If physical therapy services are covered and reimbursable by Texas Medicaid, payment may be made to the physician, hospital, or other provider (if approved for participation in Texas Medicaid) who employs or reimburses the licensed physical therapist.

(g) The basis and amount of Medicaid reimbursement depends on the services actually provided, who provided the services, and the reimbursement methodology utilized by Texas Medicaid as appropriate for the services and providers involved.

(h) Physical therapy services provided by or under the direction of a physical therapist in long-term care facilities must be billed to the Medicaid recipient's nursing facility.

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 December 15, 2025.

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Karen Ray
Chief Counsel
Texas Health and Human Services Commission
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For further information, please call: (512) 438-2910

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TITLE 7. BANKING AND SECURITIES

PART 5. OFFICE OF CONSUMER CREDIT COMMISSIONER

CHAPTER 83. REGULATED LENDERS AND CREDIT ACCESS BUSINESSES

SUBCHAPTER A. RULES FOR REGULATED LENDERS

The Finance Commission of Texas (commission) adopts amendments to §83.301 (relating to Definitions), §83.302 (relating to Filing of New Application), §83.303 (relating to Transfer of License; New License Application on Transfer of Ownership), §83.306 (relating to Updating Application and Contact Information), §83.307 (relating to Processing of Application), §83.308 (relating to Relocation), §83.309 (relating to License Inactivation or Voluntary Surrender), §83.311 (relating to Applications and Notices as Public Records), §83.403 (relating to License Term, Renewal, and Expiration), and §83.404 (relating to Denial, Suspension, or Revocation Based on Criminal History); and adopts the repeal of §83.304 (relating to Change in Form or Proportionate Ownership), §83.305 (relating to Amendments to Pending Application), and §83.402 (relating to License Display) in 7 TAC Chapter 83, concerning Regulated Lenders and Credit Access Businesses.

The commission adopts the amendments to §83.306, §83.307, §83.309, §83.311, §83.403, and §83.404, and adopts the repeal of §83.304, §83.305, and §83.402, without changes to the proposed text as published in the November 7, 2025, issue of the *Texas Register* (50 TexReg 7172).

The commission adopts the amendments to §83.301, §83.302, §83.303, and §83.308 with changes to the proposed text as published in the November 7, 2025, issue of the *Texas Register* (50 TexReg 7172).

The rules in 7 TAC Chapter 83, Subchapter A govern regulated loans. In general, the purposes of the rule changes to 7 Chapter 83, Subchapter A are to implement the OCCC's transition to the NMLS licensing system for regulated lenders, to remove rule text that is no longer necessary, and to make other technical corrections and updates related to licensing.

Adopted amendments and repeals in §83.301 through §83.404 implement the OCCC's transition to the NMLS system. The Nationwide Multistate Licensing System (NMLS) is an online platform used by state financial regulatory agencies to manage licenses, including license applications and renewals. NMLS was created in 2008. The federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 explains that the purposes of NMLS include increasing uniformity and reducing regulatory burden. SAFE Act, 12 USC §5101. Each state currently uses NMLS for licensing individual RMLOs, and states are increasingly using the system to license consumer finance companies. NMLS is managed by the Conference of State Bank Supervisors and is subject to ongoing modernization efforts and enhancements.

Under Texas Finance Code, §14.109, the OCCC is authorized to require use of NMLS for certain license and registration types, including regulated lender licenses under Texas Finance Code, Chapter 342. The OCCC has begun a phased process of migrating license groups from ALECS (the OCCC's previous licensing platform) to NMLS. In 2025, a majority of licensed regulated lenders completed their transition to NMLS. The OCCC believes that moving to NMLS will improve the user experience of the licensing system and promote efficiency. This is particularly true for entities that hold licenses with the OCCC and with another state agency, because these entities will be able to manage multiple licenses through NMLS.

Adopted amendments to §83.301 replace the term "principal party" with "key individual" to be consistent with the terminology in NMLS. Another amendment adds a definition of "NMLS." Since the proposal, a technical change has been made to add the word "an" between "including" and "individual" in the definition of "key individual."

Adopted amendments to §83.302 streamline license application requirements and refer to instructions that the OCCC has published through NMLS. Currently, §83.302 contains a detailed list of license application items, with requirements that differ based on the applicant's entity type (e.g., partnership, corporation, limited liability company). In addition to ensuring consistency with NMLS, the amendments significantly simplify §83.302, and ensure that an applicant can easily read and understand the rule. Since the proposal, a list of items for branch license applications has been added at §83.302(c). Separate licenses for branch locations are currently required by Texas Finance Code, §342.502(b). The additional language in §83.302(c) will clarify what the OCCC generally expects a licensee to provide with a branch license application (as opposed to a company license application). Since the proposal, the reference to any assumed names or other trade names has been moved to §83.302(b)(8) for clarity. Since the proposal, references to §83.303 and required items for a transfer of ownership have been added at §83.302(b)(12) and §83.302(c)(4), in order to provide additional clarity. An amendment at §83.302(d) explains that the OCCC may require additional, clarifying, or supplemental information to determine that the applicant meets statutory licensing requirements. An amendment at §83.302(e) explains that an applicant must immediately amend a pending application if any information changes requiring a materially different response, replacing language that will be removed from §83.306(a), as explained later in this preamble.

Adopted amendments to §83.303 streamline and simplify requirements for transfer of ownership and license transfer to ensure consistency with NMLS. In §83.303(b)(3), amendments streamline the definition of "transfer of ownership" while maintaining references to changes in management or control of a business, and also maintaining current exclusions relating to changes in proportionate ownership and relocations of transactions. The adoption maintains certain rule text in the definition of "transfer of ownership" that would have been removed in the proposed amendments. This change is based on further consideration since the proposal. In order for the OCCC to ensure that licensees operate lawfully and fairly, it may be appropriate and necessary for the OCCC to review certain changes of control of a single entity through the license application process. An amendment to §83.303(c) explains that to transfer a license, a transferor may request surrender of its license after the OCCC approves the transferee's new license application on transfer of ownership. Other amendments throughout §83.303 ensure consistency with this revised transfer process.

The adoption repeals §83.304, which currently requires licensees to notify the OCCC of changes to organizational form, mergers resulting in creation of a new or different surviving entity, and certain changes in proportionate ownership. Going forward in NMLS, the OCCC anticipates that these changes will be handled through the advance change notice process, as ex-

plained later in this preamble in the discussion of amendments to §83.306. Therefore, §83.304 will no longer be necessary.

The adoption repeals §83.305, which currently requires license applicants to provide supplemental information to the OCCC on request. Because of the adopted amendment at §83.302(c) explaining the OCCC may require additional information, §83.305 will no longer be necessary.

Adopted amendments to §83.306 consolidate and simplify the types of required notifications that a licensee must provide to the OCCC when a change occurs. In §83.306(a), the amendments list advance change notices. NMLS uses the term "advance change notice" to refer to notifications that must be provided on or before the date of the change, in accordance with an agency's written instructions. As explained in the amendments to §83.306(a), this includes changes to the legal name of the entity, the legal status of the entity, names of key individuals, branch location addresses, and other listed items. In §83.306(b), amendments list notifications that are required not later than 30 days after the licensee has knowledge of the information. These items include bankruptcies of the licensee or its direct owners, because a bankruptcy is a significant event that may impact the financial responsibilities of a licensee and its ability to address compliance issues. These items also include notifications of data breaches affecting at least 250 Texas residents. Data security is a crucial issue. The OCCC's 2025-2029 strategic plan includes action items to "[p]romote cybersecurity awareness and best practices among regulated entities" and "[m]onitor cybersecurity incidents and remediation efforts reported by regulated entities." Recent data breaches affecting financial institutions highlight the urgent need for vigilance in this industry. The notification amendments will help ensure that the OCCC can monitor this crucial issue.

Adopted amendments to §83.307 revise license application processing requirements to be consistent with NMLS and with the statute at Texas Finance Code, §342.104. An amendment at §83.307(d) explains that a license application may be considered withdrawn if a complete application has not been filed within 30 days after a notice of deficiency has been sent to the applicant, consistent with how license applications are processed in NMLS. Under Texas Finance Code, §342.104(b), if the OCCC finds that a license applicant has not met the eligibility requirements for a license, then the OCCC will notify the applicant. Under Texas Finance Code, §342.104(c), an applicant has 30 days after the date of the notification to request a hearing on the denial. Amendments at §83.307(d) specify that if the eligibility requirements for a license have not been met, the OCCC will send a notice of intent to deny the license application, as described by Texas Finance Code, §342.104(b). Amendments at §83.307(e) revise current language to specify that an affected applicant has 30 days from the date of the notice of intent to deny to request a hearing, as provided by Texas Finance Code, §342.104(c). An amendment removes current §83.307(e), regarding disposition of fees, because this language unnecessarily duplicates language in §83.310 (regarding Fees). Amendments to §83.307(f) clarify the 60-day target period to process a license application and the 60-day target period to set a requested hearing on an application denial, in accordance with Texas Finance Code, §342.104(c)-(d).

Adopted amendments to §83.308 revise requirements for notice of relocation of licensed offices. The adoption removes current §83.308(a), because the requirement to notify the OCCC of a branch office relocation will be moved to §83.306(a) as an advance change notice, as discussed earlier in this preamble. Since the proposal, a technical change has been made to ensure that an internal cross-reference correctly cites subsection (b).

Adopted amendments to §83.309 revise requirements for license surrender. The amendments explain that a licensee may surrender a license by providing the information required by the OCCC's written instructions, in accordance with Texas Finance Code, §342.160, and that a surrender is effective when the OCCC approves the surrender.

Adopted amendments to §83.311 remove a sentence about the return of original documents filed with a license application. This sentence is no longer necessary because the OCCC no longer accepts original paper documents with a license application.

The adoption repeals §83.402, which describes the requirement to display a license. This section is unnecessary because it duplicates the statutory license display requirement at Texas Finance Code, §342.152. Going forward, licensees may comply with the statutory license display requirement by printing out company license information from NMLS.

Adopted amendments to §83.403 revise requirements for license renewal. An amendment at §83.403(b) explains that a licensee must maintain an active account in NMLS (or a designated successor system) in order to maintain and renew a license, and that renewal may be unavailable to a licensee that fails to maintain an active account. An amendment at §83.403(d) specifies that the OCCC may send notice of delinquency of an annual assessment fee electronically through NMLS or by email to the primary company contact, removing current language that refers to a "master file" address under the OCCC's current system.

Adopted amendments to §83.404 revise criminal history review requirements to explain that the OCCC will obtain criminal history record information through NMLS and to use the term "key individual."

The OCCC distributed an early precomment draft of proposed changes to interested stakeholders for review, and then held a stakeholder meeting and webinar regarding the rule changes. The OCCC received one informal precomment, which was submitted by an association of regulated lenders. The OCCC appreciates the thoughtful input of stakeholders.

The OCCC received no official comments on the proposed amendments.

In its precomment, an association of regulated lenders requested that "the OCCC not expand the notice requirement in Section 83.306(b)(1) beyond items that relate to licensed activity or that would change an answer in an original application," and requested that this provision "be limited to final actions and relevant information." In response to this precomment, adopted §83.306(b)(1) states that notification is required for actions "that were not disclosed in the original application and would require a different answer than that given in the original license application." The commission and the OCCC agree that this item should be limited to actions that are relevant to licensing and would require a different answer from the license application. However, the commission and the OCCC disagree with the suggestion to limit this provision to "final" actions, since it may be appropriate to require information about significant pending civil or regulatory actions that are relevant to licensing.

DIVISION 3. APPLICATION PROCEDURES

7 TAC §§83.301 - 83.303, 83.306 - 83.309, 83.311

The rule changes are adopted under Texas Finance Code, §342.551, which authorizes the commission to adopt rules to enforce Texas Finance Code, Chapter 342. The rule changes are also adopted under Texas Finance Code, §14.109, which authorizes the OCCC to require that a person submit information through NMLS if the information is required under a rule adopted under Texas Finance Code, Chapter 342. In addition, Texas Finance Code, §11.304 authorizes the commission to adopt rules to ensure compliance with Texas Finance Code, Title 4.

The statutory provisions affected by the adoption are contained in Texas Finance Code, Chapter 342.

§83.301. Definitions.

Words and terms used in this subchapter that are defined in Texas Finance Code, Chapter 342, have the same meanings as defined in Chapter 342. The following words and terms, when used in this subchapter, will have the following meanings, unless the context clearly indicates otherwise.

(1) Key individual--An individual owner, officer, director, or employee with a substantial relationship to the lending business of an applicant or licensee. The following are key individuals:

(A) any individual who is a direct owner of 10% or more of an applicant or licensee;

(B) any individual who is a control person or executive officer of an applicant or licensee, including an individual who has the power to direct management or policies of a company (e.g., president, chief executive officer, general partner, managing member, vice president, treasurer, secretary, chief operating officer, chief financial officer); and

(C) an individual designated as a key individual where necessary to fairly assess the applicant or licensee's financial responsibility, experience, character, general fitness, and sufficiency to command the confidence of the public and warrant the belief that the business will be operated lawfully and fairly.

(2) Net assets--The total value of acceptable assets used or designated as readily available for use in the business, less liabilities, other than those liabilities secured by unacceptable assets. Unacceptable assets include, but are not limited to, goodwill, unpaid stock subscriptions, lines of credit, notes receivable from an owner, property subject to the claim of homestead or other property exemption, and encumbered real or personal property to the extent of the encumbrance. Generally, assets are available for use if they are readily convertible to cash within 10 business days. Debt that is either unsecured or secured by current assets may be subordinated to the net asset requirement pursuant to an agreement of the parties providing that the creditor forfeits its security priority and any rights it may have to current assets in the amount of $25,000. Debt subject to such a subordination agreement would not be an applicable liability for purposes of calculating net assets.

(3) NMLS--The Nationwide Multistate Licensing System.

§83.302. Filing of New Application.

(a) NMLS. In order to submit a regulated lender license application, an applicant must submit a complete, accurate, and truthful license application through NMLS (or a successor system designated by the OCCC), using the current form prescribed by the OCCC. An application is complete when it conforms to the OCCC's written instructions and necessary fees have been paid. The OCCC has made application checklists available through NMLS, outlining the necessary information for a license application.

(b) Company license application. A company license application will include the following information and any other information listed in the OCCC's written instructions:

(1) A company form including the name of the applicant entity, contact information, registered agent, location of books and records, bank account information, legal status, and responses to disclosure questions.

(2) An individual form for each key individual, including name, contact information, and responses to disclosure questions.

(3) A business operating plan describing the source of consumers, purpose of loans, size of loans, and source of working capital.

(4) A management chart showing the applicant's divisions, officers, and managers.

(5) An organizational chart if the applicant is owned by another entity or entities, or has subsidiaries or affiliated entities.

(6) A statement of experience detailing prior experience relevant to the license sought.

(7) A certificate of formation or other formation document.

(8) Any assumed names or other trade names that the applicant will use, and an assumed name certificate for each assumed name or other trade name.

(9) Franchise tax account information showing that the applicant entity is authorized to do business in Texas.

(10) Financial statement and supporting financial information complying with generally accepted accounting principles (GAAP). The OCCC may require a bank confirmation to confirm account balance information with financial institutions.

(A) If a financial statement is unaudited, then it should be dated no earlier than 60 days before the application date.

(B) If a financial statement is audited, then it should be dated no earlier than one year before the application date.

(11) Loan forms that the applicant intends to use, including disclosures and loan contracts.

(12) For a license application involving a transfer of ownership, documentation of the transfer of ownership as described by §83.303 of this title (relating to Transfer of License; New License Application on Transfer of Ownership).

(c) Branch license application. A branch license application will include the following information and any other information listed in the OCCC's written instructions:

(1) A branch form including the address of the branch, contact details, and business activities.

(2) Any assumed name or other trade name that the applicant will use, and an assumed name certificate for each assumed name or other trade name.

(3) A financial statement and supporting financial information, as described by subsection (b)(10) of this section.

(4) For a license application involving a transfer of ownership, documentation of the transfer of ownership as described by §83.303 of this title

(d) Supplemental information. The OCCC may require additional, clarifying, or supplemental information or documentation as necessary or appropriate to determine that an applicant meets the licensing requirements of Texas Finance Code, Chapter 342.

(e) Amendments to pending application. An applicant must immediately amend a pending application if any information changes requiring a materially different response from information provided in the original application.

§83.303. Transfer of License; New License Application on Transfer of Ownership.

(a) Purpose. This section describes the license application requirements when a licensed entity transfers ownership of the entity. If a transfer of ownership occurs, the transferee must submit a new license application on transfer of ownership under this section.

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

(1) License transfer--A sale, assignment, or transfer of a regulated loan license.

(2) Permission to operate--A temporary authorization from the OCCC, allowing a transferee to operate under a transferor's license while final approval is pending for a license transfer application or a new license application on transfer of ownership.

(3) Transfer of ownership--Any purchase or acquisition of control of a licensed entity (including acquisition by gift, devise, or descent), or a substantial portion of a licensed entity's assets, where a substantial change in management or control of the business occurs. The term does not include a change in proportionate ownership that results in the exact same owners still owning the business (unless an owner that previously held less than 10% obtains an interest of 10% or more), and does not include a relocation of regulated transactions from one licensed location of the same licensee. Transfer of ownership includes the following:

(A) an existing owner of a sole proprietorship relinquishes that owner's entire interest in a license or an entirely new entity has obtained an ownership interest in a sole proprietorship license;

(B) any transfer of a substantial portion of the assets of a licensed entity under which a new entity controls business at a licensed location; and

(C) any other purchase or acquisition of control of a licensed entity, or a substantial portion of a licensed entity's assets, where a substantial change in management or control of the business occurs.

(4) Transferee--The entity that controls business at a licensed location after a transfer of ownership.

(5) Transferor--The licensed entity that controls business at a licensed location before a transfer of ownership.

(c) License transfer approval. No regulated loan license may be sold, transferred, or assigned without the written approval of the OCCC, as provided by Texas Finance Code, §342.163. To transfer a license, a transferor may request surrender of its license after the OCCC approves the transferee's new license application on transfer of ownership. A license transfer is complete when the OCCC has approved the transferee's new license application and the transferor's license surrender.

(d) Timing. No later than 30 days after the event of a transfer of ownership, the transferee must file a complete new license application on transfer of ownership in accordance with subsection (e). A transferee may file an application before this date.

(e) Application requirements.

(1) Generally. This subsection describes the application requirements for a new license application on transfer of ownership. A transferee must submit the application in a format prescribed by the OCCC. The OCCC may accept prescribed alternative formats to facilitate multistate uniformity of applications or in order to accept approved electronic submissions. The transferee must pay appropriate fees in connection with the application.

(2) Documentation of transfer of ownership. The application must include documentation evidencing the transfer of ownership. The documentation should include one or more of the following:

(A) a copy of the asset purchase agreement when only the assets have been purchased;

(B) a copy of the purchase agreement or other evidence relating to the acquisition of the equity interest of a licensee that has been purchased or otherwise acquired;

(C) any document that transferred ownership by gift, devise, or descent, such as a probated will or a court order; or

(D) any other documentation evidencing the transfer event.

(3) Application information for new licensee. If the transferee does not hold a regulated loan license at the time of the application, then the application must include the information required for new license applications under §83.302 of this title (relating to Filing of New Application). The instructions in §83.302 of this title apply to these filings.

(4) Application information for transferee that holds a license. If the transferee holds a regulated loan license at the time of the application, then the application must include amendments to the transferee's original license application describing the information that is unique to the transfer event, including disclosure questions, owners and principal parties, and a new financial statement, as provided in §83.302 of this title. The instructions in §83.302 of this title apply to these filings. The responsible person at the new location must file a personal affidavit, personal questionnaire, and employment history, if not previously filed. Other information required by §83.302 of this title need not be filed if the information on file with the OCCC is current and valid.

(5) Request for permission to operate. The application may include a request for permission to operate. The request must be in writing and signed by the transferor and transferee. The request must include all of the following:

(A) a statement by the transferor granting authority to the transferee to operate under the transferor's license while final approval of the application is pending;

(B) an acknowledgement that the transferor and transferee each accept responsibility to any consumer and to the OCCC for any acts performed under the license while the permission to operate is in effect; and

(C) if the application is a new license application on transfer of ownership, an acknowledgement that the transferor will immediately surrender or inactivate its license if the OCCC approves the application.

(f) Permission to operate. If the application described by subsection (e) includes a request for permission to operate and all required information, and the transferee has paid all fees required for the application, then the OCCC may issue a permission to operate to the transferee. A request for permission to operate may be denied even if the application contains all of the required information. The denial of a request for permission to operate does not create a right to a hearing. If the OCCC grants a permission to operate, the transferor must cease operating under the authority of the license. Two companies may not

simultaneously operate under a single license. A permission to operate terminates if the OCCC denies an application described by subsection (e).

(g) Transferee's authority to engage in business. If a transferee has filed a complete application including a request for permission to operate as described by subsection (e), by the deadline described by subsection (d), then the transferee may engage in business as a regulated lender. However, the transferee must immediately cease doing business if the OCCC denies the request for permission to operate or denies the application. If the OCCC denies the application, then the transferee has a right to a hearing on the denial, as provided by §83.307(d) of this title (relating to Processing of Application).

(h) Responsibility.

(1) Responsibility of transferor. Before the transferee begins performing regulated lender activity under a license, the transferor is responsible to any consumer and to the OCCC for all regulated lender activity performed under the license.

(2) Responsibility of transferor and transferee. If a transferee begins performing regulated lender activity under a license before the OCCC's final approval of an application described by subsection (e), then the transferor and transferee are each responsible to any consumer and to the OCCC for activity performed under the license during this period.

(3) Responsibility of transferee. After the OCCC's final approval of an application described by subsection (e), the transferee is responsible to any consumer and to the OCCC for all regulated lender activity performed under the license. The transferee is responsible for any transactions that it purchases from the transferor. In addition, if the transferee receives a license transfer, then the transferee's responsibility includes all activity performed under the license before the license transfer.

§83.308. Relocation.

(a) Notice to debtors. Written notice of a relocation of an office, or of transactions as outlined in subsection (b) of this section, must be mailed to all debtors of record at least five calendar days prior to the date of relocation. A licensee may send notice to a debtor by email in lieu of mail if the debtor has provided an email address to the licensee and has consented in writing to be contacted at the email address. Any licensee failing to give the required notice must waive all default charges on payments coming due from the date of relocation to 15 calendar days subsequent to the mailing of notices to debtors. Notices must identify the licensee, provide both old and new addresses, provide both old and new telephone numbers, and state the date relocation is effective. The notice to debtors can be waived or modified by the commissioner when it is in the public interest. A request for waiver or modification must be submitted in writing for approval. The commissioner may approve notification to debtors by signs in lieu of notification by mail, if in the commissioner's opinion, no debtors will be adversely affected.

(b) Relocation of regulated transactions. If the licensee is only relocating or transferring regulated transactions from one licensed location to another licensed location, the licensee must comply with subsection (b) of this section and provide, if requested, a list of regulated transactions relocated or transferred. This list of relocated or transferred regulated transactions must include the loan number and the full name of the debtor.

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 December 12, 2025.

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Matthew Nance
General Counsel
Office of Consumer Credit Commissioner
Effective date: January 1, 2026
Proposal publication date: November 7, 2025
For further information, please call: (512) 936-7660

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7 TAC §83.304, §83.305

The rule changes are adopted under Texas Finance Code, §342.551, which authorizes the commission to adopt rules to enforce Texas Finance Code, Chapter 342. The rule changes are also adopted under Texas Finance Code, §14.109, which authorizes the OCCC to require that a person submit information through NMLS if the information is required under a rule adopted under Texas Finance Code, Chapter 342. In addition, Texas Finance Code, §11.304 authorizes the commission to adopt rules to ensure compliance with Texas Finance Code, Title 4.

The statutory provisions affected by the adoption are contained in Texas Finance Code, Chapter 342.

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DIVISION 4. LICENSE

7 TAC §83.402

The rule changes are adopted under Texas Finance Code, §342.551, which authorizes the commission to adopt rules to enforce Texas Finance Code, Chapter 342. The rule changes are also adopted under Texas Finance Code, §14.109, which authorizes the OCCC to require that a person submit information through NMLS if the information is required under a rule adopted under Texas Finance Code, Chapter 342. In addition, Texas Finance Code, §11.304 authorizes the commission to adopt rules to ensure compliance with Texas Finance Code, Title 4.

The statutory provisions affected by the adoption are contained in Texas Finance Code, Chapter 342.

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

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For further information, please call: (512) 936-7660

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7 TAC §83.403, §83.404

The rule changes are adopted under Texas Finance Code, §342.551, which authorizes the commission to adopt rules to enforce Texas Finance Code, Chapter 342. The rule changes are also adopted under Texas Finance Code, §14.109, which authorizes the OCCC to require that a person submit information through NMLS if the information is required under a rule adopted under Texas Finance Code, Chapter 342. In addition, Texas Finance Code, §11.304 authorizes the commission to adopt rules to ensure compliance with Texas Finance Code, Title 4.

The statutory provisions affected by the adoption are contained in Texas Finance Code, Chapter 342.

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 89. PROPERTY TAX LENDERS

The Finance Commission of Texas (commission) adopts amendments to §89.206 (relating to Application for Exemption), §89.207 (relating to Files and Records Required), §89.301 (relating to Definitions), §89.302 (relating to Filing of New Application), §89.303 (relating to Transfer of License; New License Application on Transfer of Ownership), §89.306 (relating to Updating Application and Contact Information), §89.307 (relating to Processing of Application), §89.308 (relating to Relocation of Licensed Offices), §89.309 (relating to License Inactivation or Voluntary Surrender), §89.311 (relating to Applications and Notices as Public Records), §89.403 (relating to License Term, Renewal, and Expiration), and §89.405 (relating to Denial, Suspension, or Revocation Based on Criminal History); adopts the repeal of §89.304 (relating to Change in Form or Proportionate Ownership), §89.305 (relating to Amendments to Pending Application), and §89.402 (relating to License Display); and adopts new §89.806 (relating to Payoff Request from Borrower) in 7 TAC Chapter 89, concerning Property Tax Lenders.

The commission adopts the amendments to §§89.206, 89.207, 89.306, 89.307, 89.308, 89.309, 89.311, 89.403, and 89.405, and adopts the repeal of §§89.304, 89.305, and 89.402, without changes to the proposed text as published in the November 7, 2025 issue of the *Texas Register* (50 TexReg 7183). The rules will not be republished.

The commission adopts the amendments to §§89.301, 89.302, and 89.303, and adopts new §89.806, with changes to the proposed text as published in the November 7, 2025 issue of the *Texas Register* (50 TexReg 7183). The rules will be republished.

The rules in 7 TAC Chapter 89 govern property tax loans. In general, the purpose of the proposed rule changes to 7 TAC Chapter 89 is to implement changes resulting from the commission's review of the chapter under Texas Government Code, §2001.039.

An adopted amendment to §89.206 removes a requirement to provide an individual's Social Security number on the form for an individual's exemption from licensing. Under Texas Finance Code, §351.051(c), certain individuals are exempt from licensing as property tax lenders, including individuals making five or fewer property tax loans in any consecutive 12-month period from the individual's own funds. This amendment would minimize sensitive personal information collected by the OCCC.

Adopted amendments to §89.207 update recordkeeping requirements for property tax lenders. Currently, provisions throughout §89.207 refer to both paper and electronic recordkeeping systems. Amendments throughout §89.207 simplify and rearrange this language to refer to electronic recordkeeping systems before referring to paper systems, based on licensees' increasing use of electronic systems rather than paper systems. Currently, §89.207(3)(L) describes different sets of records to be maintained for judicial foreclosures and nonjudicial foreclosures. Property tax lenders' ability to perform nonjudicial foreclosures was previously codified in Texas Tax Code, §32.06(c)(2), and was repealed in 2013 (SB 247 (2013)). Because the authority to perform nonjudicial foreclosures was repealed, the commission and the OCCC believe that it is no longer necessary to describe two different sets of documents, and that the rule should be simplified to describe one set of documents for foreclosures.

Additional adopted amendments to §89.207 relate to data security recordkeeping. An amendment at §89.207(9)(A) specifies that licensees must maintain written policies and procedures for an information security program to protect retail buyers' customer information, as required by the Federal Trade Commission's Safeguards Rule, 16 C.F.R. part 314. Another amendment at §89.207(9)(B) specifies that if a licensee maintains customer information concerning 5,000 or more consumers, then the licensee must maintain a written incident response plan and written risk assessments, as required by 16 C.F.R. §314.4. An amendment at §89.207(10) specifies that licensees must maintain data breach notifications to consumers and to the Office of the Attorney General under Texas Business & Commerce Code, §521.053. Data security is a crucial issue. The OCCC's 2025-2029 strategic plan includes action items to "[p]romote cybersecurity awareness and best practices among regulated entities" and "[m]onitor cybersecurity incidents and remediation efforts reported by regulated entities." Recent data breaches affecting financial institutions highlight the urgent need for vigilance in this industry. The adopted data security recordkeeping amendments will help ensure that the OCCC can monitor this crucial issue.

Adopted amendments and repeals in §89.301 through §89.405 would implement the OCCC's transition to the NMLS system.

The Nationwide Multistate Licensing System (NMLS) is an online platform used by state financial regulatory agencies to manage licenses, including license applications and renewals. NMLS was created in 2008. The federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 explains that the purposes of NMLS include increasing uniformity and reducing regulatory burden. SAFE Act, 12 USC §5101. Each state currently uses NMLS for licensing individual RMLOs, and states are increasingly using the system to license consumer finance companies. NMLS is managed by the Conference of State Bank Supervisors and is subject to ongoing modernization efforts and enhancements.

Under Texas Finance Code, §14.109, the OCCC is authorized to require use of NMLS for certain license and registration types, including property tax lender licenses under Texas Finance Code, Chapter 351. The OCCC has begun a phased process of migrating license groups from ALECS (the OCCC's previous licensing platform) to NMLS. In 2025, licensed property tax lenders completed their transition to NMLS. The OCCC believes that moving to NMLS will improve the user experience of the licensing system and promote efficiency. This is particularly true for entities that hold licenses with the OCCC and with another state agency, because these entities will be able to manage multiple licenses through NMLS.

Adopted amendments to §89.301 replace the term "principal party" with "key individual" to be consistent with the terminology in NMLS. Another amendment adds a definition of "NMLS." Since the proposal, a technical change has been made to add the word "an" between "including" and "individual" in the definition of "key individual."

Adopted amendments to §89.302 would streamline license application requirements and refer to instructions that the OCCC has published through NMLS. Currently, §89.302 contains a detailed list of license application items, with requirements that differ based on the applicant's entity type (e.g., partnership, corporation, limited liability company). In addition to ensuring consistency with NMLS, the amendments significantly simplify §89.302, and ensure that an applicant can easily read and understand the rule. Since the proposal, a list of items for branch license applications has been added at §89.302(c). Separate licenses for branch locations are currently required by Texas Finance Code, §351.052(b). The additional language in §89.302(c) will clarify what the OCCC generally expects a licensee to provide with a branch license application (as opposed to a company license application). Since the proposal, the reference to any assumed names or other trade names has been moved to §89.302(b)(8) for clarity. Since the proposal, references to §89.303 and required items for a transfer of ownership have been added at §89.302(b)(12) and §89.302(c)(4), in order to provide additional clarity. An amendment at §89.302(d) explains that the OCCC may require additional, clarifying, or supplemental information to determine that the applicant meets statutory licensing requirements. An amendment at §89.302(e) explains that an applicant must immediately amend a pending application if any information changes requiring a materially different response, replacing language that will be removed from §89.306(a), as explained later in this preamble.

Adopted amendments to §89.303 streamline and simplify requirements for transfer of ownership and license transfer to ensure consistency with NMLS. In §89.303(b)(3), amendments streamline the definition of "transfer of ownership" while maintaining references to changes in management or control of a business, and also maintaining the current exclusion relating to changes in proportionate ownership. The adoption maintains certain rule text in the definition of "transfer of ownership" that would have been removed in the proposed amendments. This change is based on further consideration since the proposal. In order for the OCCC to ensure that licensees operate lawfully and fairly, it may be appropriate and necessary for the OCCC to review certain changes of control of a single entity through the license application process. An amendment to §89.303(c) explains that to transfer a license, a transferor may request surrender of its license after the OCCC approves the transferee's new license application on transfer of ownership. Other amendments throughout §89.303 ensure consistency with this revised transfer process.

The adoption repeals §89.304, which currently requires licensees to notify the OCCC of changes to organizational form, mergers resulting in creation of a new or different surviving entity, and certain changes in proportionate ownership. Going forward in NMLS, the OCCC anticipates that these changes will be handled through the advance change notice process, as explained later in this preamble in the discussion of amendments to §89.306. Therefore, §89.304 will no longer be necessary.

The adoption repeals §89.305, which currently requires license applicants to provide supplemental information to the OCCC on request. Because of the adopted amendment at §89.302(c) explaining the OCCC may require additional information, §89.305 will no longer be necessary.

Adopted amendments to §89.306 consolidate and simplify the types of required notifications that a licensee must provide to the OCCC when a change occurs. In §89.306(a), the amendments list advance change notices. NMLS uses the term "advance change notice" to refer to notifications that must be provided on or before the date of the change, in accordance with an agency's written instructions. As explained in the amendments to §89.306(a), this includes changes to the legal name of the entity, the legal status of the entity, names of key individuals, branch location addresses, and other listed items. In §89.306(b), amendments list notifications that are required not later than 30 days after the licensee has knowledge of the information. These items include bankruptcies of the licensee or its direct owners, because a bankruptcy is a significant event that may impact the financial responsibilities of a licensee and its ability to address compliance issues. These items also include notifications of data breaches affecting at least 250 Texas residents, helping to ensure that the OCCC can effectively monitor the crucial issue of cybersecurity (as discussed earlier in the discussion of adopted amendments to §89.207).

Adopted amendments to §89.307 revise license application processing requirements to be consistent with NMLS and with the statute at Texas Finance Code, §351.104. An amendment at §89.307(d) explains that a license application may be considered withdrawn if a complete application has not been filed within 30 days after a notice of deficiency has been sent to the applicant, consistent with how license applications are processed in NMLS. Under Texas Finance Code, §351.104(b), if the OCCC finds that a license applicant has not met the eligibility requirements for a license, then the OCCC will notify the applicant. Under Texas Finance Code, §351.104(c), an applicant has 30 days after the date of the notification to request a hearing on the denial. Amendments at §89.307(d) specify that if the eligibility requirements for a license have not been met, the OCCC will send a notice of intent to deny the license application, as described by Texas Finance Code, §351.104(b). Amendments at

§89.307(e) revise current language to specify that an affected applicant has 30 days from the date of the notice of intent to deny to request a hearing, as provided by Texas Finance Code, §351.104(c). An amendment removes current §89.307(e), regarding disposition of fees, because this language unnecessarily duplicates language in §89.310 (regarding Fees). Amendments to §89.307(f) clarify the 60-day target period to process a license application and the 60-day target period to set a requested hearing on an application denial, in accordance with Texas Finance Code, §351.104(c)-(d).

Adopted amendments to §89.308 revise requirements for notice of relocation of licensed offices. The adoption removes current §89.308(a), because the requirement to notify the OCCC of a branch office relocation will be moved to §89.306(a) as an advance change notice, as discussed earlier in this preamble. An amendment to current §89.308(b) explains that a licensee may send notice of a relocation to a debtor by email if the debtor has provided an email address and consented in writing to be contacted at the email address, in order to accommodate electronic communications.

Adopted amendments to §89.309 revise requirements for license surrender. The amendments explain that a licensee may surrender a license by providing the information required by the OCCC's written instruction, in accordance with Texas Finance Code, §351.160, and that a surrender is effective when the OCCC approves the surrender.

Adopted amendments to §89.311 remove a sentence about the return of original documents filed with a license application. This sentence is no longer necessary because the OCCC no longer accepts original paper documents with a license application.

The adoption repeals §89.402, which describes the requirement to display a license. This section is unnecessary because it duplicates the statutory license display requirement at Texas Finance Code, §351.152. Going forward, licensees may comply with the statutory license display requirement by printing out company license information from NMLS.

Adopted amendments to §89.403 revise requirements for license renewal. An amendment at §89.403(b) explains that a licensee must maintain an active account in NMLS (or a designated successor system) in order to maintain and renew a license, and that renewal may be unavailable to a licensee that fails to maintain an active account. An amendment at §89.403(d) specifies that the OCCC may send notice of delinquency of an annual assessment fee electronically through NMLS or by email to the primary company contact, removing current language that refers to a "master file" address under the OCCC's current system.

Adopted amendments to §89.405 revise criminal history review requirements to explain that the OCCC will obtain criminal history record information through NMLS and to use the term "key individual."

Adopted new §89.806 describes requirements for property tax loan payoff requests authorized by a borrower. Currently, the rules in §89.801 through §89.805 describe requirements for payoff requests from another lienholder to a property tax lender, but these sections do not describe requirements for a payoff request that is authorized by a borrower. Property tax lenders have requested that the OCCC provide guidance and clear standards on this issue, in order to ensure that the payoff process functions properly, that borrowers are enabled to pay off their property tax loans in a reasonable amount of time, and that property tax lenders are able to safeguard borrowers' personal information. Consistent with the prohibition on prepayment penalties in Texas Tax Code, §32.065(d), and Texas Finance Code, §343.205 and §351.0021(a)(9), a borrower has a right to pay off a property tax loan early. New §89.806(a) explains this right. New §89.806(b) describes the payoff request process that should be used if a property tax lender obtains a borrower's authorization to pay off a property tax loan held by an existing property tax lender. This includes guidelines for the authorized property tax lender to obtain the borrower's written authorization and send the payoff request, as well as guidelines for the existing property tax lender to provide a payoff statement. Since the proposal, in response to comments received, changes have been made to §89.806(b) to add the term "certificate of authenticity" in reference to the proof of the borrower's signature, and to refer to the borrower's "signed authorization" for clarity.

The OCCC issued an advance notice of rule review and received three informal comments in response to that notice. Notice of the review of 7 TAC Chapter 89 was published in the *Texas Register* on August 1, 2025 (50 TexReg 5069). The commission received one official comment in response to that notice from Panacea Lending LLC, a property tax lender.

The OCCC distributed an early precomment draft of the proposed amendments to interested stakeholders for review, and then held a stakeholder meeting and webinar regarding the rule changes. The OCCC received four precomments on the proposed amendments from stakeholders, consisting of one precomment from the Texas Property Tax Lienholders Association (TPTLA), two precomments from a law firm representing property tax lenders, and one precomment from Panacea Lending.

The OCCC received one official written comment on the proposed amendments. The official comment was from TPTLA. TPTLA generally supported the proposed amendments, although it recommended additional changes to §89.806, discussed later in this preamble. In addition, a representative of Panacea Lending testified on the proposed amendments at the Finance Commission's meetings August 15 and October 24, 2025, and reiterated the points from Panacea Lending's precomment and official comment on the rule review. In general, Panacea Lending expressed concerns that the proposed amendments did not sufficiently address various issues raised by Panacea Lending in its comments.

One precomment, provided by a law firm representing property tax lenders, addressed the proposed recordkeeping requirements in §89.207. The precomment recommended revising the current requirements on recordkeeping for the notice to cure the default and the notice of intent to accelerate, to remove the phrase "including verification of delivery of the notice," which is currently used in §89.207(L)(i)(II)-(III), because service is complete under Texas Property Code, §51.002(e) when the notice is placed in the mail. In response to this suggestion, the adopted version of this provision at §89.207(L)(ii)-(iii) states that the record includes "any mail tracking or other verification of delivery of the notice," with the word "any" indicating that property tax lenders would be required to maintain the information if they obtain it.

Several stakeholders commented on the new payoff statement rule at §89.806. The new rule was addressed in Panacea Lending's comments, TPTLA's comments, and a precomment filed by a law firm representing property tax lenders. Stakeholders generally expressed support for having clear guidelines on the issue of borrower payoff statements, although they differed in

suggestions for the timing of the payoff statement and technical requirements for the borrower's authorization.

Panacea Lending's comments argue that current rules "allow some lenders to delay, obstruct, or deny valid payoff requests based on technicalities or unreasonable demands." For this reason, Panacea Lending supports a rule specifying that borrowers have an unconditional right to authorize payoff of a property tax loan, that a borrower's electronic signature will be deemed valid, that a lender may not require a payoff request to be submitted through a particular platform, that each property tax lender must maintain a designated email address on its website solely for receiving payoff requests, that a lender must provide a full and accurate statement within three business days, and that refusal to accept a valid payoff request is an unfair or deceptive practice subjecting the property tax lender to an administrative penalty and corrective action. In response to other stakeholder concerns about the inability to verify payoff authorizations, Panacea Lending's precomment suggests that these concerns are "not genuine," and that payoff authorizations from a licensed lender should be presumed valid under a "safe harbor." Panacea Lending's precomment states that it should not be compelled to provide borrower phone numbers or email addresses due to concerns about compliance with the Gramm-Leach-Bliley Act (GLBA). Regarding concerns about Panacea Lending's use of an e-signature platform developed for the medical industry, Panacea Lending argues that its software provides "stronger user authentication, complete audit trails, encrypted records, and robust access controls." Regarding stakeholder concerns about providing payoff statements within three business days, Panacea Lending argues that payoff statements can be generated "within hours, not days," and that any exceptions for loans in litigation could be carved out of a general three-day rule.

In its official comment, TPTLA argues that "the current payoff system among property tax lenders is working effectively," and that there have been "very few complaints related to payoff procedures." TPTLA suggests that the proposed amendments to §89.806 "simply refine and codify best practices already followed by responsible lenders." TPTLA expresses concerns about a company using an e-signature platform designed for HIPAA compliance standards that do not apply to property tax lending, and that "the use of this system is misaligned with financial verification needs and obstructs lenders from confirming the borrower's authorization." TPTLA argues that "[w]ithout access to signer verification data, the lender receiving the payoff request cannot confirm that the borrower truly authorized the release." Therefore, TPTLA suggests that the proof of authorization include a certificate of authenticity containing the signer's name, IP address, email address, and date and time of signing. TPTLA also recommends a seven-business-day period for providing payoff statements due to consistency with industry norms and the federal standard for mortgages under Regulation Z, 12 C.F.R. §1026.36.

In a precomment, a law firm representing property tax lenders recommended a seven-business-day period for issuing the payoff statement and a 30-day period for relying on a payoff statement, citing current periods described by §89.802.

The commission and the OCCC appreciate that borrower payoff requests are an important issue warranting regulatory guidance. This importance underlies the rationale for the adopted amendments to §89.806.

Regarding the timing of the payoff statement, the commission and the OCCC believe that a seven-business-day period is appropriate and consistent with industry standards. This period is also consistent with the current seven-business-day requirement for payoff statements that property tax lenders provide to other lienholders under 7 TAC §89.802(i) (relating to Payoff Statements), and with the seven-business-day period for payoff statements for mortgage loans described in the Truth in Lending Act, 15 U.S.C. §1639g, and Regulation Z, 12 C.F.R. §1026.36(c)(3). For this reason, adopted §89.806(b)(3) contains a seven-business-day period for providing the payoff statement. The commission and the OCCC disagree with the suggestion to use a three-business-day period, because this is inconsistent with industry standards. The commission declines to adopt a specific 30-day period for relying on a payoff statement, because reliance for this amount of time could be impractical in particular situations.

Regarding technical requirements for the payoff request, the commission and the OCCC believe that concerns about validation are genuine, but want to ensure that the rule remains flexible enough to accommodate changing technology. The adopted amendments to §89.806 contain language explaining that lenders must maintain proof of electronic signatures "in accordance with standards for electronic signatures." In response to comments, changes have been made to §89.806(b) to refer to a certificate of authenticity, which would be the expected form of proof of the borrower's authorization. The commission and the OCCC disagree with Panacea Lending's suggestion that providing a borrower's email address or phone number would necessarily violate GLBA. This issue could be addressed by disclosing how the information will be used to the consumer in a privacy notice. See Regulation P, 12 C.F.R. §1016.6. The commission and the OCCC also disagree with Panacea Lending's suggestion to use a regulatory "safe harbor" under which requests from a licensed property tax lender would be presumed valid. It is a prudent data security practice for lenders to verify incoming requests before releasing a borrower's sensitive financial transaction information.

In its official comment on the rule review, Panacea Lending addressed additional issues that were not ultimately included in the proposed or adopted rule amendments. Panacea Lending also raised these issues in its precomment on the proposed amendments, and in its testimony at the August 15 and October 24 commission meetings. TPTLA's official comment on the proposed amendments included responses to the issues raised by Panacea Lending.

First, Panacea Lending's comments recommend mandatory compliance procedures requiring property tax lenders to conduct yearly internal reviews of residential property tax loans to determine whether borrowers are subject to homestead exemptions for being older than 65 or having a disability, and a requirement that property tax lenders send notices to borrowers who are subject to exemptions, with the notice confirming the exemption or deferment and explaining how the property owner may apply for it. In a supplement to the original comment, Panacea Lending suggests requiring additional documents at closing, as well as a disclosure to be read aloud to the borrower by a notary, asking about disabilities and whether the borrower is the surviving spouse of a first responder, as well as a required disclosure to be provided when a property tax lender is prohibited from making a loan. Panacea Lending cites Texas Attorney General Opinion No. GA-0787 (2010), in which the attorney general found that the Texas Tax Code prohibits a property tax lender from foreclosing on a property owner who has attained the age of 65 and filed a deferment of taxes. TPTLA's official

comment argues that existing Texas law at Texas Tax Code, §33.06 and §33.065 (among other provisions) already prohibit originating property tax loans for homeowners who qualify for age exemptions. TPTLA also asserts that licensed lenders follow stringent procedures to prevent these loans, including cross-referencing dates of birth and county appraisal records, and that there is no evidence of widespread non-compliance. Therefore, TPTLA argues that Panacea Lending's proposal is redundant and unnecessary.

Although the Tax Code's foreclosure requirements and prohibitions are an important compliance issue for property tax lenders, the commission and the OCCC disagree with the rule amendments proposed by Panacea Lending. The suggested amendments go significantly beyond the Tax Code's statutory requirements, may require property tax lenders to provide legal advice to borrowers, and may not be possible to fully implement in practice. For example, it is unclear how a property tax lender can determine, from a review of its files, whether a borrower currently has a disability making the borrower eligible for a deferment or exemption. Some of the disclosures described in the comment may be a prudent business practice for property tax lenders, but the prescriptive nature of the suggested disclosures goes beyond the intended scope of the rules in 7 TAC Chapter 89.

Second, Panacea Lending's comments recommend amending advertising rules to require the word "lender" to appear on all marketing pieces. Panacea Lending argues that this change is necessary to prevent misleading advertising. TPTLA's official comment responds that false and misleading advertising are already addressed by existing provisions and that the change proposed by Panacea Lending is unnecessary.

The rule at 7 TAC §89.208 (relating to Advertising) already prohibits false, deceptive, or misleading advertising; requires disclosure of the name of the property tax lender; and prohibits advertisements resembling government documents, among other advertising requirements. The rule at 7 TAC §89.507 (relating to Permissible Changes) allows property tax lenders to revise disclosures to use the term "transferee" for "property tax lender," and to use the term "tax lien transfer" for "property tax loan." The commission and the OCCC believe that Panacea Lending's suggested change requiring the word "lender" is unnecessary, given the existing advertising requirements and the alternative terminology for the transaction used in Texas Tax Code, Chapter 32.

Third, Panacea Lending's comments recommend amending 7 TAC §89.601 (relating to Fees for Closing Costs) to adjust the maximum closing costs for a residential property tax loan. Currently, 7 TAC §89.601 provides a general maximum of $900 for closing costs, plus up to $100 for each additional parcel of property past the first parcel, plus reasonable fees for certain direct costs to address title defects. The comment recommends adjusting the maximum to $1,500, indexed annually to inflation using the Consumer Price Index, based on increased costs of staffing, technology, and insurance. TPTLA's official comment opposes changing this maximum fee, arguing that the current rule protects consumers, that technological efficiencies have offset inflationary pressure, and that raising the maximum would invite high-fee, short-term lending.

The commission and the OCCC recognize that certain costs have increased for lenders. However, the commission and the OCCC believe that the $900 maximum (plus additional amounts for certain transaction) remains a fair maximum for lenders in relation to typical residential property tax loan amounts (which averaged $21,399 in calendar year 2024). The commission and the OCCC have not received sufficient information to support raising the maximum closing costs at this time.

Fourth, Panacea Lending's comments recommend adding a requirement for a property tax lender to obtain a signed loan application, and to provide a nonbinding pre-closing disclosure with a 48-hour waiting period for the property tax loan to be closed. Panacea Lending argues that this is necessary because borrowers may receive loan terms without a written record of what was actually offered, preventing borrowers from comparison shopping. TPTLA's official comment responds that these additional requirements are unnecessary because existing rules already required timely, signed pre-closing disclosures of transaction terms, and require lenders to maintain records of loan applications and disclosures.

Regarding the signed loan application, the commission and the OCCC believe that this requirement is unnecessary, because the recordkeeping rule at 7 TAC §89.207(3)(A)(ii) (relating to Files and Records Required) already requires property tax lenders to maintain a transaction file that includes the application and any written or recorded information used in evaluating the application. Regarding a nonbinding pre-closing disclosure and 48-hour waiting period, the commission and the OCCC believe that the Panacea Lending's suggested changes go beyond statutory requirements and the intended scope of the rules. Property tax loans are already subject to pre-closing disclosure requirements under Texas Tax Code, §32.06(a-4)(1) and 7 TAC §89.504 (relating to Requirements for Disclosure Statement to Property Owner). The pre-closing disclosure includes key loan terms, and lenders are required to amend disclosures promptly if they are inaccurate. See 7 TAC §89.504(c)(3). In addition, residential property tax loans are subject to a three-day right of rescission under Texas Tax Code, §32.06(d-1).

Fifth, Panacea Lending's comments recommend amending the rule at 7 TAC §89.802 (regarding Payoff Statements) for payoff statements that a property tax lender provides to certain lienholders. Panacea Lending suggests adding information about delinquent payments, late fees, and tax deferrals, in order to ensure that borrowers are informed about these items. TPTLA's official comment responds that current rules already require comprehensive payoff statements under §89.802 (including unpaid principal balance, accrued interest, additional fees with a description of each fee, and total payoff amount), and that the proposed changes would add unnecessary complexity, increasing administrative costs without improving borrower outcomes.

The commission and the OCCC disagree with Panacea Lending's suggested changes to 7 TAC §89.802. Unlike the payoff statements described in the adopted new rule at §89.806, payoff statements under §89.802 are primarily provided to other lienholders and would not achieve the intended effect of informing borrowers.

Sixth, Panacea Lending's comments recommend that trade organizations should be required to publicly disclose their meetings with the OCCC 60 days in advance. The comments also suggest that within 10 business days after a meeting with the OCCC, a trade organization should be required to disclose the date, time, and location of the meeting; the name of the hosting organization or sponsor; names and titles of all OCCC personnel in attendance; names and titles of property tax lenders' representatives in attendance; agenda topics or discussion summaries; copies of presentation slides shared by or with the OCCC; names of industry presenters; and a summary that clearly states each topic discussion. The comment argues that

this is necessary to address "unequal access" and a "perception of bias." TPTLA disagrees with this suggestion, arguing that TPTLA has a record of compliance and ethical conduct, and has built a collaborative relationship with the OCCC rooted in transparency and shared objectives.

The commission and the OCCC disagree with Panacea Lending's suggestion. The OCCC fully complies with government transparency requirements and strives to follow an open process that makes rules and guidance available to stakeholders. The OCCC generally meets with stakeholders on request, whether or not they are connected to a trade association. Panacea Lending's suggestions would unnecessarily impair the OCCC's communications with stakeholders and inappropriately single out trade associations as opposed to other stakeholders.

Seventh, Panacea Lending's comments recommend amending pre-closing disclosure requirements so that the requirements are uniform for residential property tax loans and commercial property tax loans, requiring commercial property tax lenders to disclose an NMLS ID number and additional loan calculations. Currently, the rule at 7 TAC §89.506 (relating to Disclosures) provides distinct pre-closing disclosure forms for residential and commercial property tax loans. TPTLA's official comment responds that these changes are inappropriate because Texas law differentiates between residential and commercial property tax loans in structure and borrower protections, and that merging the forms would create confusion and compliance risk.

The commission and the OCCC disagree with Panacea Lending's suggestion to merge the disclosures and require commercial lenders to provide residential disclosures. There are significant differences between residential property tax loans and commercial property tax loans, and these differences warrant distinct disclosures. For example, residential property tax loans are subject to Texas Finance Code, Chapter 180, which requires the individual residential mortgage loan originator to hold a license in NMLS, while commercial property tax loans are not subject to this requirement (meaning the individual originator of a commercial property tax loan might not have an NMLS ID). Also, under Texas Finance Code §351.0021, a prepayment penalty is authorized for commercial property tax loans but not residential property tax loans, and this distinction is reflected in the disclosures at 7 TAC §89.506.

Eighth, Panacea Lending's precomment requests clarification on "the source, scope, and authority of any limitation on the number of rules the OCCC may consider or advance during this rulemaking cycle." To clarify, there is no specific numerical limitation on how many rules can be addressed in a rule review. Rather, the scope of the commission's rulemaking authority and the OCCC's authority is limited by statute. The Finance Commission may only adopt rules to implement applicable statutory provisions (in this case, Texas Finance Code, Chapter 351 and Texas Tax Code, Chapter 32). To minimize regulatory burden, the OCCC takes a restrained approach to regulation and works to ensure that rules are limited to what is necessary to enforce and administer the statute. The OCCC carefully considers this approach when presenting rule actions to the commission. The OCCC believes that the current adoption of amendments to 7 TAC Chapter 89 supports this approach.

Ninth, Panacea Lending's precomment expresses concerns about whether there was sufficient advance notice of the commission's and OCCC's reasons for not adopting Panacea Lending's proposed changes. The commission's and OCCC's reasons were included in the meeting materials posted in advance of the commission's meeting on October 24, 2025. Panacea Lending had an opportunity to review this material before testifying at the October 24 meeting. The commission and the OCCC provided sufficient formal responses to comments as required by statute under Texas Government Code, §2001.033 and §2001.039, in addition to providing numerous additional opportunities for informal stakeholder feedback to support a transparent rulemaking process.

SUBCHAPTER B. AUTHORIZED ACTIVITIES

7 TAC §89.206, §89.207

The rule changes are adopted under Texas Finance Code, §351.007, which authorizes the commission to adopt rules to ensure compliance with Texas Finance Code, Chapter 351, and Texas Tax Code, §32.06 and §32.065. The rule changes are also adopted under Texas Finance Code, §14.109, which authorizes the OCCC to require that a person submit information through NMLS if the information is required under a rule adopted under Texas Finance Code, Chapter 351. In addition, Texas Finance Code, §11.304 authorizes the commission to adopt rules to ensure compliance with Texas Finance Code, Title 4.

The statutory provisions affected by the adoption are contained in Texas Finance Code, Chapter 351 and Texas Tax Code, Chapter 32.

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

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Matthew Nance
General Counsel
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For further information, please call: (512) 936-7660

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SUBCHAPTER C. APPLICATION PROCEDURES

7 TAC §§89.301 - 89.303, 89.306 - 89.309, 89.311

The rule changes are adopted under Texas Finance Code, §351.007, which authorizes the commission to adopt rules to ensure compliance with Texas Finance Code, Chapter 351, and Texas Tax Code, §32.06 and §32.065. The rule changes are also adopted under Texas Finance Code, §14.109, which authorizes the OCCC to require that a person submit information through NMLS if the information is required under a rule adopted under Texas Finance Code, Chapter 351. In addition, Texas Finance Code, §11.304 authorizes the commission to adopt rules to ensure compliance with Texas Finance Code, Title 4.

The statutory provisions affected by the adoption are contained in Texas Finance Code, Chapter 351 and Texas Tax Code, Chapter 32.

§89.301. Definitions.

Words and terms used in this chapter that are defined in Texas Finance Code, Chapter 351 have the same meanings as defined in Chapter 351.

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

(1) Key individual--An individual owner, officer, director, or employee with a substantial relationship to the lending business of an applicant or licensee. The following are key individuals:

(A) any individual who is a direct owner of 10% or more of an applicant or licensee;

(B) any individual who is a control person or executive officer of an applicant or licensee, including an individual who has the power to direct management or policies of a company (e.g., president, chief executive officer, general partner, managing member, vice president, treasurer, secretary, chief operating officer, chief financial officer); and

(C) an individual designated as a key individual where necessary to fairly assess the applicant or licensee's financial responsibility, experience, character, general fitness, and sufficiency to command the confidence of the public and warrant the belief that the business will be operated lawfully and fairly.

(2) Net assets--The total value of acceptable assets used or designated as readily available for use in the business, less liabilities, other than those liabilities secured by unacceptable assets. Unacceptable assets include, but are not limited to, goodwill, unpaid stock subscriptions, lines of credit, notes receivable from an owner, property subject to the claim of homestead or other property exemption, and encumbered real or personal property to the extent of the encumbrance. Generally, assets are available for use if they are readily convertible to cash within 10 business days.

(3) NMLS--The Nationwide Multistate Licensing System.

§89.302. Filing of New Application.

(a) NMLS. In order to submit a property tax lender license application, an applicant must submit a complete, accurate, and truthful license application through NMLS (or a successor system designated by the OCCC), using the current form prescribed by the OCCC. An application is complete when it conforms to the OCCC's written instructions and necessary fees have been paid. The OCCC has made application checklists available through NMLS, outlining the necessary information for a license application.

(b) Company license application. A company license application will include the following information and any other information listed in the OCCC's written instructions:

(1) A company form including the name of the applicant entity, contact information, registered agent, location of books and records, bank account information, legal status, and responses to disclosure questions.

(2) An individual form for each key individual, including name, contact information, and responses to disclosure questions.

(3) A business operating plan describing the source of consumers, purpose of loans, size of loans, and source of working capital.

(4) A management chart showing the applicant's divisions, officers, and managers.

(5) An organizational chart if the applicant is owned by another entity or entities, or has subsidiaries or affiliated entities.

(6) A statement of experience detailing prior experience relevant to the license sought.

(7) A certificate of formation or other formation document.

(8) Any assumed names or other trade names that the applicant will use, and an assumed name certificate for each assumed name or other trade name.

(9) Franchise tax account information showing that the applicant entity is authorized to do business in Texas.

(10) Financial statement and supporting financial information complying with generally accepted accounting principles (GAAP). The OCCC may require a bank confirmation to confirm account balance information with financial institutions.

(A) If a financial statement is unaudited, then it should be dated no earlier than 60 days before the application date.

(B) If a financial statement is audited, then it should be dated no earlier than one year before the application date.

(11) Loan forms that the applicant intends to use, including disclosures and loan contracts.

(c) Branch license application. A branch license application will include the following information and any other information listed in the OCCC's written instructions:

(1) A branch form including the address of the branch, contact details, and business activities.

(2) Any assumed name or other trade name that the applicant will use, and an assumed name certificate for each assumed name or other trade name.

(3) A financial statement and supporting financial information, as described by subsection (b)(10) of this section.

(4) For a license application involving a transfer of ownership, documentation of the transfer of ownership as described by §89.303 of this title

(d) Supplemental information. The OCCC may require additional, clarifying, or supplemental information or documentation as necessary or appropriate to determine that an applicant meets the licensing requirements of Texas Finance Code, Chapter 351.

(e) Amendments to pending application. An applicant must immediately amend a pending application if any information changes requiring a materially different response from information provided in the original application.

§89.303. Transfer of License; New License Application on Transfer of Ownership.

(a) Purpose. This section describes the license application requirements when a licensed entity transfers ownership of the entity. If a transfer of ownership occurs, the transferee must submit a new license application on transfer of ownership under this section.

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

(1) License transfer--A sale, assignment, or transfer of a property tax lender license.

(2) Permission to operate--A temporary authorization from the OCCC, allowing a transferee to operate under a transferor's license while final approval is pending for a license transfer application or a new license application on transfer of ownership.

(3) Transfer of ownership--Any purchase or acquisition of control of a licensed entity (including acquisition by gift, devise, or descent), or a substantial portion of a licensed entity's assets, where a substantial change in management or control of the business occurs. The term does not include a change in proportionate ownership that results in the exact same owners still owning the business, unless an

owner that previously held less than 10% obtains an interest of 10% or more Transfer of ownership includes the following:

(A) an existing owner of a sole proprietorship relinquishes that owner's entire interest in a license or an entirely new entity has obtained an ownership interest in a sole proprietorship license;

(B) any transfer of a substantial portion of the assets of a licensed entity under which a new entity controls business at a licensed location; and

(C) any other purchase or acquisition of control of a licensed entity, or a substantial portion of a licensed entity's assets, where a substantial change in management or control of the business occurs.

(4) Transferee--The entity that controls business at a licensed location after a transfer of ownership.

(5) Transferor--The licensed entity that controls business at a licensed location before a transfer of ownership.

(c) License transfer approval. No property tax lender license may be sold, transferred, or assigned without the written approval of the OCCC, as provided by Texas Finance Code, §351.163. To transfer a license, a transferor may request surrender of its license after the OCCC approves the transferee's new license application on transfer of ownership. A license transfer is complete when the OCCC has approved the transferee's new license application and the transferor's license surrender.

(d) Timing. No later than 30 days after the event of a transfer of ownership, the transferee must file a complete new license application on transfer of ownership in accordance with subsection (e). A transferee may file an application before this date.

(e) Application requirements.

(1) Generally. This subsection describes the application requirements for a new license application on transfer of ownership. A transferee must submit the application in a format prescribed by the OCCC. The OCCC may accept prescribed alternative formats to facilitate multistate uniformity of applications or in order to accept approved electronic submissions. The transferee must pay appropriate fees in connection with the application.

(2) Documentation of transfer of ownership. The application must include documentation evidencing the transfer of ownership. The documentation should include one or more of the following:

(A) a copy of the asset purchase agreement when only the assets have been purchased;

(B) a copy of the purchase agreement or other evidence relating to the acquisition of the equity interest of a licensee that has been purchased or otherwise acquired;

(C) any document that transferred ownership by gift, devise, or descent, such as a probated will or a court order; or

(D) any other documentation evidencing the transfer event.

(3) Application information for new licensee. If the transferee does not hold a property tax lender license at the time of the application, then the application must include the information required for new license applications under §89.302 of this title (relating to Filing of New Application). The instructions in §89.302 of this title apply to these filings.

(4) Application information for transferee that holds a license. If the transferee holds a property tax lender license at the time of the application, then the application must include amendments to the transferee's original license application describing the information that is unique to the transfer event, including disclosure questions, key individuals, and a new financial statement, as provided in §89.302 of this title. The instructions in §89.302 of this title apply to these filings. The responsible person at the new location must file a personal affidavit, personal questionnaire, and employment history, if not previously filed. Other information required by §89.302 of this title need not be filed if the information on file with the OCCC is current and valid.

(5) Request for permission to operate. The application may include a request for permission to operate. The request must be in writing and signed by the transferor and transferee. The request must include all of the following:

(A) a statement by the transferor granting authority to the transferee to operate under the transferor's license while final approval of the application is pending;

(B) an acknowledgement that the transferor and transferee each accept responsibility to any consumer and to the OCCC for any acts performed under the license while the permission to operate is in effect; and

(C) if the application is a new license application on transfer of ownership, an acknowledgement that the transferor will immediately surrender or inactivate its license if the OCCC approves the application.

(f) Permission to operate. If the application described by subsection (e) includes a request for permission to operate and all required information, and the transferee has paid all fees required for the application, then the OCCC may issue a permission to operate to the transferee. A request for permission to operate may be denied even if the application contains all of the required information. The denial of a request for permission to operate does not create a right to a hearing. If the OCCC grants a permission to operate, the transferor must cease operating under the authority of the license. Two companies may not simultaneously operate under a single license. A permission to operate terminates if the OCCC denies an application described by subsection (e).

(g) Transferee's authority to engage in business. If a transferee has filed a complete application including a request for permission to operate as described by subsection (e), by the deadline described by subsection (d), then the transferee may engage in business as a property tax lender. However, the transferee must immediately cease doing business if the OCCC denies the request for permission to operate or denies the application. If the OCCC denies the application, then the transferee has a right to a hearing on the denial, as provided by §89.307(d) of this title (relating to Processing of Application).

(h) Responsibility.

(1) Responsibility of transferor. Before the transferee begins performing property tax lending activity under a license, the transferor is responsible to any consumer and to the OCCC for all property tax lending activity performed under the license.

(2) Responsibility of transferor and transferee. If a transferee begins performing property tax lending activity under a license before the OCCC's final approval of an application described by subsection (e), then the transferor and transferee are each responsible to any consumer and to the OCCC for activity performed under the license during this period.

(3) Responsibility of transferee. After the OCCC's final approval of an application described by subsection (e) of this section, the transferee is responsible to any consumer and to the OCCC for all property tax lending activity performed under the license. The transferee is

responsible for any transactions that it purchases from the transferor. In addition, if the transferee receives a license transfer, then the transferee's responsibility includes all activity performed under the license before the license transfer.

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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Matthew Nance
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For further information, please call: (512) 936-7660

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7 TAC §89.304, §89.305

The rule changes are adopted under Texas Finance Code, §351.007, which authorizes the commission to adopt rules to ensure compliance with Texas Finance Code, Chapter 351, and Texas Tax Code, §32.06 and §32.065. The rule changes are also adopted under Texas Finance Code, §14.109, which authorizes the OCCC to require that a person submit information through NMLS if the information is required under a rule adopted under Texas Finance Code, Chapter 351. In addition, Texas Finance Code, §11.304 authorizes the commission to adopt rules to ensure compliance with Texas Finance Code, Title 4.

The statutory provisions affected by the adoption are contained in Texas Finance Code, Chapter 351 and Texas Tax Code, Chapter 32.

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SUBCHAPTER D. LICENSE

7 TAC §89.402

The rule changes are adopted under Texas Finance Code, §351.007, which authorizes the commission to adopt rules to ensure compliance with Texas Finance Code, Chapter 351, and Texas Tax Code, §32.06 and §32.065. The rule changes are also adopted under Texas Finance Code, §14.109, which authorizes the OCCC to require that a person submit information through NMLS if the information is required under a rule adopted under Texas Finance Code, Chapter 351. In addition, Texas Finance Code, §11.304 authorizes the commission to adopt rules to ensure compliance with Texas Finance Code, Title 4.

The statutory provisions affected by the adoption are contained in Texas Finance Code, Chapter 351 and Texas Tax Code, Chapter 32.

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7 TAC §89.403, §89.405

The rule changes are adopted under Texas Finance Code, §351.007, which authorizes the commission to adopt rules to ensure compliance with Texas Finance Code, Chapter 351, and Texas Tax Code, §32.06 and §32.065. The rule changes are also adopted under Texas Finance Code, §14.109, which authorizes the OCCC to require that a person submit information through NMLS if the information is required under a rule adopted under Texas Finance Code, Chapter 351. In addition, Texas Finance Code, §11.304 authorizes the commission to adopt rules to ensure compliance with Texas Finance Code, Title 4.

The statutory provisions affected by the adoption are contained in Texas Finance Code, Chapter 351 and Texas Tax Code, Chapter 32.

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SUBCHAPTER H. PAYOFF STATEMENTS

7 TAC §89.806

The rule changes are adopted under Texas Finance Code, §351.007, which authorizes the commission to adopt rules to ensure compliance with Texas Finance Code, Chapter 351, and Texas Tax Code, §32.06 and §32.065. The rule changes are also adopted under Texas Finance Code, §14.109, which

authorizes the OCCC to require that a person submit information through NMLS if the information is required under a rule adopted under Texas Finance Code, Chapter 351. In addition, Texas Finance Code, §11.304 authorizes the commission to adopt rules to ensure compliance with Texas Finance Code, Title 4.

The statutory provisions affected by the adoption are contained in Texas Finance Code, Chapter 351 and Texas Tax Code, Chapter 32.

§89.806. Payoff Request from Borrower.

(a) Generally. A borrower has a right to pay off a property tax loan early, consistent with the prohibition on prepayment penalties in Texas Tax Code, § 32.065(d), and Texas Finance Code, §343.205 and §351.0021(a)(9). A property tax lender may not "lock out" a borrower or prevent a borrower from paying off the loan early. The borrower's right to pay off the loan early includes the right to authorize another person to pay off the property tax loan.

(b) Payoff request process. If a property tax lender obtains a borrower's authorization to pay off a property tax loan held by an existing property tax lender, then the parties should take these steps.

(1) The authorized property tax lender should obtain a signed written statement from the borrower authorizing the lender to pay off the property tax loan. If the signature is electronic, then the lender must maintain a certificate of authenticity or other proof of the signature in accordance with standards for electronic signatures.

(2) The authorized property tax lender should send a request for a payoff statement to the existing property tax lender. The request should include the borrower's signed authorization, and should include the certificate of authenticity or other proof of the signature. The request should include the borrower's name, the authorized person's name, a description of the property, and reasonable instructions for where to send the payoff statement.

(3) If the request includes the information necessary to complete a payoff statement, then the existing property tax lender should respond with a payoff statement to the authorized property tax lender within seven business days after the existing property tax lender receives the complete request. The payoff statement should include accurate payoff information, and the borrower and the authorized lender should be able to rely on it for a reasonable period of time. The payoff statement should include reasonable instructions for paying off the property tax loan. If the authorized property tax lender's request does not include the information described by paragraph (2) of this subsection, then the existing property tax lender should notify the authorized property tax lender of the deficiency within a reasonable period of time.

(4) The authorized property tax lender may pay off the existing property tax loan as described in the payoff statement.

(5) Once the property tax lender has received the payoff amount, the property tax lender must promptly assign the property tax loan to the authorized person or release the property tax lender's lien on the property.

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

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TITLE 16. ECONOMIC REGULATION

PART 2. PUBLIC UTILITY COMMISSION OF TEXAS

CHAPTER 24. SUBSTANTIVE RULES APPLICABLE TO WATER AND SEWER SERVICE PROVIDERS

The Public Utility Commission of Texas (commission) adopts amended 16 Texas Administrative Code (TAC) §24.101, relating to Appeal of Rate-making Decision, Pursuant to the Texas Water Code §13.043; §24.239, relating to Sale, Transfer, Merger, Consolidation, Acquisition, Lease, or Rental; §24.240, relating to Water and Sewer Utility Rates After Acquisition; §24.243, relating to Purchase of Voting Stock or Acquisition of a Controlling Interest in a Utility; §24.357, relating to Operation of a Utility by a Temporary Manager; and §24.363, Temporary Rates for Services Provided for a Nonfunctioning System. The commission adopts these rules with changes to the proposed text as published in the September 5, 2025 issue of the *Texas Register* (50 TexReg 5824). The rules will be republished.

The amended rules will implement the expedited Sale, Transfer, Merger (STM) proceeding detailed under Texas Water Code §13.301 as revised by Senate Bill (SB) 1965 from the 88th Regular Session and SB 740 from the 89th Regular Session of the Texas Legislature. The amended rules will also implement Texas Water Code §§13.002, 13.412, 13.4132 as revised by SB 740 and new Texas Water Code §13.3021 as enacted by SB 740.

The commission received comments on the proposed rule from the Office of Public Utility Counsel (OPUC) and the Texas Association of Water Companies, Inc. (TAWC).

Clarifying Revisions Applicable to §24.239 and §24.243

Proposed §24.239(o) and §24.243(i) - Approval for the transaction to proceed

Proposed §24.239(o) provides that the commission order allowing the transaction to proceed expires 180 days from the date the order is issued and that if the sale has not been completed within that 180-day time period, the approval to proceed with the transaction is void, unless the commission extends the time period in writing. Proposed §24.239(i) provides that the commission approval of a transaction to proceed expires 180 days after the date of the commission order approving the transaction as proposed. The provision further establishes that if the transaction has not been completed within the 180-day time period, and unless the purchasing utility has requested and received an extension for good cause from the commission, the commission approval of the transaction to proceed is void.

The commission revises both provisions for clarity and mirrors them in each section as follows: "Except as otherwise provided by this section, the commission order granting approval for the

transaction to proceed expires 180 days after the date the order is issued. If the transaction has not been completed within the 180-day period, the commission's approval to proceed with the transaction will expire by operation of law unless, prior to the expiration of the 180-day period, the commission in writing extends the period." The revisions ensure consistency with terminology (i.e., "expires") and provides additional flexibility for the 180-day period to be extended.

Proposed §§24.239(v), 24.239(v)(1)(A)(i) and 24.243(j), §24.243(j)(1)(A)(i) - Expedited acquisition of voting stock or controlling interest and eligibility

Proposed §24.239(v) and §24.243(j) respectively authorize an eligible applicant to apply for the expedited acquisition of the assets or voting stock or controlling interest of a utility and, if applicable, the certificated service area of that utility in accordance with the requirements of the applicable subsection. Proposed §24.239(v)(1)(A)(i) and §24.243(j)(1)(A)(i) authorize a person appointed by the commission or TCEQ as a temporary manager to be eligible for an expedited transaction.

The commission revises both proposed §24.239(v)(1)(A)(i) and §24.243(j)(1)(A)(i) to include a supervisor appointed by the commission or TCEQ to be eligible for an expedited transaction under §24.239(v) or §24.243(j). The revisions to Texas Water Code §13.301(l) and the addition of Texas Water Code §13.3021 explicitly authorize a supervisor appointed by the commission or TCEQ under Texas Water Code §13.4131. The commission also makes conforming revisions in other provisions in §24.239 and §24.243 and to the Instructions and Part C of the Expedited STM to reflect the statutory eligibility requirements.

Proposed §§24.239(v)(1)(C), 24.239(v)(1)(C)(ii), 24.243(j)(1)(C), 24.243(j)(1)(C)(ii) - Sufficiency of financial, managerial, and technical capability for areas currently certificated to or served by the applicant

Proposed §24.239(v)(1)(C) and §24.243(j)(1)(C) establish that, for purposes of determining eligibility for an expedited transaction, an applicant's appointment as a temporary manager or receiver of the utility is sufficient to demonstrate adequate financial managerial and technical capability. Proposed §24.239(v)(1)(C)(ii) and §24.243(j)(1)(C)(ii) provide that such financial, managerial, and technical capability is sufficiently established for any areas currently certificated to the applicant or, as applicable, any areas being served by the applicant.

The commission moves proposed §24.239(v)(1)(C) and §24.243(j)(1)(C) into §24.239(v)(2) and §24.243(j)(2) as new §24.239(v)(2)(B) and new §24.243(j)(2)(B), respectively. Given that proposed §24.239(v)(1)(C) and §24.243(j)(1)(C) effectively waive the commission's review of financial, managerial, and technical capability, the provisions are more appropriately situated in §24.239(v)(2) and §24.243(j)(2), which primarily relate to aspects of the standard STM process that are waived for expedited transactions. The commission also makes minor revisions to §24.239(v)(2)(B) and §24.243(j)(2)(B) to ensure the provision applies to supervisors in accordance with the requirements of SB 740 and SB 1965 and to ensure that the applicant's demonstration of adequate financial, managerial, and technical capability for providing continuous and adequate service applies to both sub-provisions (§24.239(v)(2)(B)(i) and (ii) and §24.243(j)(2)(B)(i) and (ii)).

The commission also revises proposed §24.239(v)(1)(C)(ii) and §24.243(j)(1)(C)(ii) (now under new §24.239(v)(2)(B)(ii) and §24.243(j)(2)(B)(ii)) to state: "any areas currently certificated to the applicant, or as applicable to municipally owned utilities or districts, any areas being served by the applicant within its jurisdictional boundaries." Texas Water Code §13.301(l)(3)A) only provided that an eligible acquiring utility's financial, managerial, and technical capability is established for the service area to be acquired and any areas currently certificated to the applicant." The additional language regarding areas being served by the applicant is non-statutory, however was intended to address eligible utilities (i.e., municipally owned utilities and districts) that may provide service without a certificate. Retaining the proposed language as-is could potentially authorize an eligible applicant to automatically acquire areas outside of its certificated area on the sole basis that the applicant is providing service to such areas. The revised provision avoids this result except in circumstances where a municipally owned utility or district is lawfully providing service within its jurisdiction.

Question for Comment

In the event that a STM proceeding involves a nonfunctioning utility with temporary rates - when should the reconciliation of temporary rates occur? At the time the commission gives the order approving the transaction to proceed, final commission approval, or when the temporary rates expire or are terminated by the commission? The commission has previously established the following holdings in [Docket] 50085 (See Commission Order, Item #58, [Docket] 50085), which involved the acquisition of a system with temporary rates and the acquiring entity requested the temporary rates to be continued:

a. Temporary rates may be reconciled in the STM proceeding itself to assist the commission in reviewing the reasonableness of the approved temporary rates and the utility's financial health, which are factors that inform the commission's determination on the appropriate duration of the temporary rates post-acquisition.

b. If the underlying improvements justifying the nonfunctioning system's temporary rates have not been completed at the time of the STM proceeding, the reconciliation may be bifurcated. Specifically, the reconciliation held in the STM proceeding will be an "interim" reconciliation and that a "final" reconciliation for any applicable improvements that remain uncompleted must be performed in the utility's next comprehensive base rate proceeding.

c. Reconciliations or interim reconciliations should be conducted prior to the "interim" commission order approving the transaction to proceed.

d. When a nonfunctioning utility has temporary rates in place, in addition to making a determination of the duration of temporary rates the final order must set a deadline for the utility to file its next comprehensive base rate proceeding.

OPUC recommended that reconciliation of temporary rates should occur at the time the commission issues the order allowing a sale, transfer, or merger (STM) application to proceed if the commission has all necessary information and documentation to conduct a prudence review of the requested rates. OPUC stated that timing reconciliation with the STM application to proceed "ensures immediate rate alignment, avoids delays, and prevents intergenerational inequity."

TAWC recommended that reconciliation of temporary rates should not be required until either the temporary rates expire, or the temporary rates are otherwise terminated by the commission. TAWC noted that an earlier reconciliation, particularly in an expedited STM process, does not allow for sufficient time

for actual costs to be incurred by the acquiring entity for the temporarily managed system and is therefore premature.

OPUC further stated that reconciliation should be bifurcated to the extent that any underlying improvements justifying the nonfunctioning system's temporary rates have not been completed at the time of the STM proceeding. OPUC maintained that all investments for which the commission has sufficient information to conduct a prudence review should be reviewed and reconciled in the STM proceeding, and any investments for which there is insufficient information should be reviewed and reconciled in the utility's next comprehensive base rate proceeding. OPUC stated this approach "best aligns with the Commission's broader decision-making framework" and avoids issues associated with potential delays. OPUC commented that reconciling temporary rates in an STM proceeding helps ensure that rates "are immediately aligned with the utility's new management, providing a fair and accurate picture of incomplete and subsequent investments not yet included in temporary rates, and ongoing operations and maintenance expenses." OPUC further commented that, upon reconciliation, ratepayers are "shielded from intergenerational inequity" as they are no longer obliged to pay for a temporary manager that is no longer serving the system. OPUC stated that the temporary manager, acquiring utilities, and ratepayers benefit from the certainty this framework provides by eliminating the necessity for any future refunds, surcharges, or true ups.

OPUC emphasized the need for preserving the ratepayer protections and safeguards under Chapter 13 of the Texas Water Code in expedited STM transactions, particularly those that involve temporary rates. Specifically, OPUC maintained that temporary rates authorized under Texas Water Code §13.046 provide a utility cost recovery mechanism without exposing residents to sudden or excessive charges. OPUC also noted that, under Texas Water Code §13.043, ratepayers have the right to appeal temporary or adjusted rates and ensure their concerns are "formally considered and adjudicated by the Commission." OPUC further indicated that, under Texas Water Code §13.4132, the commission may impose conditions on utilities under supervision to ensure both the financial integrity of the utility and prevent the misuse of customer resources. OPUC stated that, read together, such customer protections prioritize ratepayer interests, including safe and reliable service, while a utility is under temporary management. OPUC maintained that such principles should be upheld to ensure rates are just and reasonable for residential and small commercial customers.

Commission response

The commission declines to implement any change in response to OPUC or TAWC's responses to the question for comment. However, the commission generally agrees with TAWC that "reconciliation of temporary rates should not be required until either the temporary rates expire, or the temporary rates are otherwise terminated by the commission." Consistent with the commission order issued in Docket 50085, the commission should retain flexibility on the timing of reconciliation of temporary rates. However, an acquiring utility needs time to reconcile any temporary rates after they are expired or terminated, which may potentially not occur until the conclusion of an STM proceeding or afterward.

In response to OPUC, the commission agrees that reconciliation and prudence review of temporary rates may be appropriate when the commission order issuing a STM application to proceed is issued if "the commission has all necessary information and documentation to conduct a prudence review of the requested rates." However, the appropriate reconciliation and prudence review could, if necessary, occur later in the STM proceeding or in a separate proceeding. Temporary rate reconciliation may be bifurcated where necessary if the underlying improvements justifying the nonfunctioning system's temporary rates have not been completed at the time of the STM proceeding. In general, the most appropriate time to reconcile temporary rates is when the temporary rates expire or are otherwise terminated by the commission. OPUC's concerns about ratepayer protections and safeguards are addressed elsewhere in this adoption order.

Proposed §24.101. Appeal of Rate-making Decision, Pursuant to the Texas Water Code §13.043.

Proposed §24.101(f) - Appeal by retail public utility of decision of a provider of water or sewer service

Proposed §24.101(f) authorizes a retail public utility that receives water or sewer service from another retail public utility or political subdivision of the state, including an affected county, to appeal to the commission a decision of the water or sewer service provider if that decision affects the amount paid for water or sewer service. The provision further states that such an appeal must be initiated by filing a petition within 90 days after the appellant receives notice of the service provider' decision. The provision does not apply to a decision of a municipality regarding wholesale water or sewer service to another municipality.

OPUC recommended §24.101(f) be revised to include language stating that ratepayers subject to an appeal decision under the subsection "retain the right to challenge rates, charges, or other service decisions before the Commission in accordance with TWC § 13.043(b) - (c), including the right to file complaints or intervene in proceedings that affect their bills or quality of service." OPUC emphasized that clarifying "between wholesale transactions and retail service" is necessary to ensure municipal ratepayers retain their rights to challenge rate decisions and prevent any undue limitation of appeals that are otherwise available to residential and small commercial customers. OPUC provided redlines consistent with its recommendation.

Commission response

The commission declines to implement the recommended change because it is unnecessary. The statutory right of a ratepayer to appeal rate decisions is codified under §24.101(b) and (c). The revision to §24.101(f) is to implement SB 740, Section 3, which added Texas Water Code §13.043(f-1). As a whole, §24.101(f) effectuates Texas Water Code §13.043 and does not concern ratepayers. The provision only addresses appeals from certain utility-type entities and providers of water or sewer service.

Proposed §24.239. Sale, Transfer, Merger, Consolidation, Acquisition, Lease, or Rental.

Proposed §24.239(g)-(h) - Financial, managerial, and technical capability of acquiring utility to provide continuous and adequate service and financial assurance

Proposed §24.239(g) requires a retail public utility or person that files an STM application under §24.239 to demonstrate adequate financial, managerial, and technical capability to provide continuous and adequate service to the requested area and the transferee's certificated service area as required by §24.227, relating to Criteria for Granting or Amending a Certificate of Convenience and Necessity. Proposed §24.239(h) authorizes the commission to require a transferee that cannot demonstrate adequate financial, managerial, and technical capability to provide finan-

cial assurance to ensure continuous and adequate retail water or sewer utility service is provided to both the requested area and any area already being served under the transferee's existing CCN. The provision also requires such financial assurance to meet the requirements of §24.11, relating to Financial Assurance, and specifies that an obligation to obtain financial assurance does not relieve the applicant from any requirements to obtain financial assurance to satisfy another state agency's rules.

TAWC recommended that proposed §24.239(g) and (h) be revised to clarify that "financial assurance" under §24.11, relating to Financial Assurance, is not required for every STM or CCN application. TAWC suggested that the commission should instead authorize the demonstration of the purchasing utilities' financial capability through other evidence. TAWC stated that, for CCN applications, developer financial info should not be required if "the utility receiving new certificated area is ultimately responsible for ensuring that all improvements needed for service are installed pursuant to contract or otherwise."

Commission response

The commission declines to implement the recommended change because it is out of scope. The scope of this rulemaking is to implement the expedited STM process associated with SB 740, which does not address financial assurance. Revisions to §24.11 will be taken up by the commission in a later rulemaking. The commission makes minor clerical revisions to §24.239(g). The commission notes that §24.239(g) (along with §24.239(f), which includes revisions to address redundancy with recent changes §24.238, relating to Fair Market Valuation) was inadvertently omitted by the commission in a previous rulemaking and have been reinstated. (Cf. the proposal for publication in Project 54046 with the adoption order in Project 54046).

Proposed §24.239(j) and §24.239(j)(5) - Commission authority to hold hearing for STM transaction and public interest factors

Proposed §24.239(j) authorizes the commission to determine whether to require a public hearing to determine if the transaction will serve the public interest. The provision establishes that the commission will notify the transferee, the transferor, all intervenors, and OPUC whether a hearing will be held. Proposed §24.239(j)(1)-(5) establish factors that the commission may consider when determining whether a hearing should be held on the STM transaction, including public interest factors under §24.239(j)(5)(A)-(I).

OPUC recommended that proposed §24.239(j)(5) be revised to include rate affordability, service quality, and cost reductions as factors the commission will consider when determining whether to hold a hearing for an STM transaction.

Commission response

The commission declines to implement the recommended change because it is out of scope. SB 740 neither specifies nor requires the commission to review the public interest criteria for holding a hearing on an STM proceeding. The scope of this rulemaking is to implement the expedited STM process associated with SB 740.

Proposed §24.239(p) - Commission issuance of order if no hearing is required on STM transaction

Proposed §24.239(p) authorizes the commission to issue an order approving the transaction to proceed if the commission does not require a hearing and the transaction is completed as proposed.

TAWC recommended the reference to the "order approving the transaction to proceed" to be revised to indicate it is actually the final order approving the STM application transaction. TAWC noted the phrase "to proceed" is incorrect as the order approving the transaction to proceed would have occurred prior to the transaction being completed as proposed. TAWC further recommended that the STM process should be made more concise with a single order approving the transaction to proceed and to be completed for simplicity and to provide regulatory certainty. TAWC acknowledged, however, that such a change would necessitate further revisions to §24.239.

Commission response

The commission agrees with TAWC and implements the recommended change. Specifically, the commission replaces "an order approving the transaction to proceed" with "the final order approving the transaction."

Proposed §24.239(u) - Special requirements for certain transactions

Proposed §24.239(u) specifies that, for a transaction that involves a nonfunctioning system for which a temporary manager has been appointed under §24.357, relating to Temporary Manager Appointment, Powers, and Duties, the temporary manager's appointment and the monthly temporary manager's fee must be terminated upon final commission approval of the transaction.

The commission revises the provision to refer only to "the temporary manager's fee" as the commission is not limited to setting monthly fees for a temporary manager (i.e., a fee may be weekly, bi-weekly, bi-monthly, etc.).

Proposed §24.239(v) - Expedited acquisition of assets

OPUC recommended proposed §24.239(v) should be revised such that the expedited transaction process should include language that would "provide clarity for ratepayers on how they might otherwise review the impact on their bills associated with the application."

Commission response

The commission declines to implement the recommended change because it is out of scope. SB 740 explicitly waives notice for expedited STM transactions. The utility acquiring the system in an expedited transaction is already known to customers as they are already serving as the temporary manager, receiver, or supervisor of the system. Moreover, the utility will have to declare itself after the transaction is completed to inform customers of how to pay their bills and to whom to remit payment. The new bill will effectively serve as notice of the expedited transaction.

Proposed §24.240(c) and §24.240(c)(5) - Initial rates and public interest determination

Proposed §24.240(c) establishes the requirements for initial rates for an STM applicant that requests authorized acquisition rates. Proposed §24.240(c)(5) establishes that the commission will consider, in determining whether to approve a STM transaction under §24.239, whether approving the transferee's request to charge authorized acquisition rates would change whether the proposed transaction would serve the public interest under §24.239(h)(5).

OPUC commented that the revision to §24.240(c)(5) effectively redefines initial acquisition rates to mean "those in effect upon fi-

nal Commission approval" and clarifies the scope of public interest review when "authorized rates are requested." OPUC noted that the revisions risk the commission adopting "authorized acquisition rates that exceed current rates to such a degree as to create rate shock" which would raise customers' bills without the protections of a full base rate proceeding. OPUC commented that its proposed revisions help ensure ratepayers are aware of the potential for increased rates where there is no immediate improvement in service. OPUC provided redlines consistent with its recommendation.

Commission response

The commission disagrees with OPUC and declines to implement the recommended change because it is unnecessary. The revision to §24.240(c)(5) was a clarifying edit to omit a potentially confining cross-reference to the criteria under §24.239(j)(5) (previously §24.239(h)(5)). Specifically, the revision was to reflect the general potential for the commission to render a public interest determination in each circumstance where authorized acquisition rates are imposed, which could be in a standard STM of assets or an expedited STM of assets under §24.239, a standard STM or an expedited STM of stock or controlling interest under §24.243, etc. Moreover, the public interest factors for a commission determination on authorized acquisition rates under §24.240 may not always be the same as the criteria the commission considers under §24.239(j)(5) in determining whether to hold a public hearing in an STM asset acquisition proceeding. The revision provides latitude for the commission to consider other factors, not just those under §24.239. It is unclear how the revision "risk[s] the commission adopting 'authorized acquisition rates that exceed current rates to such a degree as to create rate shock'" or would otherwise prevent the commission from requiring authorized acquisition rates to be implemented in a manner to mitigate negative impacts such as rate shock.

Proposed §24.243. Purchase of Voting Stock or Acquisition of a Controlling Interest in a Utility.

New §24.243(k) - Notice of expedited proceedings for customers (OPUC Proposal)

OPUC mirrored its recommendation for heightened customer protections in expedited proceedings in §24.239. Specifically, OPUC recommended that new §24.243(k) be added which would, in the same manner as §24.239, require utilities to provide notice to customers of the impacts of the expedited transaction on their bills due to the expedited STM transaction involving the acquisition of stock or a controlling interest. OPUC provided redlines consistent with its recommendation.

Commission response

The commission declines to implement the recommended change because it is out of scope and for the reasons previously stated. SB 740 explicitly waives notice for expedited STM transactions.

Proposed §24.357. Operation of a Utility by a Temporary Manager.

Proposed §24.357(f) - Return of inventory

Proposed §24.357(f) requires a temporary manager to return to the commission an inventory of all property received within 60 days after appointment.

The commission replaces the term "property received" with "utility property" for clarity.

Proposed §24.357(g) - Temporary manager compensation

Proposed §24.357(g) establishes that compensation for a temporary manager will come from utility revenues and will be set by the commission at the time of appointment. The provision also states that changes to the temporary manager compensation agreement may be approved by the commission.

OPUC recommended proposed §24.357(g) be revised to require commission review of temporary manager proposed compensation agreements, which would be filed confidentially or otherwise designated as highly sensitive filings. OPUC stated that requiring public transparency of such agreements, or at the least confidential disclosure to the commission, is necessary to protect customers from excessive costs attributable to temporary management. Specifically, OPUC recommended that compensation agreements should be reviewed for prudence before recovery is sought in a subsequent rate proceeding. OPUC provided redlines consistent with its recommendation.

Commission response

The commission declines to implement the recommended change because it is out of scope. SB 740 does not reference the commission review of temporary manager compensation agreements. Moreover, temporary manager compensation is established by the commission in the final order appointing the temporary manager, as indicated by §24.357(g). A temporary manager must apply with the commission and file documentation to support an increase to their compensation. The commission will review the application and the supporting documentation and then issue an order ruling on the application. Moreover, when a temporary manager's fee is charged to a customer, it is not technically part of a customer's rate base, so it is not reviewed for prudence. In lieu of that, temporary managers must file monthly reports which are reviewed by staff through the issuance of memos. The commission notes that temporary managers frequently operate at a deficit. If a temporary manager's fee becomes excessive, commission staff can recommend a fee decrease to the presiding officer. The Texas Commission on Environmental Quality also consults with the commission when appointing a temporary manager and establishing the temporary manager fee to ensure a temporary manager's compensation is just and reasonable. The commission also replaces the sentence "[c]hanges in the compensation agreement may be approved by the commission" with "[t]he commission may adjust the compensation for the temporary manager as it deems necessary" for clarity and consistency. The initial sentence does not refer to a compensation agreement, only the compensation of the temporary manager.

Proposed §24.363. Temporary Rates for Services Provided for a Nonfunctioning System.

Proposed §§24.363(e), 24.363(e)(1), 24.363(e)(2) - Regulatory asset

Proposed §24.363(e) provides that, in an expedited STM proceeding under §24.239 or §24.243, if a temporary rate is established during the term of a person's temporary management, receivership, or supervision of a utility, the person's used and useful invested capital and just and reasonable operations and maintenance costs that are incurred in excess of the costs covered by the temporary rate are considered to be a regulatory asset. The provision also states that the regulatory asset is eligible for recovery in the person's next comprehensive rate proceeding or system improvement charge application. Proposed §24.363(e)(1) establishes that, if a temporary rate is adopted

during the term of a person's temporary management, receivership, or supervision of a utility, then the person's used and useful invested capital and just and reasonable operations and maintenance costs that are incurred by the person during the person's appointment as temporary manager, receiver, or supervisor that are in excess of the costs covered by the temporary rate are considered to be a regulatory asset. Proposed §24.363(e)(2) states that the regulatory assets eligible for recovery in the person's next comprehensive rate proceeding or system improvement charge application

OPUC recommended that §24.363(e) be revised to require prudence review of any regulatory asset established under the provision for a temporary rate adopted during the term of a temporary manager, receiver, or supervisor, regardless of whether the regulatory asset is recovered in a System Improvement Charge (SIC) proceeding or a base rate case. OPUC expressed concern that it would only have 30 days from the date a SIC application is filed to comment on the application given the 75-day timeline imposed by SB 740, reduced from 180 days. OPUC stated this provides only a "limited opportunity for parties to review the types of assets, investments and cost of the investments included in the SIC application." OPUC stated that this limited review concern is heightened given the addition of §24.363(e) "which treats expenditures above the level covered by temporary rates as regulatory assets to be recovered in a future proceeding." OPUC noted that this authorizes recovery through either a SIC or a comprehensive rate proceeding but does not require such costs to be subject to prudence review before recovery. OPUC stated that not requiring prudence review prior to recovery risks imprudent investments or costly activities by temporary managers to be included in rates "without a meaningful prudence evaluation." OPUC noted that a reasonableness standard is already applied to temporary rates under §24.363(d) and therefore, the same principle should apply when similar costs are later considered to be regulatory assets. OPUC stated that its proposed change would protect ratepayers from bearing the costs associated with "a temporary manager's imprudent actions, while still permitting timely recovery for prudent investments." OPUC provided redlines consistent with its recommendation.

Commission response

The commission implements OPUC's recommended language regarding prudence review of the temporary rate-related regulatory asset with revisions. However, the commission declines to implement OPUC's recommended revisions to §24.363(e)(1) and (e)(2)(A). Specifically, the commission revises §24.363(e)(2) to establish that the regulatory asset for temporary rates will be subject to prudence review only in a base rate proceeding. SB 740 only requires the regulatory asset to be recoverable in either a SIC proceeding or a base rate proceeding but is silent as to the timing of the prudence review of that regulatory asset. Given SB 740's reduced timeline of 60 to 75 days in a SIC proceeding, prudence review of any regulatory asset is therefore impractical. Therefore, the only appropriate proceeding to review the prudence of the regulatory asset is the utility's next comprehensive base rate proceeding. Given the implemented change to §24.363(e)(2) regarding prudence review, OPUC's proposed revision to §24.363(e)(1) regarding the same is redundant and therefore unnecessary. Additionally, OPUC's proposed revision to §24.363(e)(2)(A), regarding the recovery of a regulatory asset in a SIC proceeding, is out of scope as revisions to §24.76 to reflect changes made by SB 740, Section 4, will be undertaken in Project 58391. The commission also revises §24.363(e)(1) to specify that "[i]f a temporary rate is adopted during the term of a person's temporary management, receivership, or supervision of a utility, then the person's used and useful invested capital and just and reasonable operations and maintenance costs that are incurred by the person during the person's appointment as temporary manager, receiver, or supervisor that are in excess of the costs covered by the temporary rate are considered t be a regulatory asset." This revision conforms the rule more closely to §13.301(l)(3)(B).

CCN Obtain or Amend Form (Section 22)

Section 22 of the CCN Obtain or Amend Form requires an investor-owned utility applicant that is seeking to obtain a CCN for the first time under the original rate jurisdiction of the commission to attach a proposed tariff to the application. Section 22 also requires the applicant to file a rate filing package with the commission within 18 months from the date service begins to revise the utility's tariff to adjust the rates to a historic test year and true up the new tariff rates to the historic test year. Section 22 requires the applicant to provide, in any future rate proceeding, written evidence and support for the original cost and installation date of all facilities used and useful for providing utility service.

TAWC recommended Section 22 of the proposed CCN Obtain or Amend form be revised to account for the new test year definition under Texas Water Code §13.1831. Specifically, TAWC noted that a test year is no longer restricted to a "historic" test year, given the new definition [established by House Bill 2712 (89R)].

Commission response

The commission declines to implement TAWC's recommended change. Section 22 of the CCN Obtain or Amend Form applies to new utilities which must use a historic test year. The commission's implementation of HB 2712 will be undertaken in a separate, future rulemaking.

Application for STM of a Retail Public Utility Form (Part F)

TAWC recommended that Part F of the STM form be revised to be optional if the STM application does not include a request to change the boundaries of the applicant's CCN.

Commission response

The commission revises Part F to indicate that applicants may skip Questions 25 through Question 29 if no uncertificated area, dual certification, or decertification is being requested (i.e., no CCN boundary changes are being requested). It is otherwise necessary for an applicant utility to provide information about neighboring utilities and capital improvement plans, if any, for the requested area or the uncertificated area.

SUBCHAPTER D. RATE-MAKING APPEALS

16 TAC §24.101

Texas Water Code §13.041(a), which provides the commission the general power to regulate and supervise the business of each public utility within its jurisdiction and to do anything specifically designated or implied by the Texas Water Code that is necessary and convenient to the exercise of that power and jurisdiction; Texas Water Code §13.041(b), which provides the commission with the authority to adopt and enforce rules reasonably required in the exercise of its powers and jurisdiction; Texas Water Code §13.043(f-1) which exempts municipal decisions regarding wholesale water or sewer service provided to another municipality that involve the amount paid for water or sewer service from the commission's appellate jurisdiction; Texas Water Code §13.301, which establishes the requirements and proce-

dures for STM proceedings and expedited STM proceedings before the commission; Texas Water Code §13.3021, which establishes the requirements and procedures for expedited STM proceedings before the commission for certain retail public utilities; Texas Water Code §13.412(g), which establishes the list of entities that may be appointed by a court of competent jurisdiction as a receiver and authorizes a receiver to seek both the acquisition of the utility under supervision and the transfer of the utility's certificate of convenience and necessity (CCN); and Texas Water Code §13.4132(a) and (a-1), which establish the list of entities that may be appointed by the commission or TCEQ as a temporary manager and expands the definition of "person" to incorporate that list of entities for purposes of that section which provides the commission with the authority to adopt and enforce rules reasonably required in the exercise of its powers and jurisdiction.

Cross reference to statutes: Texas Water Code §§ 13.041(a) and (b), 13.043(f-1), 13.301, 13.3021, 13.412(g); §13.4132(a) and (a-1).

§24.101. Appeal of Rate-making Decision, Pursuant to the Texas Water Code §13.043.

(a) Any party to a rate proceeding before the governing body of a municipality may appeal the decision of the governing body to the commission. This subsection does not apply to a municipally owned utility, but does include privately owned utilities operating within the corporate limits of a municipality. An appeal under this subsection may be initiated by filing with the commission a petition signed by a responsible official of the party to the rate proceeding or its authorized representative and by serving a copy of the petition on all parties to the original proceeding. The petition should be filed in accordance with Chapter 22 of this title (relating to Procedural Rules). The appeal must be initiated within 90 days after the date of notice of the final decision of the governing body, or within 30 days if the appeal relates to the rates of a Class A utility, by filing a petition for review with the commission and by serving a copy of the petition on all parties to the original rate proceeding.

(b) An appeal under Texas Water Code (TWC) §13.043(b) must be initiated within 90 days after the effective date of the rate change or, if appealing under TWC §13.043(b)(2) or (5), within 90 days after the date on which the governing body of the municipality or affected county makes a final decision. An appeal is initiated by filing a petition for review with the commission and by sending a copy of the petition to the entity providing service and with the governing body whose decision is being appealed if it is not the entity providing service. The petition must be signed by the lesser of 10,000 or 10% of the ratepayers whose rates have been changed and who are eligible to appeal under subsection (c) of this section.

(c) Retail ratepayers of the following entities may appeal the decision of the governing body of the entity affecting their water utility, sewer utility, or drainage rates to the commission:

(1) a nonprofit water supply or sewer service corporation created and operating under TWC, Chapter 67;

(2) a utility under the jurisdiction of a municipality inside the corporate limits of the municipality;

(3) a municipally owned utility, if the ratepayers reside outside the corporate limits of the municipality, including a decision of a governing body that results in an increase in rates when the municipally owned utility takes over the provision of service to ratepayers previously served by another retail public utility;

(A) A municipally owned utility must:

(i) disclose to any person, on request, the number of ratepayer(s) who reside outside the corporate limits of the municipality; and

(ii) subject to subparagraph (B) of this paragraph, provide to any person, on request, a list of the names and addresses of the ratepayers who reside outside the corporate limits of the municipality.

(B) If a ratepayer has requested that a municipally owned utility keep the ratepayer's personal information confidential under Tex. Util. Code §182.052, the municipally owned utility may not disclose the address of the ratepayer under subparagraph (A)(ii) of this paragraph to any person. A municipally owned utility must inform ratepayers of their right to request that their personal information be kept confidential under Tex. Util. Code §182.052 in any notice provided under the requirement of TWC§13.043(i).

(C) In complying with this subsection, the municipally owned utility:

(i) may not charge a fee for disclosing the information under subparagraph (A)(i) of this paragraph;

(ii) will provide information requested under subparagraph (A)(i) of this paragraph by telephone or in writing as preferred by the person making the request; and

(iii) may charge a reasonable fee for providing information under subparagraph (A)(ii) of this paragraph.

(D) Paragraph (3) of this subsection does not apply to a municipally owned utility that takes over the provision of service to ratepayers previously served by another retail public utility if the municipally owned utility:

(i) takes over the service at the request of the ratepayer;

(ii) takes over the service in the manner provided by TWC Chapter 13, Subchapter H; or

(iii) is required to take over the service by state law, an order of the Texas Commission on Environmental Quality, or an order of the commission.

(4) a district or authority created under Article III, §52, or Article XVI, §59 of the Texas Constitution, that provides water or sewer service to household users;

(5) a utility owned by an affected county, if the ratepayers' rates are actually or may be adversely affected. For the purposes of this subchapter, ratepayers who reside outside the boundaries of the district or authority will be considered a separate class from ratepayers who reside inside those boundaries; and

(6) in an appeal under this subsection, the retail public utility must provide written notice of hearing to all affected customers in a form prescribed by the commission.

(d) In an appeal under TWC §13.043(b), each person receiving a separate bill is considered a ratepayer, but one person may not be considered more than one ratepayer regardless of the number of bills the person receives. The petition for review is considered properly signed if signed by a person, or the spouse of the person, in whose name utility service is carried.

(e) The commission will hear an appeal under this section de novo and fix in its final order the rates the governing body should have fixed in the action from which the appeal was taken. The commission may:

(1) in an appeal under TWC §13.043(a), include reasonable expenses incurred in the appeal proceedings;

(2) in an appeal under TWC §13.043(b), include reasonable expenses incurred by the retail public utility in the appeal proceedings;

(3) establish the effective date;

(4) order refunds or allow surcharges to recover lost revenues;

(5) consider only the information that was available to the governing body at the time the governing body made its decision and evidence of reasonable expenses incurred in the appeal proceedings; or

(6) establish interim rates to be in effect until a final decision is made.

(f) A retail public utility that receives water or sewer service from another retail public utility or political subdivision of the state, including an affected county, may appeal to the commission, a decision of the provider of water or sewer service affecting the amount paid for water or sewer service. An appeal under this subsection must be initiated within 90 days after notice of the decision is received from the provider of the service by filing a petition by the retail public utility. This subsection does not apply to a decision of a municipality regarding wholesale water or sewer service provided to another municipality.

(g) An applicant requesting service from an affected county or a water supply or sewer service corporation may appeal to the commission a decision of the county or water supply or sewer service corporation affecting the amount to be paid to obtain service other than the regular membership or tap fees. An appeal under TWC §13.043(g) must be initiated within 90 days after written notice of the amount to be paid to obtain service is provided to the service applicant or member of the decision of an affected county or water supply or sewer service corporation affecting the amount to be paid to obtain service as requested in the applicant's initial request for that service.

(1) If the commission finds the amount charged to be clearly unreasonable, it will establish the fee to be paid and will establish conditions for the applicant to pay any amount(s) due to the affected county or water supply or sewer service corporation. Unless otherwise ordered, any portion of the charges paid by the applicant that exceed the amount(s) determined in the commission's order must be refunded to the applicant within 30 days of the date the commission issues the order, at an interest rate determined by the commission.

(2) In an appeal brought under this subsection, the commission will affirm the decision of the water supply or sewer service corporation if the amount paid by the applicant or demanded by the water supply or sewer service corporation is consistent with the tariff of the water supply or sewer service corporation and is reasonably related to the cost of installing on-site and off-site facilities to provide service to that applicant, in addition to the factors specified under subsection (i) of this section.

(3) A determination made by the commission on an appeal from an applicant for service from a water supply or sewer service corporation under this subsection is binding on all similarly situated applicants for service, and the commission may not consider other appeals on the same issue until the applicable provisions of the tariff of the water supply or sewer service corporation are amended.

(h) The commission may, on a motion by the commission staff or by the appellant under subsection (a), (b), or (f) of this section, establish interim rates to be in effect until a final decision is made.

(i) In an appeal under this section, the commission will ensure that every appealed rate is just and reasonable. Rates must not be unreasonably preferential, prejudicial, or discriminatory but must be sufficient, equitable, and consistent in application to each class of customers. The commission will use a methodology that preserves the financial integrity of the retail public utility. To the extent of a conflict between this subsection and TWC §49.2122, TWC §49.2122 prevails.

(j) A customer of a water supply corporation may appeal to the commission a water conservation penalty. The customer must initiate an appeal under TWC §67.011(b) within 90 days after the customer receives written notice of the water conservation penalty amount from the water supply corporation per its tariff. The commission will approve the water supply corporation's water conservation penalty if:

(1) the penalty is clearly stated in the tariff;

(2) the penalty is reasonable and does not exceed six times the minimum monthly bill in the water supply corporation's current tariff; and

(3) the water supply corporation has deposited the penalty in a separate account dedicated to enhancing water supply for the benefit of all of the water supply corporation's customers.

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

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SUBCHAPTER H. CERTIFICATES OF CONVENIENCE AND NECESSITY

16 TAC §§24.239, 24.240, 24.243

Texas Water Code §13.041(a), which provides the commission the general power to regulate and supervise the business of each public utility within its jurisdiction and to do anything specifically designated or implied by the Texas Water Code that is necessary and convenient to the exercise of that power and jurisdiction; Texas Water Code §13.041(b), which provides the commission with the authority to adopt and enforce rules reasonably required in the exercise of its powers and jurisdiction; Texas Water Code §13.043(f-1) which exempts municipal decisions regarding wholesale water or sewer service provided to another municipality that involve the amount paid for water or sewer service from the commission's appellate jurisdiction; Texas Water Code §13.301, which establishes the requirements and procedures for STM proceedings and expedited STM proceedings before the commission; Texas Water Code §13.3021, which establishes the requirements and procedures for expedited STM proceedings before the commission for certain retail public utilities; Texas Water Code §13.412(g), which establishes the list of entities that may be appointed by a court of competent jurisdiction as a receiver and authorizes a receiver to seek both the acqui-

sition of the utility under supervision and the transfer of the utility's certificate of convenience and necessity (CCN); and Texas Water Code §13.4132(a) and (a-1), which establish the list of entities that may be appointed by the commission or TCEQ as a temporary manager and expands the definition of "person" to incorporate that list of entities for purposes of that section which provides the commission with the authority to adopt and enforce rules reasonably required in the exercise of its powers and jurisdiction.

Cross reference to statutes: Texas Water Code §§ 13.041(a) and (b), 13.043(f-1), 13.301, 13.3021, 13.412(g); §13.4132(a) and (a-1).

§24.239. Sale, Transfer, Merger, Consolidation, Acquisition, Lease, or Rental.

(a) Application. A water supply or sewer service corporation or a water and sewer utility owned by an entity required to possess a certificate of convenience and necessity (CCN) must comply with this section. A municipality, district, or political subdivision may, but is not required to, comply with this section.

(b) Notice and filing requirements for commission approval of the transaction to proceed. No later than 120 days before the effective date of any sale, transfer, merger, consolidation, acquisition, lease, or rental, an applicant must file an application with the commission and give public notice of the transaction in accordance with this section. Notice is considered given under this subsection on the later of:

(1) the last date the applicant mailed the required notice as stated in the applicant's affidavit of notice; or

(2) the last date of the publication of the notice in the newspaper as stated in the affidavit of publication, if required.

(c) Transaction involving a municipal utility system. A transaction involving the sale of a municipal utility system to an entity to which this section applies must comply with this subsection. For purposes of this subsection, a municipal utility system means one or more retail water or sewer utility systems that comprise all or part of the facilities used by a municipally owned utility to provide retail water or sewer utility service. If the municipal utility system being acquired does not include all of the facilities used by the municipally owned utility to provide retail water or sewer utility service, the applicant must provide sufficient detail in its application to identify the specific retail water or utility systems and facilities being acquired.

(1) A water supply or sewer service corporation or a water and sewer utility required to possess a CCN may purchase a municipal utility system if:

(A) the sale has been authorized by a majority vote of the qualified voters of the municipality in an election held by the governing body of the municipality in the manner provided for bond elections in the municipality including, if applicable, Tex. Gov't Code Title 9, Subtitle C, Chapter 1251; or

(B) the Texas Commission on Environmental Quality (TCEQ) has issued a notice of violation to the municipality for one or more of the retail water or sewer systems that comprise the municipal utility system, and the governing body of the municipality finds by official action that the municipality is either financially or technically unable to restore the retail water or sewer system or systems to compliance with the rules or statutes cited in the notice of violation. For purposes of this section, any official written notification from the TCEQ, such as a notice of violation letter, a notice of enforcement letter, or a field citation, that a retail water or sewer system is out of compliance with a rule or statute within the TCEQ's jurisdiction will be considered a notice of violation.

(2) For a sale authorized under paragraph (1)(A) of this subsection, the applicant must include with its application documentation that the sale was authorized by a majority vote in compliance with the requirements of this section.

(3) For a sale authorized under paragraph (1)(B) of this subsection, the applicant must provide notice to the TCEQ of the transaction in writing. For a sale authorized under paragraph (1)(B) of this subsection, the applicant must also include the following information to the commission as a part of its application:

(A) a copy of the notice of violation issued by the TCEQ involving the municipal utility system;

(B) a copy of the written notice provided to the TCEQ as required by this paragraph; and

(C) documentation of the official action taken by the governing body of the municipality finding the municipality is financially or technically unable to restore the municipal utility system to compliance with the rules or statutes cited in the notice of violation.

(d) Intervention period. The intervention period for an application filed under this section must not be less than 30 days. The presiding officer may order a shorter intervention period for good cause shown.

(e) Notice.

(1) Unless notice is waived by the commission, proper notice must be given to affected customers and to other affected parties as required by the commission on the form prescribed by the commission. The notice must include the following:

(A) the name and business address of the utility currently holding the CCN (transferor) and the retail public utility or person that will acquire the facilities or CCN (transferee);

(B) a description of the requested area;

(C) the following statement: "Persons who wish to intervene in the proceeding or comment upon the action sought should contact the Public Utility Commission, P.O. Box 13326, Austin, Texas 78711-3326, or call the Public Utility Commission at (512) 936-7120 or (888) 782-8477. Hearing- and speech-impaired individuals with text telephones (TTY) may contact the commission through Relay Texas at 1-800-735-2989. The deadline for intervention in the proceeding is (date 30 days from the mailing or publication of notice, whichever occurs later, unless otherwise provided by the presiding officer). If you wish to intervene, the commission must receive your letter requesting intervention or motion to intervene by that date; and

(D) if the transferor is a nonfunctioning utility with a temporary rate in effect and the transferee is requesting that the temporary rate remain in effect under TWC §13.046(d), the following information:

(i) the temporary rates currently in effect for the nonfunctioning utility; and

(ii) the duration of time for which the transferee is requesting that the temporary rates remain in effect.

(E) if the transferor is a municipality, the notice must also provide the following information as an attachment, as applicable:

(i) If subsection (c)(1)(A) of this section applies, a statement describing the details of the authorizing election, including the date and outcome of the election and the text of the applicable ballot provision.

(ii) If subsection (c)(1)(B) of this section applies, a statement:

(I) indicating that the TCEQ has issued a notice of violation for one or more systems within the municipal utility system and that the governing board of the municipality has found that it is either financially or technically unable to restore the system to compliance with the applicable rules or statutes;

(II) providing a basic description of the violations cited in the notice of violation, including the systems involved, the nature of the violations, and the rules or statutes cited in the notice of violation; and

(III) describing the details of the official action of the governing board including the date and forum in which the official action was taken and how to locate a transcript or recording of the official action, if available.

(2) The transferee must mail the notice to cities and neighboring retail public utilities providing the same utility service whose corporate limits or certificated service area boundaries are within two miles from the outer boundary of the requested area, and any city with an extraterritorial jurisdiction that overlaps the requested area.

(3) The commission may require the transferee to publish notice once each week for two consecutive weeks in a newspaper of general circulation in each county in which the retail public utility being transferred is located. The commission may allow published notice in lieu of individual notice as required by paragraph (2) of this subsection.

(4) The commission may waive published notice if the requested area does not include unserved area, or for good cause shown.

(f) Fair market valuation. An application filed under this section for approval of a transaction that includes a fair market valuation of the transferee or the transferee's facilities must follow the process established in §24.238 of this title (relating to Fair Market Valuation).

(g) A retail public utility or person that files an application under this section to purchase, transfer, merge, acquire, lease, rent, or consolidate a utility or system must demonstrate adequate financial, managerial, and technical capability for providing continuous and adequate service to the requested area and any area already being lawfully served by the transferee, including the area in the transferee's certificated service area, as required by §24.227(a) of this chapter (relating to Criteria for Granting or Amending a Certificate of Convenience and Necessity).

(h) If the transferee cannot demonstrate adequate financial capability, the commission may require that the transferee provide financial assurance to ensure continuous and adequate retail water or sewer utility service is provided to both the requested area and any area already being served under the transferee's existing CCN. The commission will set the amount of financial assurance. The form of the financial assurance must meet the requirements of §24.11 of this title (relating to Financial Assurance). The obligation to obtain financial assurance under this title does not relieve an applicant from any requirements to obtain financial assurance to satisfy another state agency's rules.

(i) The commission will, with or without a public hearing, investigate the sale, transfer, merger, consolidation, acquisition, lease, or rental to determine whether the transaction will serve the public interest. If the commission decides to hold a hearing, or if the transferee fails either to file the application as required or, except for an expedited application under subsection (u) of this section, to provide public notice, the transaction proposed in the application may not be completed unless the commission determines that the proposed transaction serves the public interest.

(j) Before the expiration of the 120-day period described in subsection (b) of this section, the commission will determine whether to require a public hearing to determine if the transaction will serve the public interest. The commission will notify the transferee, the transferor, all intervenors, and the Office of Public Utility Counsel whether a hearing will be held. The commission may consider the following factors when determining whether a hearing is required:

(1) the application filed with the commission or the public notice was improper;

(2) the transferee has not demonstrated adequate financial, managerial, and technical capability for providing continuous and adequate service to the requested area and any area already being served under the transferee's existing CCN;

(3) the transferee has a history of:

(A) noncompliance with the requirements of the TCEQ, the commission, or the Texas Department of State Health Services; or

(B) continuing mismanagement or misuse of revenues as a utility service provider;

(4) the transferee cannot demonstrate the financial ability to provide the necessary capital investment to ensure the provision of continuous and adequate service to the requested area; or

(5) there are concerns that the transaction does not serve the public interest based on consideration of the following factors:

(A) the adequacy of service currently provided to the requested area;

(B) the need for additional service in the requested area;

(C) the effect of approving the transaction on the transferee, the transferor, and any retail public utility of the same kind already serving the area within two miles of the boundary of the requested area;

(D) the ability of the transferee to provide adequate service;

(E) the feasibility of obtaining service from an adjacent retail public utility;

(F) the financial stability of the transferee, including, if applicable, the adequacy of the debt-equity ratio of the transferee if the transaction is approved;

(G) environmental integrity;

(H) the probable improvement of service or lowering of cost to consumers in the requested area resulting from approving the transaction; and

(I) whether the transferor or the transferee has failed to comply with any commission or TCEQ order. The commission may refuse to approve a sale, transfer, merger, consolidation, acquisition, lease, or rental if conditions of a judicial decree, compliance agreement, or other enforcement order have not been substantially met.

(k) If the commission does not require a public hearing, the sale, transfer, merger, consolidation, acquisition, lease, or rental may be completed as proposed:

(1) at the end of the 120-day period described in subsection (a) of this section; or

(2) at any time after the transferee receives notice from the commission that a hearing will not be required.

(l) Within 30 days of the commission order that approves the sale, transfer, merger, consolidation, acquisition, lease, or rental to proceed as proposed, the transferee must provide a written update on the status of the transaction, and every 30 days thereafter, until the transaction is complete. The transferee must inform the commission of any material changes in its financial, managerial, and technical capability to provide continuous and adequate service to the requested area and the transferee's service area.

(m) If there are outstanding customer deposits, within 30 days of the actual effective date of the transaction, the transferor and the transferee must file with the commission, the following information supported by a notarized affidavit:

(1) the names and addresses of all customers who have a deposit on record with the transferor;

(2) the date such deposit was made;

(3) the amount of the deposit; and

(4) the unpaid interest on the deposit. All such deposits must be refunded to the customer or transferred to the transferee, along with all accrued interest.

(n) Within 30 days after the actual effective date of the transaction, the transferee and the transferor must file a signed contract, bill of sale, or other appropriate documents as evidence that the transaction has closed as proposed. The signed contract, bill of sale, or other documents, must be signed by both the transferor and the transferee. If there were outstanding customer deposits, the transferor and the transferee must also file documentation that customer deposits have been transferred or refunded to the customers with interest as required by this section.

(o) Except as otherwise provided by this section, the commission order granting approval for the transaction to proceed expires 180 days after the date the order is issued. If the transaction has not been completed within the 180-day period, the commission's approval to proceed with the transaction will expire by operation of law unless, prior to the expiration of the 180-day period, the commission in writing extends the period.

(p) If the commission does not require a hearing, and the transaction is completed as proposed, the commission may issue the final order approving the transaction.

(q) A sale, transfer, merger, consolidation, acquisition, lease, or rental of any water or sewer system or retail public utility required by law to possess a CCN, or transfer of customers or service area, owned by an entity required by law to possess a CCN that is not completed in accordance with the provisions of TWC §13.301 is void.

(r) The requirements of TWC §13.301 do not apply to:

(1) the purchase of replacement property;

(2) a transaction under TWC §13.255; or

(3) foreclosure on the physical assets of a utility.

(s) This subsection applies if a utility's facility or system is sold and the utility's facility or system was partially or wholly constructed with customer contributions in aid of construction derived from specific surcharges approved by the regulatory authority over and above revenues required for normal operating expenses and return. This subsection does not apply to a utility facility or system sold as part of a transaction where the transferor and transferee elected to use the fair market valuation process set forth in §24.238 of this title (relating to Fair Market Valuation).

(1) The utility may not sell or transfer any of its assets, its CCN, or a controlling interest in an incorporated utility, unless the utility provides a written disclosure relating to the contributions to both the transferee and the commission before the date of the sale or transfer.

(2) The disclosure must contain, at a minimum, the total dollar amount of the contributions and a statement that the contributed property or capital may not be included in invested capital or allowed depreciation expense by the regulatory authority in rate-making proceedings.

(t) For any transaction subject to this section, the retail public utility that proposes to sell, transfer, merge, acquire, lease, rent, or consolidate its facilities, customers, service area, or controlling interest must provide the other party to the transaction a copy of this section before signing an agreement to sell, transfer, merge, acquire, lease, rent, or consolidate its facilities, customers, service area, or controlling interest.

(u) Special requirements for certain transactions. For a transaction under this section that involves a nonfunctioning system to which a temporary manager has been appointed under §24.357 of this title (relating to Temporary Manager Appointment, Powers, and Duties), upon final commission approval of the transaction, the temporary manager's appointment and temporary manager's fee must be terminated.

(v) Expedited acquisition of assets. An eligible applicant may apply for the expedited acquisition of the assets and, if applicable, the certificated service area of a utility in accordance with this subsection.

(1) Eligibility. To be eligible for expedited acquisition under this subsection, an applicant must meet the criteria in subparagraphs (A) and (B) of this paragraph.

(A) Prior to filing an application for expedited acquisition, an applicant must, for the utility being acquired, be either:

(i) a person appointed by the commission or TCEQ as a temporary manager or supervisor; or

(ii) appointed as a receiver at the request of the commission or TCEQ.

(B) In addition to meeting one of the criteria under subparagraph (A) of this paragraph, an applicant must also be either:

(i) a Class A utility;

(ii) a Class B utility;

(iii) a municipally owned utility;

(iv) a county;

(v) a water supply or sewer service corporation;

(vi) a public utility agency; or

(vii) a district or river authority.

(2) Application.

(A) An application filed by an eligible applicant under paragraph (1) of this subsection must comply with the requirements of this section, except that the following are waived:

(i) any public notice requirements required by this chapter, regardless of whether the person elects to charge initial rates in accordance with §24.240 of this title or use a voluntary valuation determined under §24.238 of this title; and

(ii) as applicable, any requirements of this chapter that do not apply to an entity over which the utility commission does not have original rate jurisdiction.

(B) An applicant's appointment as a temporary manager, supervisor, or receiver of the utility subject to the application is sufficient to demonstrate adequate financial, managerial, and technical capability for providing continuous and adequate service to:

(i) the service area to be acquired; and

(ii) any areas currently certificated to the applicant or, as applicable to municipally owned utilities or districts, any areas being served by the applicant within jurisdictional boundaries.

(3) Commission approval and effects of approval.

(A) The commission will approve an application under this subsection if the commission considers the transaction to be in the public interest in accordance with the processes specified under Texas Water Code §13.246 and §13.301, and subsections (i) and (j) of this section. In determining whether the transaction is in the public interest, the commission may also consider whether the applicant is currently in compliance with commission rules, orders, and other applicable laws.

(B) The commission will approve an application under this subsection without the signature of the owner of the utility being acquired that is required by other law if the utility owner has abandoned operation of the facilities that are the subject of the transaction and cannot be located, or does not respond to an application filed under this subsection.

(C) Unless otherwise specified by §24.363 of this title (relating to Temporary Rates for Services Provided for a Nonfunctioning System), the applicant acquiring the utility may seek recovery of all used and useful invested capital and just and reasonable operations and maintenance costs incurred during the applicant's appointment term as a regulatory asset in the applicant's next comprehensive rate proceeding under §24.41 of this title (relating to Cost of Service) or system improvement charge application under §24.76 of this title (relating to System Improvement Charge).

§24.240. Water and Sewer Utility Rates After Acquisition.

(a) Applicability. This section applies to a person who files an application with the commission under Texas Water Code (TWC) §13.301(a) and a request for authorized acquisition rates under TWC §13.3011. For purposes of this section, the term "transaction" is used to align with its usage in the procedural provisions of §24.239 of this title (relating to Sale, Transfer, Merger, Consolidation, Acquisition, Lease, or Rental).

(b) Definitions. In this section, the following definitions apply unless the context indicates otherwise.

(1) Authorized acquisition rates--Initial rates that are in force and shown in a tariff filed with a regulatory authority for the transferee for another water or sewer system owned by the transferee on the date an application is filed for the acquisition of a water or sewer system under §24.239 of this title.

(2) Existing rates--Rates a transferor charged its customers under a tariff filed with a regulatory authority prior to the water system or sewer system being acquired.

(3) Initial rates--Rates charged by a transferee to the customers of an acquired water or sewer system upon final commission approval of the transaction. An initial rate may be an existing rate, an authorized acquisition rate, or a rate authorized by other applicable law.

(c) Initial Rates.

(1) A transferee must use existing rates as initial rates unless the commission authorizes, under this section or other applicable law, the use of different initial rates.

(2) A transferee may request commission approval to charge authorized acquisition rates to the customers of the water or sewer system for which the transferee seeks approval to acquire as part of an application filed in accordance with §24.239 of this title.

(3) If the transferee has in-force tariffs filed with multiple regulatory authorities, there is a rebuttable presumption that authorized acquisition rates should be based upon an in-force tariff that was approved by the same regulatory authority that has original jurisdiction over the rates charged to the acquired customers.

(4) Phased-in rates. If the in-force tariff contains rates that are phased in over time, the provisions of this paragraph apply.

(A) Unless determined otherwise by the commission, the schedule in the tariff for the effective period of each phase will be applied to the customers of the acquired water or sewer system. To moderate the effects of a rate increase on customers, the commission may approve authorized acquisition rates that start customers of the acquired water or sewer system on an earlier phase than is in place for the customers to which the tariff already applies or establish a different schedule for the effective period of each phase.

(B) The transferee's application must include financial projections, rate schedules, and billing comparisons, consistent with the requirements of subsection (d) of this section, for each phase in the in-force tariff.

(C) The commission's review of whether the authorized acquisition rates are just and reasonable under subsection (f) of this section will include an evaluation of whether the final phase of the requested rates are just and reasonable.

(5) Public interest determination. If a transaction includes a request by the transferee to charge authorized acquisition rates, the commission will consider whether approving such rates would serve the public interest.

(d) Application. In addition to other applicable requirements, a request for authorized acquisition rates in a §24.239 proceeding must include the following:

(1) a rate schedule showing the existing rates and the requested authorized acquisition rates;

(2) financial projections including a comparison of expected revenues under the acquired water or sewer system's existing rates and the requested authorized acquisition rates;

(3) a billing comparison for usage of 5,000 and 10,000 gallons at existing rates and the requested authorized acquisition rates;

(4) documentation from the most recent base rate case in which the rates that the transferee is requesting to use as authorized acquisition rates were approved; this documentation must be sufficient to allow the commission to evaluate what was included in the revenue requirement for the requested rates and, if available online, may consist solely of a web address where the documentation can be located and the applicable docket number or any other information required to locate the documentation;

(5) a disclosure of whether the transferor and transferee are or have been affiliates in the five-year period before the proposed acquisition, and the nature of each applicable affiliate relationship;

(6) additional explanation, including any applicable documentation, supporting the request to charge authorized acquisition rates, including:

(A) that the requested authorized acquisition rates would be just and reasonable rates for the customers of the acquired system and for the transferee;

(B) how approving the requested rates would change how the commission should evaluate whether the proposed transaction would serve the public interest;

(C) if the transferee has multiple eligible in-force tariffs or rate schedules, a list of eligible tariffs or rate schedules and an explanation for the tariff or rate schedules the transferee proposes to use for authorized acquisition rates;

(D) if the transferor and transferee are affiliates or have been affiliates in the five-year period before the proposed acquisition, the application must also include an explanation for why the transferee is requesting to charge authorized acquisition rates instead of using other available ratemaking proceedings.

(e) Notice requirements. Unless the commission waives notice in accordance with other applicable law, a transferee requesting approval to charge authorized acquisition rates under this section must, as part of the notice provided under §24.239 of this title, also provide notice of the information outlined in this subsection. Commission staff must incorporate this information into the notice provided to the transferee for distribution after the application is determined to be administratively complete.

(1) How intervention differs from protesting a rate increase.

(2) A rate schedule showing the existing rates and the authorized acquisition rates.

(3) A billing comparison for usage of 5,000 and 10,000 gallons at existing rates and authorized acquisition rates.

(f) Commission review. The commission will, with or without a public hearing, investigate the request for authorized acquisition rates to determine whether the requested rates are just and reasonable for the acquired customers and the transferee. That a regulatory authority has determined that the requested rates are just and reasonable for a water or sewer system to which the rates already apply is not, in itself, sufficient to conclude that the requested rates are just and reasonable for the acquired water or sewer system.

(1) Public hearing. As part of its determination on whether to require a public hearing on the proposed transaction under §24.239 of this title, the commission will also consider whether a hearing is required to determine if the requested authorized acquisition rates are just and reasonable.

(A) If the commission requires a public hearing under this section or §24.239 of this title, the request to charge authorized acquisition rates will not be approved unless the commission determines that the requested rates are just and reasonable.

(B) If the commission does not require a public hearing under this section or §24.239 of this title, and the transferee has complied with the notice provisions of this section, the request to charge authorized acquisition rates will be approved in the commission's order approving the transaction. This subparagraph does not apply if the commission does not approve the transaction.

(2) Scope of rate review. The commission will determine whether the requested rates are just and reasonable based on the relevant facts and circumstances, subject to the limitations of subparagraph (A) of this paragraph.

(A) The transferee is not required to support its request for authorized acquisition rates by initiating a rate proceeding, establishing the cost of service for the acquired water or sewer system, or establishing substantial similarity between the acquired water or sewer system and the water or sewer system to which the requested rates already apply. The transferee is also not required to defend the reasonableness of the requested rates, or any individual component of those rates, with respect to any water or sewer system to which the rates already apply.

(B) The commission may consider whether any charges or significant components of the requested authorized acquisition rates (e.g., local or system-specific charges, pass throughs, etc.) would be unjust or unreasonable if applied to the acquired water or sewer system. The commission may also consider evidence of whether the customers of the acquired water or sewer system are currently receiving continuous and adequate service. The commission may also consider evidence of whether the requested rates are generally consistent with the rates charged to similar water or sewer systems. The commission's review is not limited to the factors enumerated in this subparagraph.

§24.243. Purchase of Voting Stock or Acquisition of a Controlling Interest in a Utility.

(a) A utility may not purchase voting stock, and a person may not acquire a controlling interest, in a utility doing business in this state unless the utility or person files a written application with the commission no later than the 61st day before the date on which the transaction is to occur. A controlling interest is defined as:

(1) a person or a combination of a person and the person's family members that possess at least 50% of a utility's voting stock; or

(2) a person that controls at least 30% of a utility's voting stock and is the largest stockholder.

(b) A person acquiring a controlling interest in a utility is required to demonstrate adequate financial, managerial, and technical capability for providing continuous and adequate service to the requested area and to the person's certificated service area, if any.

(c) If the person acquiring a controlling interest cannot demonstrate adequate financial capability, the commission may require the person to provide financial assurance to ensure continuous and adequate utility service is provided to the service area. The commission will set the amount of financial assurance. The form of the financial assurance must be as specified in §24.11 of this title relating to Financial Assurance. The obligation to obtain financial assurance under this chapter does not relieve an applicant from any requirements to obtain financial assurance in satisfaction of another state agency's rules.

(d) The commission may require a public hearing on the transaction if a criterion prescribed by §24.239 of this title relating to Sale, Transfer, Merger, Consolidation, Acquisition, Lease, or Rental applies.

(e) Unless the commission requires that a public hearing be held, the purchase or acquisition may be completed as proposed:

(1) at the end of the 60-day period; or

(2) at any time after the commission notifies the person or utility that a hearing will not be required.

(f) If a hearing is required or if the person or utility fails to make the application to the commission as required, the purchase of

voting stock or acquisition of a controlling interest may not be completed unless the commission determines that the proposed transaction serves the public interest. A purchase or acquisition that is not completed in accordance with the provisions of this section is void.

(g) The utility or person must notify the commission within 30 days after the date that the transaction is completed.

(h) Within 30 days of the commission order that allows a utility's purchase of voting stock or a person's acquisition of a controlling interest to proceed as proposed, the utility purchasing voting stock or the person acquiring a controlling interest must file a written update on the status of the transaction. A written update must also be filed every 30 days thereafter, until the transaction has been completed.

(i) Except as otherwise provided by this section, the commission order granting approval for the transaction to proceed expires 180 days after the date the order is issued. If the transaction has not been completed within the 180-day period, the commission's approval to proceed with the transaction will expire by operation of law unless, prior to the expiration of the 180-day period, the commission in writing extends the period.

(j) Expedited acquisition of voting stock or controlling interest. An eligible applicant may apply for the expedited acquisition of the voting stock or controlling interest and, if applicable, the certificated service area of a utility in accordance with this subsection.

(1) Eligibility. To be eligible for expedited acquisition under this subsection, an applicant must meet the criteria in subparagraphs (A) and (B) of this paragraph.

(A) Prior to filing an application for expedited acquisition, an applicant must, for the utility being acquired, be either:

(i) a person appointed by the commission or TCEQ as a temporary manager or supervisor; or

(ii) appointed as a receiver at the request of the commission or TCEQ.

(B) In addition to meeting one of the criteria under subparagraph (A) of this paragraph, an applicant must also be either:

(i) a Class A utility;

(ii) a Class B utility;

(iii) a municipally owned utility;

(iv) a county;

(v) a water supply or sewer service corporation;

(vi) a public utility agency; or

(vii) a district or river authority.

(2) Application.

(A) An application filed by an eligible applicant under paragraph (1) of this subsection must comply with the requirements of this section, except that the following are waived:

(i) any public notice requirements required by this chapter, regardless of whether the person elects to charge initial rates in accordance with §24.240 of this title (relating to Water and Sewer Utility Rates After Acquisition) or use a voluntary valuation determined under §24.238 of this title (relating to Fair Market Valuation); and

(ii) as applicable, any requirements of this chapter that do not apply to an entity over which the commission does not have original rate jurisdiction.

(B) An applicant's appointment as a temporary manager, supervisor, or receiver of the utility subject to the application is sufficient to demonstrate adequate financial, managerial, and technical capability for providing continuous and adequate service to:

(i) the service area to be acquired; and

(ii) any areas currently certificated to the applicant or, as applicable to municipally owned utilities or districts, any areas being served by the applicant.

(3) Commission approval and effects of approval.

(A) The commission will approve an application under this subsection if the commission considers the transaction to be in the public interest in accordance with the processes specified under Texas Water Code §13.246 and §13.301. In determining whether the transaction is in the public interest, the commission may also consider whether the applicant is currently in compliance with commission rules, orders, and other applicable law.

(B) The commission will approve an application under this subsection without the signature of the owner of the utility being acquired that is required by other law if the utility owner has abandoned operation of the facilities that are the subject of the transaction and cannot be located, or does not respond to an application filed under this subsection.

(C) Unless otherwise specified by §24.363 of this title (relating to Temporary Rates for Services Provided for a Nonfunctioning System), the applicant acquiring the utility may seek recovery of all used and useful invested capital and just and reasonable operations and maintenance costs incurred during the applicant's appointment term as a regulatory asset in the applicant's next comprehensive rate proceeding under §24.41 of this title (relating to Cost of Service) or system improvement charge application under §24.76 of this title (relating to System Improvement Charge).

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

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SUBCHAPTER K. ENFORCEMENT, SUPERVISION, AND RECEIVERSHIP

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Texas Water Code §13.041(a), which provides the commission the general power to regulate and supervise the business of each public utility within its jurisdiction and to do anything specifically designated or implied by the Texas Water Code that is necessary and convenient to the exercise of that power and jurisdiction; Texas Water Code §13.041(b), which provides the commission with the authority to adopt and enforce rules reasonably required in the exercise of its powers and jurisdiction; Texas Water

Code §13.043(f-1) which exempts municipal decisions regarding wholesale water or sewer service provided to another municipality that involve the amount paid for water or sewer service from the commission's appellate jurisdiction; Texas Water Code §13.301, which establishes the requirements and procedures for STM proceedings and expedited STM proceedings before the commission; Texas Water Code §13.3021, which establishes the requirements and procedures for expedited STM proceedings before the commission for certain retail public utilities; Texas Water Code §13.412(g), which establishes the list of entities that may be appointed by a court of competent jurisdiction as a receiver and authorizes a receiver to seek both the acquisition of the utility under supervision and the transfer of the utility's certificate of convenience and necessity (CCN); and Texas Water Code §13.4132(a) and (a-1), which establish the list of entities that may be appointed by the commission or TCEQ as a temporary manager and expands the definition of "person" to incorporate that list of entities for purposes of that section which provides the commission with the authority to adopt and enforce rules reasonably required in the exercise of its powers and jurisdiction.

Cross reference to statutes: Texas Water Code §§ 13.041(a) and (b), 13.043(f-1), 13.301, 13.3021, 13.412(g); §13.4132(a) and (a-1).

§24.357. Operation of a Utility by a Temporary Manager.

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

(1) Person--a natural person, a partnership of two or more persons having a joint or common interest, a mutual or cooperative association, a water supply or sewer service corporation, a corporation, a municipally owned utility, a county, a public utility agency, or a district or authority created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution.

(2) Temporary manager--a willing person appointed by the commission or the Texas Commission on Environmental Quality to temporarily manage and operate a utility.

(b) The commission may appoint a willing person to temporarily manage and operate a utility that has discontinued or abandoned operations or the provision of service, or which has been or is being referred to the attorney general for the appointment of a receiver under TWC §13.412.

(c) A person appointed under this section has the powers and duties necessary to ensure the continued operation of the utility and the provision of continuous and adequate service to customers, including the power and duty to:

(1) read meters;

(2) bill for utility services;

(3) collect revenues;

(4) disburse funds;

(5) request rate increases if needed;

(6) access all system components;

(7) conduct required sampling;

(8) make necessary repairs; and

(9) perform other acts necessary to assure continuous and adequate utility service as authorized by the commission.

(d) Upon appointment by the commission, the temporary manager will post financial assurance with the commission in an amount and type acceptable to the commission. The temporary manager or the executive director may request waiver of the financial assurance requirements or may request substitution of some other form of collateral as a means of ensuring the continued performance of the temporary manager.

(e) The temporary manager must serve a term of 180 days, unless:

(1) specified otherwise by the commission;

(2) an extension is requested by the commission staff or the temporary manager and granted by the commission;

(3) the temporary manager is discharged from his responsibilities by the commission; or,

(4) a superseding action is taken by an appropriate court on the appointment of a receiver at the request of the attorney general.

(f) Within 60 days after appointment, a temporary manager must return to the commission an inventory of all utility property.

(g) Compensation for the temporary manager will come from utility revenues and will be set by the commission at the time of appointment. The commission may adjust the compensation for the temporary manager as it deems necessary.

(h) The temporary manager must collect the assets and carry on the business of the utility and shall use the revenues and assets of the utility in the best interests of the customers to ensure that continuous and adequate utility service is provided. The temporary manager must give priority to expenses incurred in normal utility operations and for repairs and improvements made since being appointed temporary manager.

(i) The temporary manager shall report to the commission on a monthly basis. This report shall include:

(1) an income statement for the reporting period;

(2) a summary of utility activities such as improvements or major repairs made, number of connections added, and amount of water produced or treated; and

(3) any other information required by the commission.

(j) During the period in which the utility is managed by the temporary manager, the certificate of convenience and necessity shall remain in the name of the utility owner; however, the temporary manager assumes the obligations for operating within all legal requirements.

§24.363. Temporary Rates for Services Provided for a Nonfunctioning System.

(a) Notwithstanding other provisions of this chapter, upon sending written notice to the commission, a retail public utility other than a municipally owned utility or a water and sewer utility subject to the original rate jurisdiction of a municipality that takes over the provision of services for a nonfunctioning retail public water or sewer utility service provider may immediately begin charging the customers of the nonfunctioning system a temporary rate to recover the reasonable costs incurred for interconnection or other costs incurred in making services available and any other reasonable costs incurred to bring the nonfunctioning system into compliance with commission rules.

(b) Notice of the temporary rate must be provided to the customers of the nonfunctioning system no later than the first bill which includes the temporary rates.

(c) Within 90 days of receiving notice of the temporary rate increase, the commission will issue an order regarding the reasonableness of the temporary rates. In making the determination, the commission will consider information submitted by the retail public utility taking over the provision of service, the customers of the nonfunctioning system, or any other affected person.

(d) At the time the commission approves an acquisition of a nonfunctioning retail water or sewer utility service provider under Texas Water Code (TWC) §13.301, the commission must:

(1) determine the duration of the temporary rates to the retail public utility, which must be for a reasonable period; and

(2) rule on the reasonableness of the temporary rates under subsection (a) of this section if the commission did not make a ruling before the application was filed under TWC §13.301.

(e) Regulatory asset. This section applies only to an expedited sale, transfer, or merger application under §24.239 of this title (relating to Sale, Transfer, Merger, Consolidation, Acquisition, Lease, or Rental) or §24.243 of this title (relating to Purchase of Voting Stock or Acquisition of a Controlling Interest in a Utility).

(1) If a temporary rate is adopted during the term of a person's temporary management, receivership, or supervision of a utility, then the person's used and useful invested capital and just and reasonable operations and maintenance costs that are incurred by the person during the person's appointment as temporary manager, receiver, or supervisor that are in excess of the costs covered by the temporary rate are considered to be a regulatory asset.

(2) This regulatory asset is eligible for recovery in the person's next comprehensive rate proceeding or system improvement charge application and will be reviewed for prudence in the utility's next comprehensive base rate proceeding.

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 25. SUBSTANTIVE RULES APPLICABLE TO ELECTRIC SERVICE PROVIDERS

The Public Utility Commission of Texas (commission) adopts amended 16 Texas Administrative Code (TAC) §25.5, relating to Definitions, §25.181, relating to Energy Efficiency Goal, and §25.182, relating to Energy Efficiency Cost Recovery Factor. The commission adopts these rules with changes to the proposed text as published in the September 5, 2025 issue of the *Texas Register* (50 TexReg 5833). Adopted amendments to §25.181 change ERCOT's calculations of the avoided cost of energy and the deadline by which ERCOT files these calculations with the commission. The amendments also clarify the distinction between a targeted low-income program and a program for hard-to-reach customers. Adopted amendments to §25.182 reduce the maximum utility incentive a utility can receive. Other amendments to these rules include changes to definitions in both §25.5 and §25.181 and minor and conforming changes. The rules will be republished.

The commission received comments on the proposed rule from AEP Texas Inc. (AEP Texas), the American Council for an Energy-Efficient Economy (ACEEE), CenterPoint Energy Houston Electric, LLC (CenterPoint), the City of Houston (Houston), El Paso Electric Company, Entergy Texas, Inc., Southwestern Electric Power Company, and Southwestern Public Service Company (collectively, Joint Utilities), the Lone Star Chapter of the Sierra Club (Sierra Club), the Office of Public Utility Counsel (OPUC), Oncor Electric Delivery Company, LLC (Oncor), the South-Central Partnership for Energy Efficiency as a Resource (SPEER), the Steering Committee of Cities Served by Oncor (OCSC), Texas-New Mexico Power Company (TNMP), and Vistra Corporate Service Company, LLC (Vistra).

General Comments

Sierra Club filed general comments urging the commission to undertake a more comprehensive rulemaking. Several hundred Sierra Club members signed this petition. In addition, approximately 250 Sierra Club members submitted individual comments in connection with this petition. The individual commenters raised concerns about energy costs, climate change, and electric utilities in general, and supported use of renewable sources of electricity and protect the environment.

Commission Response

Comments requesting that the commission undertake a comprehensive rulemaking are beyond the scope of the current rulemaking. The current rulemaking's scope is limited to consideration of the proposed rule amendments, additional modifications to the rules that are reasonably related to the proposed changes, and other minor and nonsubstantive amendments. However, the commission will begin a comprehensive rulemaking process after these amendments are adopted.

In addition, comments concerning energy costs, climate change, electric utilities in general, renewable sources of electricity, and environmental protection are beyond the scope of the rules included in this rulemaking.

Changes in commission's approach to low-income and hard-to-reach customers

Proposed §§25.181(c)(17) and 25.181(e)(3)(F)- Definition of "hard-to-reach" and demand reduction requirement for hard-to-reach customers

Proposed §25.181(c)(17) defines "hard-to-reach" as a customer that either has a primary residence in an area with fewer than 2,000 housing units or a total population of 5,000 or less; or has a primary residence or owns a small business in an area where the utility is unable to effectively administer an energy efficiency program due to energy efficiency market barriers. Proposed §25.181(e)(3)(F) requires a utility to achieve at least five percent of its demand reduction goal through savings achieved through programs for hard-to-reach customers; in addition, a utility that operates in an area in which customer choice is not offered may achieve this requirement through a program designed for low-income customers.

OPUC, Sierra Club, SPEER, ACEEE, and OCSC supported the proposed definition, and AEP Texas, CenterPoint, Oncor, TNMP, and Joint Utilities commented that low-income customers should continue to be included in the definition of "hard-to-reach." Specifically, the utilities commented that they have based their hard-to-reach programs on serving low-income customers since the inception of the hard-to-reach concept in the commission's energy efficiency rule, and that a policy shift such as the one in the proposed rule will have a drastic negative effect on their ability to achieve their hard-to-reach goals.

AEP Texas suggested that the commission clarify the term "area" because this term is vague. Vistra commented that "limited access to an energy efficiency contractor or energy efficiency service provider" in §25.181(c)(17)(B) is too vague, subjective, and challenging to verify and recommended deleting the entire subparagraph. OCSC also noted that "area" and "effectively administer an energy efficiency program" are ambiguous and would be difficult for utilities and commission staff to verify and recommended that the proposed rule be modified to require a utility to provide evidence in its energy efficiency cost recovery factor (EECRF) application as to why an area is hard to reach.

Vistra argued that the change from an income-based definition to a definition based on demographic restrictions or limited access to a service provider could include unintended customers. Specifically, Vistra argued that the amended definition will likely include a large, rural landowner who, under the existing definition, would have been excluded from eligibility as a hard-to-reach customer.

Oncor suggested that if the commission adopts the proposed revision, it should phase in the change over time to allow utilities sufficient time to design new programs, identify new program delivery channels, and implement this change.

The utilities provided redlines consistent with their comments.

Commission Response

The commission agrees that low-income customers, who have historically been served by hard-to-reach programs, should continue to be included as potential hard-to-reach customers. Therefore, the commission modifies the definition of "hard-to-reach" in adopted §25.181(c)(17) to include low-income as a category of hard-to-reach. However, the adopted rule also maintains the expanded proposed definition of "hard-to-reach" so that utilities can expand their programs beyond the traditionally served low-income customers to those that may not have been served historically. Under the modified definition, a large, rural landowner could be a hard-to-reach customer, and this outcome is intended.

The commission also agrees with comments regarding the clarity of the term "area" in the proposed definition and modifies the definition to describe a "county, city, or unincorporated area." For clarity, the commission further modifies the definition to describe a hard-to-reach customer as one that the utility has been unable to serve in at least one of the past five years due to lack of available energy efficiency contractors or energy efficiency service providers.

Lastly, the commission modifies the definition to replace the term "small business" with "a commercial customer with a peak load less than 50 kW that is not a government entity and not a subsidiary of a corporation." Section 25.181 defines "commercial customer" as "a non-residential customer taking service at a point of delivery at a distribution voltage under an electric utility's tariff during the prior program year or a non-profit customer or government entity, including an educational institution." The modified definition of "hard-to-reach" limits the hard-to-reach commercial customer to non-government entities. In addition, the commission agrees with commenters that recommended that a small business be identified by its peak load. However, the adopted rule limits a hard-to-reach commercial customer to a peak load less than 50 kW because under §25.181, 50 kW is the minimum load for a commercial customer to be its own energy efficiency service provider.

With these modifications to the proposed definition, a phase-in period for the changes to take effect is unnecessary.

Proposed §25.181(c)(25)- Definition of "low-income"

Proposed §25.181(c)(25) defines "low-income" as describing a customer that either meets the criteria for low-income based on a calculation of 80% of the area median income, or resides in a household in which at least one person receives economic assistance through a program listed in the Texas technical reference manual (TRM) for the applicable program year. Existing §25.5 also includes a definition for "low-income customer" that is based on whether the customer qualifies for the Supplemental Nutrition Assistance Program or medical assistance from a state agency.

OPUC, Sierra Club, and SPEER supported the proposal. OCSC and Vistra commented that there should be consistency between the definitions in §25.5 and §25.181. TNMP commented that the proposed definition is overly restrictive and suggested that the definition be more inclusive of different types of low-income households. AEP Texas, Joint Utilities and Oncor were unopposed to changing from a low-income standard set by the United States Department of Health and Human Services (HHS)--200% of the federal poverty level--to the low-income standard set by the United States Department of Housing and Urban Development (HUD)--80% of area median income. However, AEP Texas and Joint Utilities suggested that the commission retain the ability for a utility to identify a low-income customer through a geographic indicator, such as location in a HUD-qualifying low-income census tract or block. This geographic qualifier already exists in the TRM as a way to identify a low-income customer. CenterPoint recommended that the commission provide a 12-month transition period to allow utilities to update program design, tracking, and reporting systems.

ACEEE recommended that the definition provide categorical eligibility to customers who qualify as low income through assistance programs, such as the Low-Income Home Energy Assistance Program, Supplemental Nutrition Assistance Program, Supplemental Security Income, and others.

AEP Texas, Joint Utilities, Oncor, and TNMP provided redlines consistent with their comments.

Commission Response

The commission agrees that the adopted rules should clearly delineate the difference between the two similar, though not identical, terms. The term "low-income customer," defined in §25.5, is used exclusively in §25.45, relating to Low-Income List Administrator. The customers qualified for programs under §25.45 are a subset of the customers qualified for programs described in §25.181. The definition of "low-income" in §25.181 is intentionally more expansive than the definition of a "low-income customer" in §25.5, so that a utility can reach more customers through a targeted low-income energy efficiency program or a

hard-to-reach program. Therefore, the commission declines to modify the proposed definition for consistency between the two sections. In addition, the commission declines to modify the rule to adopt ACEEE's suggestion because the adopted rule refers to programs mentioned by ACEEE in paragraph (B).

However, the commission agrees that the rule should allow a low-income customer to be identified through residence in a HUD-qualifying low-income census tract or block and modifies the definition accordingly.

With these modifications to the proposed definition, a phase-in period for the changes to take effect is unnecessary.

Proposed §25.181(p)--Targeted low-income energy efficiency program

Proposed §25.181(p) describes the requirements for a targeted low-income energy efficiency program. Existing §25.181 requires an ERCOT utility, and allows a non-ERCOT utility, to provide a targeted low-income energy efficiency program. Annual expenditures for the targeted low-income energy efficiency program must be at least 10% of a utility's energy efficiency budget for the program year.

In conjunction with edits to the definitions of a low-income customer and a hard-to-reach customer in §25.181(c), the commission modifies this subsection to clarify requirements for a targeted low-income energy efficiency program. First, paragraph (1) and its subparagraphs apply to all utilities that offer a targeted low-income energy efficiency program. Paragraph (2) and its subparagraphs apply only to ERCOT utilities, and requirements from PURA §39.905 are described in this paragraph. Second, the commission clarifies in paragraph (1)(C) that, although a utility may shift funds from a targeted low-income energy efficiency program to a hard-to-reach program after July of a program year, such funds may not be used to satisfy the requirement for a utility to spend 10% of its budget on a targeted low-income energy efficiency program. Third, the commission adds paragraph (1)(D) to clarify that demand reduction achieved through a targeted low-income energy efficiency program may not be used to satisfy the hard-to-reach demand reduction requirement in §25.181(e)(3)(F).

Definitions

Existing §25.181(c)(17) and §25.5(46)- Definition of "energy efficiency service provider"

The proposed rule strikes existing §25.181(c)(17), the definition of "energy efficiency service provider (EESP)," because this term is already defined at §25.5(46). However, the definitions in the two sections differ; specifically, in §25.181, the struck definition states that a commercial customer that serves as an energy efficiency service provider must have a peak load equal to or greater than 50 kW, and that an energy efficiency service provider may also be a governmental entity or a non-profit organization, but may not be an electric utility.

TNMP, Oncor, Joint Utilities, and AEP Texas suggested that the commission retain the definition of EESP because it is frequently used throughout §25.181 and for clarity and ease of reference. Specifically, Oncor noted that §25.181(s) indicates that a commercial customer with a peak load exceeding 50 kW can itself be an energy efficiency provider, a provision that is also included in the definition of EESP. However, Oncor stated that having this provision in a definition, rather than in §25.181(s), would be helpful, and that the current definition also includes other categories of entities. OCSC commented that EESP is also defined in §25.5, but that the differences between the two definitions are significant enough that the parts that had been included in §25.181 should be retained, either in §25.5 or in §25.181.

Commission Response

The commission agrees that the definition of "energy efficiency service provider" in existing §25.181 is necessary and helpful and modifies §25.181(c) to restore this definition. In addition, the commission removes the same definition from §25.5 because it is superfluous.

Proposed §25.5(124)- Definition of "small business"

Proposed §25.5(124) defines "small business" as a legal entity, including a corporation, partnership, or sole proprietorship, that: (A) is formed for the purpose of making a profit; (B) is independently owned and operated; and (C) has fewer than 100 employees or less than $6 million in annual gross receipts.

AEP Texas, CenterPoint, and Joint Utilities suggested striking proposed §25.5(124)(A) and (B) because they asserted that this information would be difficult for a utility, program implementer, or program participant to verify. Similarly, TNMP suggested striking (A), (B), and (C) of the proposed definition. On the other hand, Oncor suggested connecting proposed (A), (B), and (C) with "or" instead of "and." Each utility also suggested adding a new paragraph defining a small business based on average monthly demand. AEP Texas, CenterPoint, Joint Utilities and Oncor recommended 100 kW as the maximum average monthly demand, and TNMP recommended 200 kW as the maximum.

TNMP also suggested that the commission not limit the definition of small business to for-profit companies.

Commission Response

The commission has modified the definition of "hard-to-reach" to eliminate the use of the term "small business." For this reason, the term "small business" does not need to be defined and is removed.

Proposed §25.5(78)- Definition of "new on-site generation"

Proposed §25.5(78) includes a reference to the Texas Natural Resource Conservation Commission (TNRCC).

Sierra Club included a clerical edit to change TNRCC to the Texas Commission on Environmental Quality because that is the current name of the commission that fulfills the function in this definition.

Commission Response

The commission agrees and modifies the rule accordingly.

Proposed §25.181(c)(32)- Definition of "peak demand"

Proposed §25.181(c)(32) strikes the following sentence from the definition of "peak demand": "Peak demand refers to Texas retail peak demand and, therefore, does not include demand of retail customers in other states or wholesale customers."

Joint Utilities and OCSC recommended that the definition continue to include the struck sentence. Joint Utilities cited clarity for this edit, and OCSC cited certainty.

Commission Response

The commission disagrees that the sentence should be reinstated for clarity. The limitation is already addressed in §25.181(e)(3)(A).

Proposed §25.181(c)(33)- Definition of "peak period"

Proposed §25.181(c)(33) strikes the exclusion of weekends and Federal holidays in the definition of "peak period."

TNMP, Oncor, Joint Utilities, and AEP Texas opposed this proposed revision. TNMP stated that the change could have a wide-ranging impact on calculation of savings and require costly recalculations for evaluation, measurement, and verification (EM&V) and suggested that this change be considered at length. Oncor, Joint Utilities, and AEP Texas stated that the proposed revision directly conflicts with the Texas Technical Reference Manual (TRM)'s calculation method for demand savings--Oncor specifically cited Volume 1, Section 4 of the TRM. Joint Utilities also stated that the proposed revision is contrary to known industry standard practice.

Commission Response

The commission declines to modify the proposed rule. However, the schedule for implementation of this amendment will account for necessary changes to the TRM in 2026. The commission modifies subsection (o)(6)(F) of the proposed rule to state that for program year (PY) 2026, a utility must use the peak period calculation method outlined in the TRM adopted in 2025. The commission also modifies the same provision to state that, starting with PY2027, a utility must use the peak period calculation method outlined in the most recently adopted TRM.

Existing §25.181(c)(35)- Definition of "load control"

The proposed rule strikes existing §25.181(c)(35), the definition of "load control," because the only place in the rule where the term appears is in the definition of "load management."

OCSC opposed removal of this definition because load control is a type of load management, and utilities may still include load control programs in their energy efficiency plans.

Commission Response

The commission declines to modify the proposed rule. The adopted rule does not preclude a utility from including a load control program in its energy efficiency plan.

Proposed §25.181(c)(35)- Definition of "projected savings"

Proposed §25.181(c)(35) defines "projected savings" as the "estimated program or portfolio savings reported by an electric utility for planning purposes."

OCSC recommended adding "energy or demand" before "savings" because, it asserted, the term "savings" is too broad and could mean a multitude of things.

Commission Response

The commission agrees and adds "demand reduction or energy" to modify "savings" in the definition.

Proposed §25.181(c)(7)- Definition of "deemed savings value"

Proposed §25.181(c)(7) uses the phrase "energy or demand savings" in the first sentence and "energy and peak demand savings" in the second sentence.

OCSC suggested a clerical edit to change "and" to "or" in the second sentence for consistency with the first sentence and with the definition of "deemed savings calculation."

Commission Response

The commission agrees and modifies the rule accordingly.

Proposed §25.181(c)(24)- Definition of "load management"

Proposed §25.181(c)(24) defines "load management" as "Activities that result in a reduction in peak demand, or a shifting of energy usage from a peak to an off-peak period or from high-price periods to lower price periods."

OCSC recommended adding "temporary" to the definition, so that the definition would read, "Activities that result in a temporary reduction in peak demand. . . ." OCSC reasoned that reductions in peak demand from load management are temporary, not a permanent reduction, and that the definition should reflect the temporary result.

Commission Response

Although the commission agrees that adding "temporary" to the definition would reflect reality, this provision was not substantively edited in the proposal, and substantive modifications, such as OCSC's suggestion, are beyond the scope of the proposal.

Proposed §25.181(d)(2)- Avoided cost of capacity

Proposed §25.181(d)(2) requires the avoided cost of capacity to be established as described in the subparagraphs and clauses within (d)(2) of the proposed rule.

Vistra commented that the avoided cost of capacity should be removed from the rule as part of the cost-effectiveness standard because customers who save energy through demand reduction and other energy efficiency activities avoid energy costs but not capacity costs, and this is because the current ERCOT market design does not ascribe value to generation capacity.

Commission Response

The commission declines to adopt the recommended modification because it is beyond the scope of this rulemaking.

Proposed §25.181(d)(2)(A)- Filing date of avoided cost of capacity

Proposed §25.181(d)(2)(A) requires the avoided cost of capacity to be filed by November 1 of each year.

Joint Utilities suggested that the avoided cost of capacity be filed at the same time of year that the proposed rule requires that the avoided cost of energy be filed, April 1.

Commission Response

The commission declines to adopt the recommended modification because it is beyond the scope of this rulemaking.

Proposed §25.181(d)(3)(A)- Avoided cost of energy

Proposed §25.181(d)(3)(A) requires ERCOT to file its calculation of the avoided cost of energy for the upcoming calendar year by April 1 of each year. Subsection (d)(3)(A) of the proposed rule also requires ERCOT to use seven years of data in its calculation.

Filing date

ACEEE, Sierra Club, SPEER, and Houston supported the proposed revision to the filing date. CenterPoint, Joint Utilities, TNMP, and Oncor suggested moving the effective date of the avoided cost of energy rather than the filing date. Those parties recommended making the avoided cost of energy effective the January 1 that falls 14 months after its filing date.

Commission Response

The commission agrees that additional time between the filing date and effective date for avoided cost of energy would be beneficial. An additional seven months is sufficient to realize this

benefit. Commenters were not persuasive that extending what is currently a two-month process to fourteen months is reasonable. The commission therefore declines to modify the proposed rule.

Avoided cost of energy calculations

CenterPoint, OPUC, Sierra Club, SPEER, and Houston, and OCSC supported the proposed revision to use seven years of data, although OCSC recommended explicitly excluding data from Winter Storm Uri. Joint Utilities did not oppose the proposed revision but recommended using five years of data instead. AEP Texas and TNMP also recommended using five years of data. Commenters recommending five years reasoned that the avoided cost of energy calculation should align with the five-year requirement in §25.181(e)(3)(A) for calculation of the demand reduction goal.

Commission Response

The commission declines to modify the proposed rule to require ERCOT to use five years of data to calculate the avoided cost of energy.

The concept of avoided cost of energy differs from the concept of estimating load growth that occurred strictly in the past. The avoided cost of energy is calculated as a lookback on what the utility, or the customer, might have spent on energy costs but for the energy efficiency programs that the utility offers to its customers. However, the benefits to the customer do not end with the purchase or installation of an energy efficiency measure. The benefits extend to the estimated useful life of the measure, which in some cases is ten or 15 years into the future. Because ERCOT's data retention is only seven years in the past, it can only approximate the avoided cost to the customer, but it is the best approximation the commission has access to at this time. Furthermore, the more years that are used to calculate the avoided cost of energy, the less it will fluctuate from year to year, providing more certainty for the year-over-year cost-benefit ratio calculations and for a utility planning its programs for the year ahead.

The commission also agrees with OCSC that any data associated with Winter Storm Uri should be excluded from the calculation of the avoided cost of energy. The commission found in Docket Number 52871, Commission Staff's Petition for a Good Cause Exception to 16 Texas Administrative Code §25.181(d)(3)(A) and to Set the Avoided Cost of Energy under §25.181(d)(3)(A) for 2022 Electric Utility Energy Efficiency Programs, that the unique circumstances caused by Winter Storm Uri constituted good cause to reduce the avoided cost of energy for the 2022 program year. Consistent with that finding, the commission modifies the proposed rule language.

Proposed §25.181(e)(3)(F)- Hard-to-reach goal and non-ERCOT utilities

Proposed §25.181(e)(3)(F) allows a utility that operates in an area in which customer choice is not offered to achieve the hard-to-reach goal through a program designed for low-income customers.

Sierra Club stated that it supported giving flexibility to utilities that operate in the ERCOT competitive market.

Commission Response

Proposed §25.181(e)(3)(F) does not apply to utilities that operate in the ERCOT market.

However, because the commission modifies the definition of "hard-to-reach" in adopted §25.181(c)(17) to include a low-income customer, the commission strikes the provision in (e)(3)(F) of the proposed rule that would allow a non-ERCOT utility to achieve its hard-to-reach requirement through a program designed for low-income customers.

Proposed §§25.181(e)(3)(F) and 25.181(p)(1)- Hard-to-reach and low-income goals

Proposed §25.181(e)(3)(F) requires a utility to achieve at least 5.0% of its total demand reduction goal through savings achieved through programs for hard-to-reach customers. Proposed §25.181(p)(1) requires a utility to spend at least 10% of its annual budget on a targeted low-income energy efficiency program.

Sierra Club recommended increasing the low-income budget requirement from 10% to 20% of a utility's annual budget.

Commission Response

The commission declines to adopt the recommended modification because it is beyond the scope of this rulemaking.

Proposed §25.181(l)- Commission-prescribed Excel form

Proposed §25.181(l) requires a utility's energy efficiency plan and report (EEPR) to include a completed attachment based on the commission-prescribed Excel template in addition to the EEPR content already required by the rule.

Joint Utilities and TNMP filed an Excel template for all EEPR tables that they recommended the commission adopt in place of the proposed summary Excel tables, and AEP Texas supported the adoption of this Excel template. CenterPoint and Sierra Club supported the proposed template and filing requirements.

Commission Response

The commission declines to adopt the recommended template. Development of a full EEPR template is outside the scope of this rulemaking. The Excel template in the adopted rule is an additional summary of the information in the annual EEPR filings, not a replacement of what the existing rule requires.

Proposed §25.182(d)- Cost effectiveness at the program or portfolio level

Proposed §25.182(d) requires a utility to provide a portfolio of cost-effective energy efficiency programs.

TNMP stated that the commission should require a utility to provide a cost-effective portfolio of energy efficiency programs, not a portfolio of cost-effective energy efficiency programs.

Commission Response

The commission declines to adopt the suggested modification because it is a substantive change that is not reasonably related to the proposed changes.

Proposed §25.182(d)(7)- Historical cost caps

The proposed rule strikes §25.182(d)(7)(A), which was the residential cost cap for program year 2018, and (d)(7)(B), which was the commercial cost cap for program year 2018.

TNMP and Oncor recommended that the commission maintain §25.182(d)(7)(A) and (B) for historical lookback purposes.

Commission Response

The commission agrees that the historical cost caps should be maintained and modifies the rule accordingly.

Proposed §§25.181 and 25.182- Shareholder bonus or utility incentive

Throughout proposed §§25.181 and 25.182, the proposal replaces the term "shareholder bonus" with the term "utility incentive."

TNMP recommended that the commission maintain the term "shareholder bonus" where it appears in the existing rule because "shareholder bonus" is consistent with PURA §39.905(b)(4).

Commission Response

The commission disagrees with the recommendation. The term "shareholder bonus" appears in PURA §39.905(b)(4); however, PURA §39.905(b)(2) requires the commission to "adopt rules and procedures to ensure that the utilities can achieve the goal of this section, including establishing an incentive . . . to reward utilities . . . that exceed the minimum goals established by this section" (emphasis added). The commission finds the term "utility incentive" to be better aligned with the statute's mandate to the commission.

In addition, the commission modifies §25.181(u) to correct one instance where "shareholder bonus" appears in the proposal.

Proposed §25.182(e)(3)- Utility incentive

Proposed §25.182(e)(3) states that a utility that exceeds 100% of its demand and energy reduction goals may receive a utility incentive, reduces the maximum utility incentive a utility may receive to 5% of net benefits, rather than 10%, and allows the commission to further limit the maximum utility incentive a utility may receive for good cause.

Amendment of "shall" to "may"

AEP Texas, CenterPoint, Joint Utilities, TNMP, and Oncor opposed changing "shall" to "may" in the proposed rule. The utilities reasoned that PURA §39.905(b)(2) requires the commission "to establish an incentive . . . to reward utilities administering programs under this section that exceed the minimum goals established by this section," and that this language gives the commission no discretion whether to award an incentive to a utility that has earned one.

ACEEE supported the proposed rule language.

Commission Response

The intent of that proposed revision was concision and clarity, not to change the meaning of the rule. Therefore, the commission modifies the provision to state that if a utility exceeds its demand reduction goal, it will receive a utility incentive.

Reduction of maximum utility incentive from 10% to 5% of net benefits

AEP Texas, CenterPoint, Joint Utilities, TNMP, and Oncor opposed reducing the maximum utility incentive to 5% of net benefits, preferring instead to maintain the existing 10% maximum. Generally, the utilities were concerned that a change from 10% to 5% is an unreasonable and drastic cut that reduces the incentive's effectiveness as a policy tool. AEP Texas stated that the proposed change would decrease a utility's motivation to exceed its minimum goals and reduce the financial justification for investing in additional measures, technologies, and partnerships that drive performance beyond compliance. Oncor, Joint Utilities, and AEP Texas believed that the change in the number of years of data included in the avoided cost of energy calculation in proposed §25.181(d)(3)(A) would reduce the maximum utility incentive a utility can collect by an amount significant enough that the reduction from 10% to 5% of net benefits would not be needed. TNMP and Oncor stated that a reduction to 8% would be acceptable; Oncor noted that, under the proposed revision, a utility's incentive would be reduced by more than it would have under commission staff's proposal in Docket Number 57172. Oncor additionally argued that such a significant reduction to the maximum utility incentive would be more appropriately addressed in a future rulemaking, in which a fact-based and policy-based discussion can be held.

Joint Utilities specifically argued that the incentive serves as a "mechanism for utilities to recover lost revenue resulting from energy efficiency programs." In addition, it argued that "because the incentive cap is already structured as a ˜share of the net benefits,' customers will inherently receive net benefits stemming from the utility's energy efficiency achievements," and that "the incentive is never a net cost to customers."

OPUC, SPEER, OCSC, and Houston supported the reduction in the maximum utility incentive to 5% of net benefits. Sierra Club proposed an alternative cap of 20% of total spending, with a 20% secondary cap. Sierra Club reasoned that utility incentives for energy efficiency programs have been extremely high, especially this year, given the high avoided cost of energy, and that this is an unstable and unfair outcome for ratepayers. Sierra Club was concerned that the proposed limitation could disincentivize utilities to perform beyond minimum requirements. Houston noted that incentive payments are a tool to drive changes in behavior or participation in programs that may not be performing at targeted levels, and that energy efficiency programs have historically performed well above targeted levels and therefore do not need incentivizing. Houston pointed out that utilities routinely exceed their demand and energy reduction goals in Texas, and that this has led to total EECRF expenses being driven by the performance bonus.

Commission Response

PURA §39.905 gives the commission discretion in setting the utility incentive amount, and the proposed reduction is an exercise of the commission's discretion in the public interest. The commission disagrees with Sierra Club's proposed alternative incentive structure because there is a more direct connection between net benefits and a utility incentive than between total program spending and a utility incentive. The commission disagrees with the characterization of the utility incentive as a mechanism to recover lost revenue.

The commission also disagrees that the incentive is never a net cost to customers. Cost recovery and the utility incentive are imposed on all customers in a utility's rate classes, other than industrial customers that opt out under §25.181(u), regardless of whether those customers directly benefit from an energy efficiency program.

Good cause limitation

AEP Texas, CenterPoint, TNMP, and Oncor opposed the proposed amendment that would allow the commission to further limit a utility's utility incentive for good cause. Oncor argued that the amendment would frustrate a utility's expectations for an earned incentive and introduce unpredictability into whether a utility would receive an incentive or how much the incentive would be. TNMP stated that the commission not only did not pro-

pose any language to determine what circumstances may give rise to good cause, but also did not propose any language to quantify by what percentage it may reduce an incentive.

Joint Utilities stated that the commission should add language to clarify the proposed revision. It argued that the purpose of a good cause exception is to recognize circumstances beyond a party's reasonable control or justified deviations from standard expectations, and that penalizing performance in these situations would undermine the intent of the good cause exception and discourage transparency and accountability. CenterPoint argued that the amendment introduced unnecessary ambiguity and conflicted with PURA §39.905(g), which, it asserted, only allows the commission to relieve utilities from penalties or sanctions for factors beyond their control, not to reduce earned incentives.

Commission Response

The commission agrees that regulatory certainty is needed in the administration of the utility incentive under §25.182 and removes the proposed amendment. The adjustment to the avoided cost of energy calculation in §25.181(d)(3)(A) and the amended utility incentive calculation in this subparagraph provide sufficient certainty to a utility in the calculation and amount of its utility incentive.

Proposed §25.182(e)(2)- Inclusion of utility incentive in net benefits

Proposed §25.182(e)(2) describes the calculation of net benefits and includes the utility incentive in program costs.

ACEEE, SPEER, and TNMP suggested that the utility incentive not be included in program costs.

Commission Response

The commission declines to adopt the recommended modification because it is a substantive change that is not reasonably related to the proposed changes.

Proposed §25.182(e)(1) and (3)- Basis for utility incentive calculation

Proposed §25.182(e)(1) states that a utility may receive a share of the net benefits realized in exceeding its demand reduction goal. The provision does not base the utility incentive on the amount by which a utility exceeds its energy savings goal. Proposed §25.182(e)(3) calculates the utility incentive using only the demand reduction goal, not the energy savings goal.

Sierra Club filed redlines recommending that the commission base the utility incentive on the amount by which a utility exceeds its demand reduction goal and its energy savings goal.

Commission Response

The commission declines to adopt Sierra Club's recommendation. The energy savings goal is not based in statute, and moreover, the recommended modification is beyond the scope of the proposal.

Proposed §§25.181 and 25.182- Effective date of rules

The proposed rules do not include any language related to the date that the changes take effect.

AEP Texas recommended that the proposed rule changes not take effect until program year PY2027. It asserted that the proposed rule changes will disrupt planning for PY2026, which is already well underway, and undermine program effectiveness.

Commission Response

The commission opened the instant rulemaking with the express goal of effectuating the contemplated amendments as quickly as practicable and therefore declines to defer the effective date. For a utility's EEPR filing in April 2026, the utility must submit the additional EEPR summary tables. The utility's EECRF application filed in May or June 2026 must meet all requirements as set out in adopted §§25.181 and 25.182, including appropriate categorization of low-income and hard-to-reach customers, and the utility incentive for PY2025 will be calculated as set forth in adopted §25.182. The avoided cost of energy that ERCOT filed in November 2025 will be applicable to PY2026, and the avoided cost of energy that ERCOT will file in April 2026 will be applicable to PY2027. However, the commission modifies subsection (o)(6)(F) of the proposed rule as discussed above to state that, for PY2026, a utility must use the peak period calculation method outlined in the TRM adopted in 2025, and starting with PY2027, a utility must use the peak period calculation method outlined in the most recently adopted TRM.

SUBCHAPTER A. GENERAL PROVISIONS

16 TAC §25.5

The amended rules are adopted under the following provisions of PURA: §14.001, which provides the commission the general power to regulate and supervise the business of each public utility within its jurisdiction and to do anything specifically designated or implied by PURA that is necessary and convenient to the exercise of that power and jurisdiction; and §14.002, which provides the commission with the authority to adopt and enforce rules reasonably required in the exercise of its powers and jurisdiction; §36.204, which authorizes the commission to establish rates for an electric utility that allow timely recovery of the reasonable costs for conservation and load management, including additional incentives for conservation and load management; and §39.905, which requires the commission to establish an incentive to reward utilities administering energy efficiency programs that exceed the minimum goals established by PURA §39.905.

Cross reference to statutes: Public Utility Regulatory Act §§14.001 and 14.002, §36.204, and §39.905.

§25.5. Definitions.

In this chapter, the following definitions apply unless the context indicates otherwise:

(1) Above-market purchased power costs--Wholesale demand and energy costs that a utility is obligated to pay under an existing purchased power contract to the extent the costs are greater than the purchased power market value.

(2) Affected person--means:

(A) a public utility or electric cooperative affected by an action of a regulatory authority;

(B) a person whose utility service or rates are affected by a proceeding before a regulatory authority; or

(C) a person who:

(i) is a competitor of a public utility with respect to a service performed by the utility; or

(ii) wants to enter into competition with a public utility.

(3) Affiliate--means:

(A) a person who directly or indirectly owns or holds at least 5.0% of the voting securities of a public utility;

(B) a person in a chain of successive ownership of at least 5.0% of the voting securities of a public utility;

(C) a corporation that has at least 5.0% of its voting securities owned or controlled, directly or indirectly, by a public utility;

(D) a corporation that has at least 5.0% of its voting securities owned or controlled, directly or indirectly, by:

(i) a person who directly or indirectly owns or controls at least 5.0% of the voting securities of a public utility; or

(ii) a person in a chain of successive ownership of at least 5.0% of the voting securities of a public utility;

(E) a person who is an officer or director of a public utility or of a corporation in a chain of successive ownership of at least 5.0% of the voting securities of a public utility; or

(F) a person determined to be an affiliate under Public Utility Regulatory Act (PURA) §11.006.

(4) Affiliated electric utility--The electric utility from which an affiliated retail electric provider was unbundled in accordance with PURA §39.051.

(5) Affiliated power generation company (APGC)--A power generation company that is affiliated with or the successor in interest of an electric utility certificated to serve an area.

(6) Affiliated retail electric provider (AREP)--A retail electric provider that is affiliated with or the successor in interest of an electric utility certificated to serve an area.

(7) Aggregation--Includes the following:

(A) the purchase of electricity from a retail electric provider, a municipally owned utility, or an electric cooperative by an electricity customer for its own use in multiple locations, provided that an electricity customer may not avoid any non-bypassable charges or fees as a result of aggregating its load; or

(B) the purchase of electricity by an electricity customer as part of a voluntary association of electricity customers, provided that an electricity customer may not avoid any non-bypassable charges or fees as a result of aggregating its load.

(8) Aggregator--A person joining two or more customers, other than municipalities and political subdivision corporations, into a single purchasing unit to negotiate the purchase of electricity from retail electric providers. Aggregators may not sell or take title to electricity. Retail electric providers are not aggregators.

(9) Ancillary service--A service necessary to facilitate the transmission of electric energy including load following, standby power, backup power, reactive power, and any other services the commission may determine by rule.

(10) Base rate--Generally, a rate designed to recover the cost of service other than certain costs separately identified and recovered through a rider, rate schedule, or other schedule. For bundled utilities, these separately identified costs may include items such as a fuel factor, power cost recovery factor, and surcharge. Distribution service providers may have separately identified costs such as transition costs, the excess mitigation charge, transmission cost recovery factors, and the competition transition charge.

(11) Bundled Municipally Owned Utilities/Electric Cooperatives (MOU/COOP)--A municipally owned utility/electric cooperative that is conducting both transmission and distribution activities and competitive energy-related activities on a bundled basis without structural or functional separation of transmission and distribution functions from competitive energy-related activities and that makes a written declaration of its status as a bundled municipally owned utility/electric cooperative pursuant to §25.275(o)(3)(A) of this title (relating to Code of Conduct for Municipally Owned Utilities and Electric Cooperatives Engaged in Competitive Activities).

(12) Calendar year--January 1 through December 31.

(13) Commission--The Public Utility Commission of Texas.

(14) Competition transition charge (CTC)--Any non-bypassable charge that recovers the positive excess of the net book value of generation assets over the market value of the assets, taking into account all of the electric utility's generation assets, any above market purchased power costs, and any deferred debit related to a utility's discontinuance of the application of Statement of Financial Accounting Standards Number 71 ("Accounting for the Effects of Certain Types of Regulation") for generation-related assets if required by the provisions of PURA chapter 39. For purposes of PURA §39.262, book value shall be established as of December 31, 2001, or the date a market value is established through a market valuation method under PURA §39.262(h), whichever is earlier, and shall include stranded costs incurred under PURA §39.263. Competition transition charges also include the transition charges established pursuant to PURA §39.302(7) unless the context indicates otherwise.

(15) Competitive affiliate--An affiliate of a utility that provides services or sells products in a competitive energy-related market in this state, including telecommunications services, to the extent those services are energy-related.

(16) Competitive energy efficiency services--Energy efficiency services that are defined as competitive energy services under §25.341 of this title (relating to Definitions).

(17) Competitive retailer--A retail electric provider; or a municipally owned utility or electric cooperative, that has the right to offer electric energy and related services at unregulated prices directly to retail customers who have customer choice, without regard to geographic location.

(18) Congestion zone--An area of the transmission network that is bounded by commercially significant transmission constraints or otherwise identified as a zone that is subject to transmission constraints, as defined by an independent organization.

(19) Control area--An electric power system or combination of electric power systems to which a common automatic generation control scheme is applied in order to:

(A) match, at all times, the power output of the generators within the electric power system(s) and capacity and energy purchased from entities outside the electric power system(s), with the load within the electric power system(s);

(B) maintain, within the limits of good utility practice, scheduled interchange with other control areas;

(C) maintain the frequency of the electric power system(s) within reasonable limits in accordance with good utility practice; and

(D) obtain sufficient generating capacity to maintain operating reserves in accordance with good utility practice.

(20) Corporation--A domestic or foreign corporation, joint-stock company, or association, and each lessee, assignee, trustee, receiver, or other successor in interest of the corporation, company, or

association, that has any of the powers or privileges of a corporation not possessed by an individual or partnership. The term does not include a municipal corporation or electric cooperative, except as expressly provided by PURA.

(21) Critical loads--Loads for which electric service is considered crucial for the protection or maintenance of public health and safety; including but not limited to hospitals, police stations, fire stations, critical water and wastewater facilities, and customers with special in-house life-sustaining equipment.

(22) Customer choice--The freedom of a retail customer to purchase electric services, either individually or through voluntary aggregation with other retail customers, from the provider or providers of the customer's choice and to choose among various fuel types, energy efficiency programs, and renewable power suppliers.

(23) Customer class--A group of customers with similar electric-service characteristics (e.g., residential, commercial, industrial, sales for resale) taking service under one or more rate schedules. Qualified businesses as defined by the Texas Enterprise Zone Act, Texas Government Code, title 10, chapter 2303 may be considered to be a separate customer class of electric utilities.

(24) Day-ahead--The day preceding the operating day.

(25) Deemed savings--A pre-determined, validated estimate of energy savings and demand reduction attributable to an energy efficiency measure in a particular type of application that a utility may use instead of energy savings and demand reduction determined through measurement and verification activities.

(26) Demand--The rate at which electric energy is delivered to or by a system at a given instant, or averaged over a designated period, usually expressed in kilowatts (kW) or megawatts (MW).

(27) Demand savings--A quantifiable reduction in the rate at which energy is delivered to or by a system at a given instance, or averaged over a designated period, usually expressed in kilowatts (kW) or megawatts (MW).

(28) Demand-side management (DSM)--Activities that affect the magnitude or timing of customer electrical usage, or both.

(29) Demand-side resource or demand-side management--Equipment, materials, and activities that result in reductions in electric generation, transmission, or distribution capacity needs or reductions in energy usage or both.

(30) Disconnection of service--Interruption of a customer's supply of electric service at the customer's point of delivery by an electric utility, a transmission and distribution utility, a municipally owned utility or an electric cooperative.

(31) Distribution line--A power line operated below 60,000 volts, when measured phase-to-phase, that is owned by an electric utility, transmission and distribution utility, municipally owned utility, or electric cooperative.

(32) Distributed resource--A generation, energy storage, or targeted demand-side resource, generally between one kilowatt and ten megawatts, located at a customer's site or near a load center, which may be connected at the distribution voltage level (below 60,000 volts), that provides advantages to the system, such as deferring the need for upgrading local distribution facilities.

(33) Distribution service provider (DSP)--An electric utility, municipally-owned utility, or electric cooperative that owns or operates for compensation in this state equipment or facilities that are used for the distribution of electricity to retail customers including retail customers served at transmission voltage levels.

(34) Economically distressed geographic area--Zip-code area in which the average household income is less than or equal to 60% of the statewide median income as reported in the most recently available United States Census data.

(35) Electric cooperative--

(A) a corporation organized under the Texas Utilities Code, Chapter 161 or a predecessor statute to Chapter 161 and operating under that chapter;

(B) a corporation organized as an electric cooperative in a state other than Texas that has obtained a certificate of authority to conduct affairs in the State of Texas; or

(C) a successor to an electric cooperative created before June 1, 1999, in accordance with a conversion plan approved by a vote of the members of the electric cooperative, regardless of whether the successor later purchases, acquires, merges with, or consolidates with other electric cooperatives.

(36) Electric generating facility--A facility that generates electric energy for compensation and that is owned or operated by a person in this state, including a municipal corporation, electric cooperative, or river authority.

(37) Electric generation equipment lessor or operator--A person who rents to, or operates for compensation on behalf of, a third party electric generation equipment that:

(A) is used on a site of the third party until the third party is able to obtain sufficient electricity service;

(B) produces electricity on site to be consumed by the third party and not resold; and

(C) does not interconnect with the electric transmission or distribution system.

(38) Electricity facts label--Information in a standardized format, as described in §25.475(f) of this title (relating to Information Disclosures to Residential and Small Commercial Customers), that summarizes the price, contract terms, fuel sources, and environmental impact associated with an electricity product.

(39) Electricity product--A specific type of retail electricity service developed and identified by a REP, the specific terms and conditions of which are summarized in an electricity facts label that is specific to that electricity product.

(40) Electric Reliability Council of Texas (ERCOT)--Refers to the independent organization and, in a geographic sense, refers to the area served by electric utilities, municipally owned utilities, and electric cooperatives that are not synchronously interconnected with electric utilities outside of the State of Texas.

(41) Electric service identifier (ESI ID)--The basic identifier assigned to each point of delivery used in the registration system and settlement system managed by ERCOT or another independent organization.

(42) Electric utility--Except as otherwise provided in this chapter, an electric utility is a person or river authority that owns or operates for compensation in this state equipment or facilities to produce, generate, transmit, distribute, sell, or furnish electricity in this state. The term includes a lessee, trustee, or receiver of an electric utility and a recreational vehicle park owner who does not comply with Texas Utilities Code, subchapter C, chapter 184, with regard to the metered sale of electricity at the recreational vehicle park. The term does not include:

(A) a municipal corporation;

(B) a qualifying facility;

(C) a power generation company;

(D) an exempt wholesale generator;

(E) a power marketer;

(F) a corporation described by PURA §32.053 to the extent the corporation sells electricity exclusively at wholesale and not to the ultimate consumer;

(G) an electric cooperative;

(H) a retail electric provider;

(I) the state of Texas or an agency of the state; or

(J) a person not otherwise an electric utility who:

(i) furnishes an electric service or commodity only to itself, its employees, or its tenants as an incident of employment or tenancy, if that service or commodity is not resold to or used by others;

(ii) owns or operates in this state equipment or facilities to produce, generate, transmit, distribute, sell or furnish electric energy to an electric utility, if the equipment or facilities are used primarily to produce and generate electric energy for consumption by that person;

(iii) owns or operates in this state a recreational vehicle park that provides metered electric service in accordance with Texas Utilities Code, subchapter C, chapter 184;

(iv) is an electric generation equipment lessor or operator; or

(v) owns or operates in this state equipment used solely to provide electricity charging service for consumption by an alternatively fueled vehicle, as defined by section 502.004 of the Transportation Code.

(43) Energy efficiency--Programs that are aimed at reducing the rate at which electric energy is used by equipment or processes. Reduction in the rate of energy used may be obtained by substituting technically more advanced equipment to produce the same level of end-use services with less electricity; adoption of technologies and processes that reduce heat or other energy losses; or reorganization of processes to make use of waste heat. Efficient use of energy by customer-owned end-use devices implies that existing comfort levels, convenience, and productivity are maintained or improved at a lower customer cost.

(44) Energy efficiency measures--Equipment, materials, and practices that when installed and used at a customer site result in a measurable and verifiable reduction in either purchased electric energy consumption, measured in kilowatt-hours (kWh), or peak demand, measured in kW, or both.

(45) Energy efficiency project--An energy efficiency measure or combination of measures installed under a standard offer contract or a market transformation contract that results in both a reduction in customers' electric energy consumption and peak demand, and energy costs.

(46) Energy savings--A quantifiable reduction in a customer's consumption of energy.

(47) ERCOT protocols--Body of procedures developed by ERCOT to maintain the reliability of the regional electric network and account for the production and delivery of electricity among resources and market participants.

(48) ERCOT region--The geographic area under the jurisdiction of the commission that is served by transmission service providers that are not synchronously interconnected with transmission service providers outside of the state of Texas.

(49) Exempt wholesale generator--A person who is engaged directly or indirectly through one or more affiliates exclusively in the business of owning or operating all or part of a facility for generating electric energy and selling electric energy at wholesale who does not own a facility for the transmission of electricity, other than an essential interconnecting transmission facility necessary to effect a sale of electric energy at wholesale.

(50) Existing purchased power contract--A purchased power contract in effect on January 1, 1999, including any amendments and revisions to that contract resulting from litigation initiated before January 1, 1999.

(51) Facilities--All the plant and equipment of an electric utility, including all tangible and intangible property, without limitation, owned, operated, leased, licensed, used, controlled, or supplied for, by, or in connection with the business of an electric utility.

(52) Financing order--An order of the commission adopted under PURA §39.201 or §39.262 approving the issuance of transition bonds and the creation of transition charges for the recovery of qualified costs.

(53) Freeze period--The period beginning on January 1, 1999, and ending on December 31, 2001.

(54) Generation assets--All assets associated with the production of electricity, including generation plants, electrical interconnections of the generation plant to the transmission system, fuel contracts, fuel transportation contracts, water contracts, lands, surface or subsurface water rights, emissions-related allowances, and gas pipeline interconnections.

(55) Generation service--The production and purchase of electricity for retail customers and the production, purchase, and sale of electricity in the wholesale power market.

(56) Good utility practice--Any of the practices, methods, or acts engaged in or approved by a significant portion of the electric utility industry during the relevant time period, or any of the practices, methods, or acts that, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety, and expedition. Good utility practice is not intended to be limited to the optimum practice, method, or act, to the exclusion of all others, but rather is intended to include acceptable practices, methods, and acts generally accepted in the region.

(57) Hearing--Any proceeding at which evidence is taken on the merits of the matters at issue, not including prehearing conferences.

(58) Independent organization--An independent system operator or other person that is sufficiently independent of any producer or seller of electricity that its decisions will not be unduly influenced by any producer or seller.

(59) Independent system operator--An entity supervising the collective transmission facilities of a power region that is charged with non-discriminatory coordination of market transactions, systemwide transmission planning, and network reliability.

(60) Installed generation capacity--All potentially marketable electric generation capacity, including the capacity of:

(A) generating facilities that are connected with a transmission or distribution system;

(B) generating facilities used to generate electricity for consumption by the person owning or controlling the facility; and

(C) generating facilities that will be connected with a transmission or distribution system and operating within 12 months.

(61) Interconnection agreement--The standard form of agreement that has been approved by the commission. The interconnection agreement sets forth the contractual conditions under which a company and a customer agree that one or more facilities may be interconnected with the company's utility system.

(62) Licensing--The commission process for granting, denial, renewal, revocation, suspension, annulment, withdrawal, or amendment of a license.

(63) Load factor--The ratio of average load to peak load during a specific period of time, expressed as a percent. The load factor indicates to what degree energy has been consumed compared to maximum demand or utilization of units relative to total system capability.

(64) Low-income customer--An electric customer who receives assistance under the Supplemental Nutrition Assistance Program (SNAP) from Texas Health and Human Services Commission (HHSC) or medical assistance from a state agency administering a part of the medical assistance program.

(65) Low-Income List Administrator (LILA)--A third-party administrator contracted by the commission to administer aspects of the low-income customer identification process established under PURA §17.007.

(66) Market power mitigation plan--A written proposal by an electric utility or a power generation company for reducing its ownership and control of installed generation capacity as required by PURA §39.154.

(67) Market value--For nonnuclear assets and certain nuclear assets, the value the assets would have if bought and sold in a bona fide third-party transaction or transactions on the open market under PURA §39.262(h) or, for certain nuclear assets, as described by PURA §39.262(i), the value determined under the method provided by that subsection.

(68) Master meter--A meter used to measure, for billing purposes, all electric usage of an apartment house or mobile home park, including common areas, common facilities, and dwelling units.

(69) Municipality--A city, incorporated village, or town, existing, created, or organized under the general, home rule, or special laws of the state.

(70) Municipally-owned utility (MOU)--Any utility owned, operated, and controlled by a municipality or by a nonprofit corporation whose directors are appointed by one or more municipalities.

(71) Nameplate rating--The full-load continuous rating of a generator under specified conditions as designated by the manufacturer.

(72) Native load customer--A wholesale or retail customer on whose behalf an electric utility, electric cooperative, or municipally-owned utility, by statute, franchise, regulatory requirement, or contract, has an obligation to construct and operate its system to meet in a reliable manner the electric needs of the customer.

(73) Natural gas energy credit (NGEC)--A tradable instrument representing each megawatt of new generating capacity fueled by natural gas, as authorized by PURA §39.9044 and implemented under §25.172 of this title (relating to Goal for Natural Gas).

(74) Net book value--The original cost of an asset less accumulated depreciation.

(75) Net dependable capability--The maximum load in megawatts, net of station use, that a generating unit or generating station can carry under specified conditions for a given period of time without exceeding approved limits of temperature and stress.

(76) Net-to-gross--A factor that is applied to convert gross program impacts into net program impacts. The factor is calculated by dividing net program savings by gross program savings and may account for variables that create differences between gross and net savings, such as free riders and spillover.

(77) New on-site generation--Electric generation with capacity greater than ten megawatts capable of being lawfully delivered to the site without use of utility distribution or transmission facilities, which was not, on or before December 31, 1999, either:

(A) A fully operational facility; or

(B) A project supported by substantially complete filings for all necessary site-specific environmental permits under the rules of the Texas Commission on Environmental Quality (TCEQ) in effect at the time of filing.

(78) Off-grid renewable generation--The generation of renewable energy in an application that is not interconnected to a utility transmission or distribution system.

(79) Other generation sources--A competitive retailer's or affiliated retail electric provider's supply of generated electricity that is not accounted for by a direct supply contract with an owner of generation assets.

(80) Person--Includes an individual, a partnership of two or more persons having a joint or common interest, a mutual or cooperative association, and a corporation, but does not include an electric cooperative.

(81) Power cost recovery factor (PCRF)--A charge or credit that reflects an increase or decrease in purchased power costs not in base rates.

(82) Power generation company (PGC)--A person that:

(A) generates electricity that is intended to be sold at wholesale, including the owner or operator of electric energy storage equipment or facilities to which the Public Utility Regulatory Act, chapter 35, subchapter E applies;

(B) does not own a transmission or distribution facility in this state, other than an essential interconnecting facility, a facility not dedicated to public use, or a facility otherwise excluded from the definition of "electric utility" under this section; and

(C) does not have a certificated service area, although its affiliated electric utility or transmission and distribution utility may have a certificated service area.

(83) Power marketer--A person who becomes an owner of electric energy in this state for the purpose of selling the electric energy at wholesale; does not own generation, transmission, or distribution facilities in this state and does not have a certificated service area.

(84) Power region--A contiguous geographical area that is a distinct region of the North American Electric Reliability Council.

(85) Pre-interconnection study--A study or studies that may be undertaken by a utility in response to its receipt of a com-

pleted application for interconnection and parallel operation with the utility system at distribution voltage. Pre-interconnection studies may include, but are not limited to, service studies, coordination studies, and utility system impact studies.

(86) Premises--A tract of land or real estate or related commonly used tracts including buildings and other appurtenances thereon.

(87) Price to beat (PTB)--A price for electricity, as determined under PURA §39.202, charged by an affiliated retail electric provider to eligible residential and small commercial customers in its service area.

(88) Proceeding--A hearing, investigation, inquiry, or other procedure for finding facts or making a decision, including adopting, amending, or repealing a rule or setting a rate. The term includes a denial of relief or dismissal of a complaint.

(89) Proprietary customer information--Any information obtained by a retail electric provider, an electric utility, or a transmission and distribution business unit as defined in §25.275(c)(16) of this title, on a customer in the course of providing electric service or by an aggregator on a customer in the course of aggregating electric service that makes possible the identification of any individual customer by matching such information with the customer's name, address, account number, type or classification of service, historical electricity usage, expected patterns of use, types of facilities used in providing service, individual contract terms and conditions, price, current charges, billing records, or any information that the customer has expressly requested not be disclosed. Information that is redacted or organized in such a way as to make it impossible to identify the customer to whom the information relates does not constitute proprietary customer information.

(90) Provider of last resort (POLR)--A retail electric provider (REP) certified in Texas that has been designated by the commission to provide a basic, standard retail service package in accordance with §25.43 of this title (relating to Provider of Last Resort (POLR)).

(91) Public retail customer--A retail customer that is an agency of this state, a state institution of higher education, a public school district, or a political subdivision of this state.

(92) Public utility or utility--An electric utility as that term is defined in this section, or a public utility or utility as those terms are defined in PURA §51.002.

(93) Public Utility Regulatory Act (PURA)--The enabling statute for the Public Utility Commission of Texas, located in the Texas Utilities Code Annotated, §§11.001 et. seq.

(94) Purchased power market value--The value of demand and energy bought and sold in a bona fide third-party transaction or transactions on the open market and determined by using the weighted average costs of the highest three offers from the market for purchase of the demand and energy available under the existing purchased power contracts.

(95) Qualified scheduling entity--A market participant that is qualified by ERCOT in accordance with section 16, Registration and Qualification of Market Participants of ERCOT's protocols, to submit balanced schedules and ancillary services bids and settle payments with ERCOT.

(96) Qualifying cogenerator- As defined by 16 U.S.C. §796(18)(C). A qualifying cogenerator that provides electricity to the purchaser of the cogenerator's thermal output is not for that reason considered to be a retail electric provider or a power generation company.

(97) Qualifying facility--A qualifying cogenerator or qualifying small power producer.

(98) Qualifying small power producer- As defined by 16 U.S.C. §796(17)(D).

(99) Rate--A compensation, tariff, charge, fare, toll, rental, or classification that is directly or indirectly demanded, observed, charged, or collected by an electric utility for a service, product, or commodity described in the definition of electric utility in this section and a rule, practice, or contract affecting the compensation, tariff, charge, fare, toll, rental, or classification that must be approved by a regulatory authority.

(100) Rate class--A group of customers taking electric service under the same rate schedule.

(101) Rate year--The 12-month period beginning with the first date that rates become effective. The first date that rates become effective may include, but is not limited to, the effective date for bonded rates or the effective date for interim or temporary rates.

(102) Ratemaking proceeding--A proceeding in which a rate may be changed.

(103) Registration agent--Entity designated by the commission to administer registration and settlement, premise data, and other processes concerning a customer's choice of retail electric provider in the competitive electric market in Texas.

(104) Regulatory authority--In accordance with the context where it is found, either the commission or the governing body of a municipality.

(105) Renewable demand side management (DSM) technologies--Equipment that uses a renewable energy resource (renewable resource) as defined in this section, that, when installed at a customer site, reduces the customer's net purchases of energy (kWh), electrical demand (kW), or both.

(106) Renewable energy--Energy derived from renewable energy technologies.

(107) Renewable energy credit (REC)--A tradable instrument representing the generation attributes of one MWh of electricity from renewable energy sources, as authorized by the PURA §39.904 and implemented under §25.173(e) of this title (relating to Goal for Renewable Energy).

(108) Renewable energy credit account (REC account)--An account maintained by the renewable energy credits trading program administrator for the purpose of tracking the production, sale, transfer, purchase, and retirement of RECs by a program participant.

(109) Renewable energy resource (renewable resource)--A resource that produces energy derived from renewable energy technologies.

(110) Renewable energy technology--Any technology that exclusively relies on an energy source that is naturally regenerated over a short time and derived directly from the sun, indirectly from the sun, or from moving water or other natural movements and mechanisms of the environment. Renewable energy technologies include those that rely on energy derived directly from the sun, on wind, geothermal, hydroelectric, wave, or tidal energy, or on biomass or biomass-based waste products, including landfill gas. A renewable energy technology does not rely on energy resources derived from fossil fuels, waste products from fossil fuels, or waste products from inorganic sources.

(111) Repowering--Modernizing or upgrading an existing facility in order to increase its capacity or efficiency.

(112) Residential customer--Retail customers classified as residential by the applicable bundled utility tariff, unbundled transmission and distribution utility tariff or, in the absence of classification under a residential rate class, those retail customers that are primarily end users consuming electricity at the customer's place of residence for personal, family or household purposes and who are not resellers of electricity.

(113) Retail customer--The separately metered end-use customer who purchases and ultimately consumes electricity.

(114) Retail electric provider (REP)--A person that sells electric energy to retail customers in this state. A retail electric provider may not own or operate generation assets. The term does not include a person not otherwise a retail electric provider who owns or operates equipment used solely to provide electricity charging service for consumption by an alternatively fueled vehicle, as defined by Section 502.004, Transportation Code.

(115) Retail electric provider (REP) of record--The REP assigned to the electric service identifier (ESI ID) in ERCOT's database. There can be no more than one REP of record assigned to an ESI ID at any specific point in time.

(116) Retail stranded costs--That part of net stranded cost associated with the provision of retail service.

(117) Retrofit--The installation of control technology on an electric generating facility to reduce the emissions of nitrogen oxide, sulfur dioxide, or both.

(118) River authority--A conservation and reclamation district created under the Texas Constitution, article 16, section 59, including any nonprofit corporation created by such a district pursuant to the Texas Water Code, chapter 152, that is an electric utility.

(119) Rule--A statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedure or practice requirements of the commission. The term includes the amendment or repeal of a prior rule, but does not include statements concerning only the internal management or organization of the commission and not affecting private rights or procedures.

(120) Savings-to-investment ratio (SIR)--The ratio of the present value of a customer's estimated lifetime electricity cost savings from energy efficiency measures to the present value of the installation costs of those energy efficiency measures, which include the cost of any incidental repairs.

(121) Separately metered--Metered by an individual meter that is used to measure electric energy consumption by a retail customer and for which the customer is directly billed by a utility, retail electric provider, electric cooperative, or municipally owned utility.

(122) Service--Has its broadest and most inclusive meaning. The term includes any act performed, anything supplied, and any facilities used or supplied by an electric utility in the performance of its duties under PURA to its patrons, employees, other public utilities or electric utilities, an electric cooperative, and the public. The term also includes the interchange of facilities between two or more public utilities or electric utilities.

(123) Spanish-speaking person--A person who speaks any dialect of the Spanish language exclusively or as their primary language.

(124) Standard meter--The minimum metering device necessary to obtain the billing determinants required by the transmission and distribution utility's tariff schedule to determine an end-use customer's charges for transmission and distribution service.

(125) Stranded cost--The positive excess of the net book value of generation assets over the market value of the assets, taking into account all of the electric utility's generation assets, any above-market purchased-power costs, and any deferred debit related to a utility's discontinuance of the application of Statement of Financial Accounting Standards Number 71 ("Accounting for the Effect of Certain Types of Regulation") for generation-related assets if required by the provisions of PURA Chapter 39. For purposes of PURA §39.262, book value shall be established as of December 31, 2001, or the date a market value is established through a market valuation method under PURA §39.262(h), whichever is earlier, and shall include stranded costs incurred under PURA §39.263.

(126) Submetering--Metering of electricity consumption on the customer side of the point at which the electric utility measures electricity consumption for billing purposes.

(127) Summer net dependable capability--The net capability of a generating unit in megawatts (MW) for daily planning and operational purposes during the summer peak season, as determined in accordance with requirements of the reliability council or independent organization in which the unit operates.

(128) Supply-side resource--A resource, including a storage device, that provides electricity from fuels or renewable resources.

(129) System emergency--A condition on a utility's system that is likely to result in imminent, significant disruption of service to customers or is imminently likely to endanger life or property.

(130) Tariff--The schedule of a utility, municipally-owned utility, or electric cooperative containing all rates and charges stated separately by type of service, the rules and regulations of the utility, and any contracts that affect rates, charges, terms or conditions of service.

(131) Termination of service--The cancellation or expiration of a sales agreement or contract by a retail electric provider by notification to the customer and the registration agent.

(132) Tenant--A person who is entitled to occupy a dwelling unit to the exclusion of others and who is obligated to pay for the occupancy under a written or oral rental agreement.

(133) Test year--The most recent 12 months for which operating data for an electric utility, electric cooperative, or municipally-owned utility are available and shall commence with a calendar quarter or a fiscal year quarter.

(134) Texas jurisdictional installed generation capacity--The amount of an affiliated power generation company's installed generation capacity properly allocable to the Texas jurisdiction. Such allocation shall be calculated pursuant to an existing commission-approved allocation study, or other such commission-approved methodology, and may be adjusted as approved by the commission to reflect the effects of divestiture or the installation of new generation facilities.

(135) Transition bonds--Bonds, debentures, notes, certificates, of participation or of beneficial interest, or other evidences of indebtedness or ownership that are issued by an electric utility, its successors, or an assignee under a financing order, that have a term not longer than 15 years, and that are secured or payable from transition property.

(136) Transition charges--Non-bypassable amounts to be charged for the use or availability of electric services, approved by the commission under a financing order to recover qualified costs, that shall be collected by an electric utility, its successors, an assignee, or other collection agents as provided for in a financing order.

(137) Transmission and distribution business unit (TDBU)--The business unit of a municipally owned utility/electric cooperative, whether structurally unbundled as a separate legal entity or functionally unbundled as a division, that owns or operates for compensation in this state equipment or facilities to transmit or distribute electricity at retail, except for facilities necessary to interconnect a generation facility with the transmission or distribution network, a facility not dedicated to public use, or a facility otherwise excluded from the definition of electric utility in a qualifying power region certified under PURA §39.152. Transmission and distribution business unit does not include a municipally owned utility/electric cooperative that owns, controls, or is an affiliate of the transmission and distribution business unit if the transmission and distribution business unit is organized as a separate corporation or other legally distinct entity. Except as specifically authorized by statute, a transmission and distribution business unit shall not provide competitive energy-related activities.

(138) Transmission and distribution utility (TDU)--A person or river authority that owns, or operates for compensation in this state equipment or facilities to transmit or distribute electricity, except for facilities necessary to interconnect a generation facility with the transmission or distribution network, a facility not dedicated to public use, or a facility otherwise excluded from the definition of "electric utility", in a qualifying power region certified under PURA §39.152, but does not include a municipally owned utility or an electric cooperative. The TDU may be a single utility or may be separate transmission and distribution utilities.

(139) Transmission line--A power line that is operated at 60 kilovolts (kV) or above, when measured phase-to-phase.

(140) Transmission service--Service that allows a transmission service customer to use the transmission and distribution facilities of electric utilities, electric cooperatives and municipally owned utilities to efficiently and economically utilize generation resources to reliably serve its loads and to deliver power to another transmission service customer. Includes construction or enlargement of facilities, transmission over distribution facilities, control area services, scheduling resources, regulation services, reactive power support, voltage control, provision of operating reserves, and any other associated electrical service the commission determines appropriate, except that, on and after the implementation of customer choice in any portion of the ERCOT region, control area services, scheduling resources, regulation services, provision of operating reserves, and reactive power support, voltage control and other services provided by generation resources are not transmission service.

(141) Transmission service customer--A transmission service provider, distribution service provider, river authority, municipally-owned utility, electric cooperative, power generation company, retail electric provider, federal power marketing agency, exempt wholesale generator, qualifying facility, power marketer, or other person whom the commission has determined to be eligible to be a transmission service customer. A retail customer, as defined in this section, may not be a transmission service customer.

(142) Transmission service provider (TSP)--An electric utility, municipally-owned utility, or electric cooperative that owns or operates facilities used for the transmission of electricity.

(143) Transmission system--The transmission facilities at or above 60 kilovolts (kV) owned, controlled, operated, or supported by a transmission service provider or transmission service customer that are used to provide transmission service.

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

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SUBCHAPTER H. ELECTRICAL PLANNING
DIVISION 2. ENERGY EFFICIENCY AND CUSTOMER-OWNED RESOURCES

16 TAC §25.181, §25.182

The amended rules are adopted under the following provisions of PURA: §14.001, which provides the commission the general power to regulate and supervise the business of each public utility within its jurisdiction and to do anything specifically designated or implied by PURA that is necessary and convenient to the exercise of that power and jurisdiction; and §14.002, which provides the commission with the authority to adopt and enforce rules reasonably required in the exercise of its powers and jurisdiction; §36.204, which authorizes the commission to establish rates for an electric utility that allow timely recovery of the reasonable costs for conservation and load management, including additional incentives for conservation and load management; and §39.905, which requires the commission to establish an incentive to reward utilities administering energy efficiency programs that exceed the minimum goals established by PURA §39.905.

Cross reference to statutes: Public Utility Regulatory Act §§14.001 and 14.002, §36.204, and §39.905.

§25.181. Energy Efficiency Goal.

(a) Purpose. The purpose of this section is to ensure that:

(1) electric utilities administer energy efficiency incentive programs in a market-neutral, nondiscriminatory manner and do not offer competitive services, except as permitted in §25.343 of this title (relating to Competitive Energy Services) or this section;

(2) all customers, in all eligible customer classes and all areas of an electric utility's service area, have a choice of and access to the utility's portfolio of energy efficiency programs that allow each customer to reduce energy consumption, summer and winter peak demand, or energy costs; and

(3) each electric utility annually provides, through market-based standard offer programs, targeted market-transformation programs, or utility self-delivered programs, program incentive payments sufficient for residential and commercial customers, retail electric providers, and energy efficiency service providers to acquire additional cost-effective energy efficiency, subject to EECRF caps established in §25.182(d)(7) of this title (relating to Energy Efficiency Cost Recovery Factor), for the utility to achieve the goals in subsection (e) of this section.

(b) Application. This section applies to electric utilities and the Electric Reliability Council of Texas, Inc. (ERCOT).

(c) Definitions. The following terms, when used in this section and in §25.182 of this title, have the following meanings unless the context indicates otherwise:

(1) Affiliate --

(A) A person who directly or indirectly owns or holds at least 5.0% of the voting securities of an energy efficiency service provider;

(B) A person in a chain of successive ownership of at least 5.0% of the voting securities of an energy efficiency service provider;

(C) A corporation that has at least 5.0% of its voting securities owned or controlled, directly or indirectly, by an energy efficiency service provider;

(D) A corporation that has at least 5.0% of its voting securities owned or controlled, directly or indirectly, by:

(i) a person who directly or indirectly owns or controls at least 5.0% of the voting securities of an energy efficiency service provider; or

(ii) a person in a chain of successive ownership of at least 5.0% of the voting securities of an energy efficiency service provider; or

(E) A person who is an officer or director of an energy efficiency service provider or of a corporation in a chain of successive ownership of at least 5.0% of the voting securities of an energy efficiency service provider;

(F) A person who actually exercises substantial influence or control over the policies and actions of an energy efficiency service provider;

(G) A person over which the energy efficiency service provider exercises the control described in subparagraph (F) of this paragraph;

(H) A person who exercises common control over an energy efficiency service provider, where "exercising common control over an energy efficiency service provider" means having the power, either directly or indirectly, to direct or cause the direction of the management or policies of an energy efficiency service provider, without regard to whether that power is established through ownership or voting of securities or any other direct or indirect means; or

(I) A person who, together with one or more persons with whom the person is related by ownership, marriage or blood relationship, or by action in concert, actually exercises substantial influence over the policies and actions of an energy efficiency service provider even though neither person may qualify as an affiliate individually.

(2) Baseline--A relevant condition that would have existed in the absence of the energy efficiency project or program being implemented, including energy consumption that would have occurred. Baselines are used to calculate program-related demand and energy savings. Baselines can be defined as either project-specific baselines or performance standard baselines (e.g., building codes).

(3) Claimed savings--Values reported by an electric utility after the energy efficiency activities have been completed, but prior to the time an independent, third-party evaluation of the savings is performed. As with projected savings estimates, these values may utilize results of prior evaluations or values in technical reference manuals. However, they are adjusted from projected savings estimates by correcting for any known data errors and actual installation rates and may also be adjusted with revised values for factors such as per-unit savings values, operating hours, and savings persistence rates. Can be indicated as first year, annual demand or energy savings, or lifetime energy or demand savings values. Can be indicated as gross savings or net savings values.

(4) Commercial customer--A non-residential customer taking service at a point of delivery at a distribution voltage under an electric utility's tariff during the prior program year or a non-profit customer or government entity, including an educational institution. For purposes of this section, each point of delivery must be considered a separate customer.

(5) Conservation load factor--The ratio of the annual energy savings goal, in kilowatt hours (kWh), to the peak demand goal for the year, measured in kilowatts (kW) and multiplied by the number of hours in the year.

(6) Deemed savings calculation--An industry-wide engineering algorithm used to calculate energy or demand savings of the installed energy efficiency measure that has been developed from common practice that is widely considered acceptable for the measure and purpose, and is applicable to the situation being evaluated. May include stipulated assumptions for one or more parameters in the algorithm, but typically requires some data associated with actual installed measure. An electric utility may use the calculation with documented measure-specific assumptions, instead of energy and peak demand savings determined through measurement and verification activities or the use of deemed savings.

(7) Deemed savings value--An estimate of energy or demand savings for a single unit of an installed energy efficiency measure that has been developed from data sources and analytical methods that are widely considered acceptable for the measure and purpose, and is applicable to the situation being evaluated. An electric utility may use deemed savings values instead of energy or peak demand savings determined through measurement and verification activities.

(8) Eligible customers--Residential and commercial customers. In addition, to the extent that they meet the criteria for participation in load management standard offer programs developed for industrial customers and implemented prior to May 1, 2007, industrial customers are eligible customers solely for the purpose of participating in such programs.

(9) Energy efficiency program--The aggregate of the energy efficiency activities carried out by an electric utility under this section or a set of energy efficiency projects carried out by an electric utility under the same name and operating rules.

(10) Energy efficiency service provider- A person or other entity that installs energy efficiency measures or performs other energy efficiency services under this section. An energy efficiency service provider may be a retail electric provider or commercial customer, provided that the commercial customer has a peak load equal to or greater than 50 kW. An energy efficiency service provider may also be a governmental entity or a non-profit organization, but may not be an electric utility.

(11) Estimated useful life (EUL)--The number of years until 50% of installed measures are still operable and providing savings, and is used interchangeably with the term "measure life". The EUL determines the period of time over which the benefits of the energy efficiency measure are expected to accrue.

(12) Evaluated savings--Savings estimates reported by the evaluation, measurement and verification (EM&V) contractor after the energy efficiency activities and an impact evaluation have been completed. Differs from claimed savings in that the EM&V contractor has conducted some of the evaluation or verification activities. These values may rely on claimed savings for factors such as installation rates and the Technical Reference Manual for values such as per unit sav-

ings values and operating hours. These savings estimates may also include adjustments to claimed savings for data errors, per unit savings values, operating hours, installation rates, savings persistence rates, or other considerations. Can be indicated as first year, annual demand or energy savings, or lifetime energy or demand savings values. Can be indicated as gross savings or net savings values.

(13) Evaluation--The conduct of any of a wide range of assessment studies and other activities aimed at determining the effects of a program; or aimed at understanding or documenting program performance, program or program-related markets and market operations, program-induced changes in energy efficiency markets, levels of demand or energy savings, or program cost-effectiveness. Market assessment, monitoring, and evaluation, and measurement and verification (M&V) are aspects of evaluation.

(14) Free driver--Customers who do not directly participate in an energy efficiency program, but who undertake energy efficiency actions in response to program activity.

(15) Free rider--A program participant who would have implemented the program measure or practice in the absence of the program. Free riders can be total, in which the participant's activity would have completely replicated the program measure; partial, in which the participant's activity would have partially replicated the program measure; or deferred, in which the participant's activity would have completely replicated the program measure, but at a time after the time the program measure was implemented.

(16) Growth in demand--The annual increase in demand in the Texas portion of an electric utility's service area at time of peak demand, as measured in accordance with this section.

(17) Gross savings--The change in energy consumption or demand that results directly from program-related actions taken by participants in an efficiency program, regardless of why they participated.

(18) Hard-to-reach- A customer that meets one of the following criteria:

(A) is located in a county, city, or unincorporated area with fewer than 2,000 housing units or a total population of 5,000 or less; or

(B) is a residential or commercial customer that the utility has been unable to serve in at least one of the past five years due to lack of available energy efficiency contractors or energy efficiency service providers--the commercial customer must have a peak load less than 50 kW, not be a government entity, and not be a subsidiary of a corporation; or

(C) has a low income as defined in (25) of this subsection.

(19) Impact evaluation--An evaluation of the program-specific, directly induced changes (e.g., energy or demand reduction) attributable to an energy efficiency program.

(20) Industrial customer--A for-profit entity engaged in an industrial process taking electric service at transmission voltage, or a for-profit entity engaged in an industrial process taking electric service at distribution voltage that qualifies for a tax exemption under Tax Code §151.317 and has submitted an identification notice under subsection (u) of this section.

(21) Inspection--Examination of a project to verify that an energy efficiency measure has been installed, is capable of performing its intended function, and is producing an energy savings or demand reduction equivalent to the energy savings or demand reduction reported towards meeting the energy efficiency goals of this section.

(22) Installation rate--The percentage of measures that receive a program incentive payment under an energy efficiency program that are actually installed in a defined period of time. The installation rate is calculated by dividing the number of measures installed by the number of measures that receive a program incentive payment under an efficiency program in a defined period of time.

(23) Lifetime energy (demand) savings--The energy (demand) savings over the lifetime of an installed measure, project, or program. May include consideration of measure estimated useful life, technical degradation, and other factors. Can be gross or net savings.

(24) Load management--Activities that result in a reduction in peak demand, or a shifting of energy usage from a peak to an off-peak period or from high-price periods to lower price periods.

(25) Low-income--A customer who:

(A) meets the criteria for "low-income" as determined by the United States Department of Housing and Urban Development (HUD) or the United States Department of Health and Human Services (HHS) (i.e., resides in a household with an income level at or under 80% of the area median income based on family size, as calculated by HUD, or resides in a household with an income at or under 200% of the federal poverty guidelines based on family size, as calculated by HHS); or

(B) resides in a household in which at least one person receives economic assistance through a program listed in the Texas technical reference manual for the applicable program year; or

(C) resides in a HUD-designated low-income housing qualifying census tract or census block.

(26) Market transformation program--Strategic programs intended to induce lasting structural or behavioral changes in the market that result in increased adoption of energy efficient technologies, services, and practices, as described in this section.

(27) Measurement and verification (M&V)--A subset of program impact evaluation that is associated with the documentation of energy or demand savings at individual sites or projects using one or more methods that can involve measurements, engineering calculations, statistical analyses, or computer simulation modeling. M&V approaches are defined in the International Performance Measurement and Verification Protocol.

(28) Net savings--The total change in load that is attributable to an energy efficiency program. This change in energy or demand use must include, implicitly or explicitly, consideration of appropriate factors. These factors may include free ridership, participant and non-participant spillover, induced market effects, changes in the level of energy service, or other non-program causes of changes in energy use or demand.

(29) Non-participant spillover--Energy savings that occur when a program non-participant installs energy efficiency measures or applies energy savings practices as a result of a program's influence.

(30) Off-peak period--Period during which the demand on an electric utility system is not at or near its maximum. For the purpose of this section, the off-peak period includes all hours that are not in the peak period.

(31) Participant spillover--The additional energy savings that occur when a program participant independently installs incremental energy efficiency measures or applies energy savings practices after having participated in the efficiency program as a result of the program's influence.

(32) Peak demand--A distribution utility's highest annual retail demand at the source, used to determine the utility's annual energy efficiency goal.

(33) Peak period--For the purpose of this section, the peak period consists of the hours from one p.m. to seven p.m. during the months of June, July, August, and September, and the hours of six a.m. to ten a.m. and six p.m. to ten p.m. during the months of December, January, and February.

(34) Program incentive payment--Payment made by a utility to an energy efficiency service provider, an end-use customer, or third-party contractor to implement or attract customers to energy efficiency programs, including standard offer, market transformation and self-delivered programs.

(35) Program year--A year in which an energy efficiency incentive program is implemented, beginning January 1 and ending December 31.

(36) Projected savings--Estimated program demand reduction or energy savings reported by an electric utility for planning purposes.

(37) Self-delivered program--A program developed by a utility in an area in which customer choice is not offered that provides incentives directly to customers. The utility may use internal or external resources to design and administer the program.

(38) Spillover--Reductions in energy consumption or demand caused by the presence of an energy efficiency program, beyond the program-related gross savings of the participants and without financial or technical assistance from the program. There can be participant or non-participant spillover.

(39) Spillover rate--Estimate of energy savings attributable to spillover expressed as a percent of savings installed by participants through an energy efficiency program.

(40) Standard offer contract--A contract between an energy efficiency service provider and a participating utility or between a participating utility and a commercial customer specifying standard payments based upon the amount of energy and peak demand savings achieved through energy efficiency measures, the measurement and verification protocols, and other terms and conditions, consistent with this section.

(41) Standard offer program--A program under which a utility administers standard offer contracts between the utility and energy efficiency service providers.

(42) Technical reference manual (TRM)--A resource document compiled by the commission's EM&V contractor that includes information used in program planning and reporting of energy efficiency programs. It can include savings values for measures, engineering algorithms to calculate savings, impact factors to be applied to calculated savings (e.g., net-to-gross values), protocols, source documentation, specified assumptions, and other relevant material to support the calculation of measure and program savings.

(43) Verification--An independent assessment that a program has been implemented in accordance with the program design. The objectives of measure installation verification are to confirm the installation rate, that the installation meets reasonable quality standards, and that the measures are operating correctly and have the potential to generate the predicted savings. Verification activities are generally conducted during on-site surveys of a sample of projects. Project site inspections, participant phone and mail surveys or implementer and participant documentation review are typical activities associated with verification. Verification is also a subset of evaluation.

(d) Cost-effectiveness standard. An energy efficiency program is deemed to be cost-effective if the cost of the program to the utility is less than or equal to the benefits of the program. Utilities are encouraged to achieve demand reduction and energy savings through a portfolio of cost-effective programs that exceed each utility's energy efficiency goals while staying within the cost caps established in §25.182(d)(7) of this title.

(1) The cost of a program includes the cost of program incentive payments, EM&V contractor costs, utility incentive, and actual or allocated research and development and administrative costs. The benefits of the program consist of the value of the demand reductions and energy savings, measured in accordance with the avoided costs prescribed in this subsection. The present value of the program benefits must be calculated over the projected life of the measures installed or implemented under the program.

(2) The avoided cost of capacity must be established in accordance with this paragraph.

(A) By November 1 of each year, commission staff must file the avoided cost of capacity for the upcoming year, including supporting data, in the commission's central records under the control number for the energy efficiency implementation project.

(i) Staff must calculate the avoided cost of capacity from the base overnight cost using the lower of a new conventional combustion turbine or a new advanced combustion turbine, as reported by the United States Department of Energy's Energy Information Administration's (EIA) Cost and Performance Characteristics of New Central Station Electricity Generating Technologies associated with EIA's Annual Energy Outlook. If EIA cost data that reflects current conditions in the industry does not exist, staff may establish an avoided cost of capacity using another data source.

(ii) If the EIA base overnight cost of a new conventional or an advanced combustion turbine, whichever is lower, is less than $700 per kW, the avoided cost of capacity will be $80 per kW-year. If the base overnight cost of a new conventional or advanced combustion turbine, whichever is lower, is at or between $700 and $1,000 per kW, the avoided cost of capacity will be $100 per kW-year. If the base overnight cost of a new conventional or advanced combustion turbine, whichever is lower, is greater than $1,000 per kW, the avoided cost of capacity will be $120 per kW-year.

(iii) The avoided cost of capacity calculated by staff may be challenged only by the filing of a petition within 45 days of the date the avoided cost of capacity is filed in the commission's central records under the control number for the energy efficiency implementation project described by paragraph (2)(A) of this subsection. The petition must clearly describe the reasons commission's staff's avoided cost calculation is incorrect, include supporting data and calculations, and state the relief sought.

(B) A utility in an area in which customer choice is not offered may petition the commission for authorization to use an avoided cost of capacity different from the avoided cost determined according to subparagraph (A) of this paragraph by filing a petition no later than 45 days after the date the avoided cost of capacity calculated by staff is filed in the commission's central records under the control number for the energy efficiency implementation project described by paragraph (2)(A) of this subsection. The petition must clearly describe the reasons a different avoided cost should be used, include supporting data and calculations, and state the relief sought. The avoided cost of capacity proposed by the utility must be based on a generating resource or purchase in the utility's resource acquisition plan and the terms of the purchase or the cost of the resource must be disclosed in the filing.

(3) The avoided cost of energy must be established in accordance with this paragraph.

(A) By April 1 of each year, ERCOT must file its calculation of the avoided cost of energy for the upcoming calendar year for the ERCOT region under the control number for the energy efficiency implementation project. ERCOT must calculate the avoided cost of energy by determining the load-weighted average of the competitive load zone settlement point prices for the peak periods covering the seven previous winter and summer peaks, except for the winter peak period from December 2020 through February 2021. The avoided cost of energy calculated by ERCOT may be challenged only by the filing of a petition within 45 days of the date the avoided cost of capacity is filed by ERCOT in the commission's central records under the control number for the energy efficiency implementation project described by paragraph (2)(A) of this subsection. The petition must clearly describe the reasons ERCOT's avoided cost of energy calculation is incorrect, include supporting data and calculations, and state the relief sought.

(B) A utility in an area in which customer choice is not offered may petition the commission for authorization to use an avoided cost of energy other than that otherwise determined according to this paragraph. The avoided cost of energy may be based on peak period energy prices in an energy market operated by a regional transmission organization if the utility participates in that market and the prices are reported publicly. If the utility does not participate in such a market, the avoided cost of energy may be based on the expected heat rate of the gas-turbine generating technology specified in this subsection, multiplied by a publicly reported cost of natural gas.

(e) Annual energy efficiency goals.

(1) An electric utility must administer a portfolio of energy efficiency programs to acquire, at a minimum, the following:

(A) Until the trigger described in subparagraph (B) of this paragraph is reached, the utility must acquire a 30% reduction of its annual growth in demand of residential and commercial customers.

(B) If the demand reduction goal to be acquired by a utility under subparagraph (A) of this paragraph is equivalent to at least four-tenths of 1% of its summer weather-adjusted peak demand for the combined residential and commercial customers for the previous program year, the utility must meet the energy efficiency goal described in subparagraph (C) of this paragraph for each subsequent program year.

(C) Once the trigger described in subparagraph (B) of this paragraph is reached, the utility must acquire four-tenths of 1% of its summer weather-adjusted peak demand for the combined residential and commercial customers for the previous program year.

(D) Except as adjusted in accordance with subsection (u) of this section, a utility's demand reduction goal in any year must not be lower than its goal for the prior year, unless the commission establishes a goal for a utility under paragraph (2) of this subsection.

(2) The commission may establish for a utility a lower goal than the goal specified in paragraph (1) of this subsection, a higher administrative spending cap than the cap specified under subsection (g) of this section, or an EECRF greater than the cap specified in §25.182(d)(7) of this title if the utility demonstrates that compliance with that goal, administrative spending cap, or EECRF cost cap is not reasonably possible and that good cause supports the lower goal, higher administrative spending cap, or higher EECRF cost cap. To be eligible for a lower goal, higher administrative spending cap, or a higher EECRF cost cap, the utility must request a good cause exception as part of its EECRF application under §25.182 of this title. If approved, the good cause exception is limited to the program year associated with the EECRF application.

(3) Each utility's demand-reduction goal must be calculated as follows:

(A) Each year's historical demand for residential and commercial customers must be adjusted for weather fluctuations, using weather data for the most recent ten years. The utility's growth in residential and commercial demand is based on the average growth in retail load in the Texas portion of the utility's service area, measured at the utility's annual system peak. The utility must calculate the average growth rate for the prior five years.

(B) The demand goal for energy-efficiency savings for a year under paragraph (1)(A) of this subsection is calculated by applying the percentage goal to the average growth in peak demand, calculated in accordance with subparagraph (A) of this paragraph. The annual demand goal for energy efficiency savings under paragraph (1)(C) of this subsection is calculated by applying the percentage goal to the utility's summer weather-adjusted five-year average peak demand for the combined residential and commercial customers. This annual peak demand goal at the source is then converted to an equivalent goal at the meter by applying reasonable line loss factors.

(C) A utility may submit for commission approval an alternative method to calculate its growth in demand, for good cause.

(D) If a utility's prior five-year average load growth, calculated under subparagraph (A) of this paragraph, is negative, the utility must use the demand reduction goal calculated using the alternative method approved by the commission beginning with the 2013 program year or, if the commission has not approved an alternative method, the utility must use the previous year's demand reduction goal.

(E) A utility must not claim savings obtained from energy efficiency measures funded through settlement orders or count towards the utility incentive any savings obtained from grant funds that have been awarded directly to the utility for energy efficiency programs.

(F) Demand reduction achieved through programs for hard-to-reach customers must be no less than 5.0% of the utility's total demand reduction goal.

(G) Utilities may apply demand reduction and energy savings on a per project basis to summer or winter peak, but not to both summer and winter peaks.

(4) An electric utility must administer a portfolio of energy efficiency programs designed to meet an energy savings goal calculated from its demand savings goal, using a 20% conservation load factor.

(5) Electric utilities must administer a portfolio of energy efficiency programs to effectively and efficiently achieve the goals set out in this section.

(A) Program incentive payments may be made under standard offer contracts, market transformation contracts, or as part of a self-delivered program for energy savings and demand reductions. Each electric utility must establish standard program incentive payments to achieve the objectives of this section.

(B) Projects or measures under a standard offer, market transformation, or self-delivered program are not eligible for program incentive payments or compensation if:

(i) A project would achieve demand or energy reduction by eliminating an existing function, shutting down a facility or operation, or would result in building vacancies or the re-location of existing operations to a location outside of the area served by the util-

ity conducting the program, except for an appliance recycling program consistent with this section.

(ii) A measure would be adopted even in the absence of the energy efficiency service provider's proposed energy efficiency project, except in special cases, such as hard-to-reach and weatherization programs, or where free riders are accounted for using a net to gross adjustment of the avoided costs, or another method that achieves the same result.

(iii) A project results in negative environmental or health effects, including effects that result from improper disposal of equipment and materials.

(C) Ineligibility under subparagraph (B) of this paragraph does not apply to standard offer, market transformation, and self-delivered programs aimed at energy code adoption, implementation, compliance, and enforcement under subsection (k) of this section, nor does it preclude standard offer, market transformation, or self-delivered programs promoting energy efficiency measures also required by energy codes to the degree such codes do not achieve full compliance rates.

(D) A utility in an area in which customer choice is not offered may achieve the goals of paragraphs (1) and (2) of this subsection by:

(i) providing a rebate or program incentive payment directly to eligible residential and commercial customers for programs implemented under this section; or

(ii) developing, subject to commission approval, new programs other than standard offer programs and market transformation programs, to the extent that the new programs satisfy the same cost-effectiveness standard as standard offer programs and market transformation programs using the process outlined in subsection (q) of this section.

(E) For a utility in an area in which customer choice is offered, the utility may achieve the goal of this section in rural areas by providing a rebate or program incentive payment directly to customers after demonstrating to the commission in a contested case hearing that the goal requirement cannot be met through the implementation of programs by retail electric providers or energy efficiency service providers in the rural areas.

(f) Program incentive payments. The program incentive payments for each customer class must not exceed 100% of avoided cost, as determined in accordance with this section. The program incentive payments must be set by each utility with the objective of achieving its energy and demand savings goals at the lowest reasonable cost per program. Different program incentive levels may be established for areas that have historically been underserved by the utility's energy efficiency programs or for other appropriate reasons. Utilities may adjust program incentive payments during the program year, but such adjustments must be clearly publicized in the materials used by the utility to set out the program rules and describe the programs to participating energy efficiency service providers.

(g) Utility administration. The cost of administration in a program year must not exceed 15% of a utility's total program costs for that program year. The cost of research and development in a program year must not exceed 10% of a utility's total program costs for that program year. The cumulative cost of administration and research and development must not exceed 20% of a utility's total program costs, unless a good cause exception filed under subsection (e)(2) of this section is granted. Any portion of these costs that is not directly assignable to a specific program must be allocated among the programs in proportion to the program incentive costs. Any utility incentive awarded by the commission must not be included in program costs for the purpose of applying these limits.

(1) Administrative costs include all reasonable and necessary costs incurred by a utility in carrying out its responsibilities under this section, including:

(A) conducting informational activities designed to explain the standard offer programs and market transformation programs to energy efficiency service providers, retail electric providers, and vendors;

(B) for a utility offering self-delivered programs, internal utility costs to conduct outreach activities to customers and energy efficiency service providers will be considered administration;

(C) providing informational programs to improve customer awareness of energy efficiency programs and measures;

(D) reviewing and selecting energy efficiency programs in accordance with this section;

(E) providing regular and special reports to the commission, including reports of energy and demand savings;

(F) a utility's costs for an EECRF proceeding conducted under §25.182(d) of this title;

(G) the costs paid by a utility pursuant to PURA §33.023(b) for an EECRF proceeding conducted under §25.182(d) of this title; however, these costs are not included in the administrative caps applied in this paragraph; and

(H) any other activities that are necessary and appropriate for successful program implementation.

(2) A utility must adopt measures to foster competition among energy efficiency service providers for standard offer, market transformation, and self-delivered programs, such as limiting the number of projects or level of program incentive payments that a single energy efficiency service provider and its affiliates is eligible for and establishing funding set-asides for small projects.

(3) A utility may establish funding set-asides or other program rules to foster participation in energy efficiency programs by municipalities and other governmental entities.

(4) Electric utilities offering standard offer, market transformation, and self-delivered programs must use standardized forms, procedures, and program templates. The electric utility must file any standardized materials, or any change to it, with the commission at least 60 days prior to its use. In filing such materials, the utility must provide an explanation of changes from the version of the materials that was previously used. For standard offer, market transformation, and self-delivered programs, the utility must provide relevant documents to retail electric providers and energy efficiency service providers and work collaboratively with them when it changes program documents, to the extent that such changes are not considered in the energy efficiency implementation project described in subsection (q) of this section.

(5) Each electric utility in an area in which customer choice is offered must conduct programs to encourage and facilitate the participation of retail electric providers and energy efficiency service providers in the delivery of efficiency and demand response programs, including:

(A) Coordinating program rules, contracts, and program incentive payments to facilitate the statewide marketing and delivery of the same or similar programs by retail electric providers;

(B) Setting aside amounts for programs to be delivered to customers by retail electric providers and establishing program rules and schedules that will give retail electric providers sufficient time to plan, advertise, and conduct energy efficiency programs, while preserving the utility's ability to meet the goals in this section; and

(C) Working with retail electric providers and energy efficiency service providers to evaluate the demand reductions and energy savings resulting from time-of-use prices; home-area network devices, such as in-home displays; and other programs facilitated by advanced meters to determine the demand and energy savings from such programs.

(h) Standard offer programs. A utility's standard offer program must be implemented through program rules and standard offer contracts that are consistent with this section. Standard offer contracts will be available to any energy efficiency service provider that satisfies the contract requirements prescribed by the utility under this section and demonstrates that it is capable of managing energy efficiency projects under an electric utility's energy efficiency program.

(i) Market transformation programs. Market transformation programs are strategic efforts, including, but not limited to, program incentive payments and education designed to reduce market barriers for energy efficient technologies and practices. Market transformation programs may be designed to obtain energy savings or peak demand reductions beyond savings that are reasonably expected to be achieved as a result of current compliance levels with existing building codes applicable to new buildings and equipment efficiency standards or standard offer programs. Market transformation programs may also be specifically designed to express support for early adoption, implementation, and enforcement of the most recent version of the International Energy Conservation Code for residential or commercial buildings by local jurisdictions, express support for more effective implementation and enforcement of the state energy code and compliance with the state energy code, and encourage utilization of the types of building components, products, and services required to comply with such energy codes. The existence of federal, state, or local governmental funding for, or encouragement to utilize, the types of building components, products, and services required to comply with such energy codes does not prevent utilities from offering programs to supplement governmental spending and encouragement. Utilities should cooperate with the retail electric providers, and, where possible, leverage existing industry-recognized programs that have the potential to reduce demand and energy consumption in Texas and consider statewide administration where appropriate. Market transformation programs may operate over a period of more than one year and may demonstrate cost-effectiveness over a period longer than one year.

(j) Self-delivered programs. A utility may use internal or external resources to design, administer, and deliver self-delivered programs. The programs must be tailored to the unique characteristics of the utility's service area in order to attract customer and energy efficiency service provider participation. The programs must meet the same cost effectiveness requirements as standard offer and market transformation programs.

(k) Requirements for standard offer, market transformation, and self-delivered programs. A utility's standard offer, market transformation, and self-delivered programs must meet the requirements of this subsection. A utility may conduct information and advertising campaigns to foster participation in standard offer, market transformation, and self-delivered programs.

(1) Standard offer, market transformation, and self-delivered programs:

(A) must describe the eligible customer classes and allocate funding among the classes on an equitable basis;

(B) may offer standard program incentive payments and specify a schedule of payments that are sufficient to meet the goals of the program, which must be consistent with this section, or any revised payment formula adopted by the commission. The program incentive payments may include both payments for energy and demand savings, as appropriate;

(C) must not permit the provision of any product, service, pricing benefit, or alternative terms or conditions to be conditioned upon the purchase of any other good or service from the utility, except that only customers taking transmission and distribution services from a utility can participate in its energy efficiency programs;

(D) must provide for a complaint process that allows:

(i) an energy efficiency service provider to file a complaint with the commission against a utility; and

(ii) a customer to file a complaint with the utility against an energy efficiency service provider;

(E) may permit the use of distributed renewable generation, geothermal, heat pump, solar water heater and combined heat and power technologies, involving installations of ten megawatts or less;

(F) may factor in the estimated level of enforcement and compliance with existing energy codes in determining energy and peak demand savings; and

(G) may require energy efficiency service providers to provide the following:

(i) a description of how the value of any program incentive payment will be passed on to customers;

(ii) evidence of experience and good credit rating;

(iii) a list of references;

(iv) all applicable licenses required under state law and local building codes;

(v) evidence of all building permits required by governing jurisdictions; and

(vi) evidence of all necessary insurance.

(2) Standard offer and self-delivered programs:

(A) must require energy efficiency service providers to identify peak demand and energy savings for each project in the proposals they submit to the utility;

(B) must be neutral with respect to specific technologies, equipment, or fuels. Energy efficiency projects may lead to switching from electricity to another energy source, provided that the energy efficiency project results in overall lower energy costs, lower energy consumption, and the installation of high efficiency equipment. Utilities may not issue program incentive payments for a customer to switch from gas appliances to electric appliances except in connection with the installation of high efficiency combined heating and air conditioning systems;

(C) must require that all projects result in a reduction in purchased energy consumption, or peak demand, or a reduction in energy costs for the end-use customer;

(D) must encourage comprehensive projects incorporating more than one energy efficiency measure;

(E) must be limited to projects that result in consistent and predictable energy or peak demand savings over an appropriate period of time based on the life of the measure; and

(F) may permit a utility to use poor performance, including customer complaints, as a criterion to limit or disqualify an energy efficiency service provider or its affiliate from participating in a program.

(3) A market transformation program must identify:

(A) program goals;

(B) market barriers the program is designed to overcome;

(C) key intervention strategies for overcoming those barriers;

(D) estimated costs and projected energy and capacity savings;

(E) a baseline study that is appropriate in time and geographic region. In establishing a baseline, the study must consider the level of regional implementation and enforcement of any applicable energy code;

(F) program implementation timeline and milestones;

(G) a description of how the program will achieve the transition from extensive market intervention activities toward a largely self-sustaining market;

(H) a method for measuring and verifying savings; and

(I) the period over which savings must be considered to accrue, including a projected date by which the market will be sufficiently transformed so that the program should be discontinued.

(4) A market transformation program must be designed to achieve energy or peak demand savings, or both, and lasting changes in the way energy efficient goods or services are distributed, purchased, installed, or used over a defined period of time. A utility must use fair competitive procedures to select energy efficiency service providers to conduct a market transformation program, and must include in its annual report the justification for the selection of an energy efficiency service provider to conduct a market transformation program on a sole-source basis.

(5) A load-control standard-offer program must not permit an energy efficiency service provider to receive program incentive payments under the program for the same demand reduction benefit for which it is compensated under a capacity-based demand response program conducted by an independent organization, independent system operator, or regional transmission operator. The qualified scheduling entity representing an energy efficiency service provider is not prohibited from receiving revenues from energy sold in ERCOT markets in addition to any program incentive payment for demand reduction offered under a utility load-control standard offer program.

(6) Utilities offering load management programs must work with ERCOT and energy efficiency service providers to identify eligible loads and must integrate such loads into the ERCOT markets to the extent feasible. Such integration must not preclude the continued operation of utility load management programs that cannot be feasibly integrated into the ERCOT markets or that continue to provide separate and distinct benefits.

(l) Energy efficiency plans and reports (EEPR). Each electric utility must file by April 1 of each year an energy efficiency plan and report in a project annually designated for this purpose, as described in this subsection and §25.183(d) of this title. The plan and report must be filed as a searchable pdf document and in Excel format for all included tables, with formulas intact, according to the commission's file format standards in §22.72 of this title (relating to Formal Requisites of Pleadings and Documents to be Filed with the Commission). The utility's plan and report must include a completed attachment based on the commission-prescribed Excel template.

(1) Each electric utility's energy efficiency plan and report must describe how the utility intends to achieve the goals set forth in this section and comply with the other requirements of this section. The plan and report must be based on program years. The plan and report must propose an annual budget sufficient to reach the goals specified in this section.

(2) Each electric utility's plan and report must include:

(A) the utility's total actual and weather-adjusted peak demand and actual and weather-adjusted peak demand for residential and commercial customers for the previous five years, measured at the source;

(B) the demand goal calculated in accordance with this section for the current year and the following year, including documentation of the demand, weather adjustments, and the calculation of the goal;

(C) the utility's customers' total actual and weather-adjusted energy consumption and actual and weather-adjusted energy consumption for residential and commercial customers for the previous five years;

(D) the energy goal calculated in accordance with this section, including documentation of the energy consumption, weather adjustments, and the calculation of the goal;

(E) a description of existing energy efficiency programs and an explanation of the extent to which these programs will be used to meet the utility's energy efficiency goals;

(F) a description of each of the utility's energy efficiency programs that were not included in the previous year's plan, including measurement and verification plans if appropriate, and any baseline studies and research reports or analyses supporting the value of the new programs;

(G) an estimate of the energy and peak demand savings to be obtained through each separate energy efficiency program;

(H) a description of the customer classes targeted by the utility's energy efficiency programs, specifying the size of the hard-to-reach, residential, and commercial classes, and the methodology used for estimating the size of each customer class;

(I) the proposed annual budget required to implement the utility's energy efficiency programs, broken out by program for each customer class, including hard-to-reach customers, and any set-asides or budget restrictions adopted or proposed in accordance with this section. The proposed budget must detail the program incentive payments and utility administrative costs, including specific items for research and information and outreach to energy efficiency service providers, and other major administrative costs, and the basis for estimating the proposed expenditures;

(J) a discussion of the types of informational activities the utility plans to use to encourage participation by customers, energy efficiency service providers, and retail electric providers to participate in energy efficiency programs, including the manner in which the utility will provide notice of energy efficiency programs, and any other facts that may be considered when evaluating a program;

(K) the utility's performance in achieving its energy goal and demand goal for the prior five years, as reported in annual energy efficiency reports filed in accordance with this section;

(L) a comparison of projected savings (energy and demand), reported savings, and verified savings for each of the utility's energy efficiency programs for the prior two years;

(M) a description of the results of any market transformation program, including a comparison of the baseline and actual results and any adjustments to the milestones for a market transformation program;

(N) a description of self-delivered programs;

(O) expenditures for the prior five years for energy and demand program incentive payments and program administration, by program and customer class;

(P) funds that were committed but not spent during the prior year, by program;

(Q) a comparison of actual and budgeted program costs, including an explanation of any increase or decreases of more than 10% in the cost of a program;

(R) information relating to energy and demand savings achieved and the number of customers served by each program by customer class;

(S) the utility's most recent EECRF, the revenue collected through the EECRF, the utility's forecasted annual energy efficiency program expenditures in excess of the actual energy efficiency revenues collected from base rates as described in §25.182(d)(2) of this title, and the control number under which the most recent EECRF was established;

(T) the amount of any over- or under-recovery of energy efficiency program costs whether collected through base rates or the EECRF;

(U) a list of any counties that in the prior year were under-served by the energy efficiency program;

(V) a description of new or discontinued programs, including pilot programs that are planned to be continued as full programs. For programs that are to be introduced or pilot programs that are to be continued as full programs, the description must include the budget and projected demand and energy savings;

(W) a link to the program manuals for the current program year; and

(X) the calculations supporting the adjustments to restate the demand goal from the source to the meter and to restate the energy efficiency savings from the meter to the source.

(m) Review of programs. Commission staff may initiate a proceeding to review a utility's energy efficiency programs. In addition, an interested entity may request that the commission initiate a proceeding to review a utility's energy efficiency programs.

(n) Inspection, measurement and verification. Each standard offer, market transformation, and self-delivered program must include use of an industry-accepted evaluation or measurement and verification protocol, such as the International Performance Measurement and Verification Protocol or a protocol approved by the commission, to document and verify energy and peak demand savings to ensure that the goals of this section are achieved. A utility must not provide an energy efficiency service provider final compensation until the provider establishes that the work is complete and evaluation or measurement and verification in accordance with the protocol verifies that the savings will be achieved. However, a utility may provide an energy efficiency service provider that offers behavioral programs incremental compensation as work is performed. If inspection of one or more measures is a part of the protocol, a utility must not provide an energy efficiency service provider final compensation until the utility has conducted its inspection on at least a sample of measures and the inspections confirm that the work has been done. A utility must provide inspection reports to commission staff within 20 days of staff's request.

(1) The energy efficiency service provider, or for self-delivered programs, the utility, is responsible for the determination and documentation of energy and peak demand savings using the approved evaluation and/or measurement and verification protocol, and may utilize the services of an independent third party for such purposes.

(2) Commission-approved deemed energy and peak demand savings may be used in lieu of the energy efficiency service provider's measurement and verification, where applicable. The deemed savings approved by the commission before December 31, 2007 are continued in effect, unless superseded by commission action.

(3) Where installed measures are employed, an energy efficiency service provider must verify that the measures contracted for were installed before final payment is made to the energy efficiency service provider, by obtaining the customer's signature certifying that the measures were installed, or by other reasonably reliable means approved by the utility.

(4) For projects involving over 30 installations, a statistically significant sample of installations will be subject to on-site inspection in accordance with the protocol for the project to verify that measures are installed and capable of performing their intended function. Inspection must occur within 30 days of notification of measure installation.

(5) Projects of less than 30 installations may be aggregated and a statistically significant sample of the aggregate installations will be subject to on-site inspection in accordance with the protocol for the projects to ensure that measures are installed and capable of performing their intended function. Inspection must occur within 30 days of notification of measure installation.

(6) Where installed measures are employed, the sample size for on-site inspections may be adjusted for an energy efficiency service provider under a particular contract, based on the results of prior inspections.

(o) Evaluation, measurement, and verification (EM&V). The following defines the evaluation, measurement, and verification (EM&V) framework. The goal of this framework is to ensure that the programs are evaluated, measured, and verified using a consistent process that allows for accurate estimation of energy and demand impacts.

(1) EM&V objectives include:

(A) Documenting the impacts of the utilities' individual energy efficiency and load management portfolios, comparing their performance with established goals, and determining cost-effectiveness;

(B) Providing feedback for the commission, commission staff, utilities, and other stakeholders on program portfolio performance; and

(C) Providing input into the utilities' and ERCOT's planning activities.

(2) The principles that guide the EM&V activities in meeting the primary EM&V objectives are:

(A) Evaluators follow ethical guidelines.

(B) Important and relevant assumptions used by program planners and administrators are reviewed as part of the EM&V efforts.

(C) All important and relevant EM&V assumptions and calculations are documented and the reliability of results is indicated in evaluation reports.

(D) The majority of evaluation expenditures and efforts are in areas of greatest importance or uncertainty.

(3) The commission must select an entity to act as the commission's EM&V contractor and conduct evaluation activities. The EM&V contractor must operate under the commission's supervision and oversight, and the EM&V contractor must offer independent analysis to the commission in order to assist in making decisions in the public interest.

(A) Under the oversight of the commission staff and with the assistance of utilities and other parties, the EM&V contractor will evaluate specific programs and the portfolio of programs for each utility.

(B) The EM&V contractor must have the authority to request data it considers necessary to fulfill its evaluation, measurements, and verification responsibilities from the utilities. A utility must make good faith efforts to provide complete, accurate, and timely responses to all EM&V contractor requests for documents, data, information and other materials. The commission may on its own volition or upon recommendation by staff require that a utility provide the EM&V contractor with specific information.

(4) Evaluation activities will be conducted by the EM&V contractor to meet the evaluation objectives defined in this section. Activities must include, but are not limited to:

(A) Providing appropriate planning documents.

(B) Impact evaluations to determine and document appropriate metrics for each utility's individual evaluated programs and portfolio of all programs, annual portfolio evaluation reports, and additional reports and services as defined by commission staff to meet the EM&V objectives.

(C) Preparation of a statewide technical reference manual (TRM), including updates to such manual as defined in this subsection.

(5) The impact evaluation activities may include the use of one or more evaluation approaches. Evaluation activities may also include, or just include, verification activities on a census or sample of projects implemented by the utilities. Evaluations may also include the use of due-diligence on utility-provided documentation as well as surveys of program participants, non-participants, contractors, vendors, and other market actors.

(6) The following apply to the development of a statewide TRM by the EM&V contractor.

(A) The EM&V contractor must use existing Texas, or other state, deemed savings manual(s), protocols, and the work papers used to develop the values in the manual(s), as a foundation for developing the TRM. The TRM must include applicability requirements for each deemed savings value or deemed savings calculation. The TRM may also include standardized EM&V protocols for determining or verifying energy and demand savings for particular measures or programs. Utilities may apply TRM deemed savings values or deemed savings calculations to a measure or program if the applicability criteria are met.

(B) The TRM must be reviewed by the EM&V contractor at least annually, under a schedule determined by commission staff, with the intention of preparing an updated TRM, if needed. In addition, any utility or other stakeholder may request additions to or modifications to the TRM at any time with the provision of documentation for the basis of such an addition or modification. At the discretion of commission staff, the EM&V contractor may review such documentation to prepare a recommendation with respect to the addition or modification.

(C) Commission staff must approve any updated TRMs through the energy efficiency implementation project. The approval process for any TRM additions or modifications, not made during the regular review schedule determined by commission staff, must include a review by commission staff to determine if an addition or modification is appropriate before an annual update. TRM changes approved by staff may be challenged only by the filing of a petition within 45 days of the date that staff's approval is filed in the commission's central records under the control number for the energy efficiency implementation project described by subsection (d)(2)(A) of this section. The petition must clearly describe the reasons commission staff should not have approved the TRM changes, include supporting data and calculations, and state the relief sought.

(D) Any changes to the TRM must be applied prospectively to programs offered in the appropriate program year.

(E) The TRM must be publicly available.

(F) Utilities must utilize the values contained in the TRM, unless the commission indicates otherwise.

(i) For program year 2026, a utility must estimate a peak period using the calculation method contained in the TRM adopted in November 2025.

(ii) Starting with program year 2027, a utility must estimate a peak period using the calculation method contained in the most recently adopted TRM.

(7) The utilities must prepare projected savings estimates and claimed savings estimates. The utilities must conduct their own EM&V activities for purposes such as confirming any program incentive payments to customers or contractors and preparing documentation for internal and external reporting, including providing documentation to the EM&V contractor. The EM&V contractor must prepare evaluated savings for preparation of its evaluation reports and a realization rate comparing evaluated savings with projected savings estimates or claimed savings estimates.

(8) Baselines for preparation of TRM deemed savings values or deemed savings calculations or for other evaluation activities must be defined by the EM&V contractor and commission staff must review and approve them. When common practice baselines are defined for determining gross energy or demand savings for a measure or program, common practice may be documented by market studies. Baselines must be defined by measure category as follows (deviations from these specifications may be made with justification and approval of commission staff):

(A) Baseline is existing conditions for the estimated remaining lifetime of existing equipment for early replacement of functional equipment still within its current useful life. Baseline is applicable code, standard or common practice for remaining lifetime of the measure past the estimated remaining lifetime of existing equipment;

(B) Baseline is applicable code, standard or common practice for replacement of functional equipment beyond its current useful life;

(C) Baseline is applicable code, standard or common practice for unplanned replacements of failed equipment; and

(D) Baseline is applicable code, standard or common practice for new construction or major tenant improvements.

(9) Relevant recommendations of the EM&V contractor related to program design and reporting should be addressed in the Energy Efficiency Implementation Project (EEIP) and considered for implementation in future program years. The commission may require a utility to implement the EM&V contractor's recommendations in a future program year.

(10) The utilities must be assigned the EM&V costs in proportion to their annual program costs and must pay the invoices approved by the commission. The commission must at least biennially review the EM&V contractor's costs and establish a budget for its services sufficient to pay for those services that it determines are economic and beneficial to be performed.

(A) The funding of the EM&V contractor must be sufficient to ensure the selection of an EM&V contractor in accordance with the scope of EM&V activities outlined in this subsection.

(B) EM&V costs must be itemized in the utilities' annual reports to the commission as a separate line item. The EM&V costs must not count against the utility's cost caps or administration spending caps.

(11) For the purpose of analysis, the utility must grant the EM&V contractor access to data maintained in the utilities' data tracking systems, including, but not limited to, the following proprietary customer information: customer identifying information, individual customer contracts, and load and usage data in accordance with §25.272(g)(1)(A) of this title (relating to Code of Conduct for Electric Utilities and Their Affiliates). Such information must be treated as confidential information.

(A) The utility must maintain records for three years that include the date, time, and nature of proprietary customer information released to the EM&V contractor.

(B) The EM&V contractor must aggregate data in such a way as to protect customer, retail electric provider, and energy efficiency service provider proprietary information in any non-confidential reports or filings the EM&V contractor prepares.

(C) The EM&V contractor must not utilize data provided or received under commission authority for any purposes outside the authorized scope of work the EM&V contractor performs for the commission.

(D) The EM&V contractor providing services under this section must not release any information it receives related to the work performed unless directed to do so by the commission.

(p) Targeted low-income energy efficiency program.

(1) Each unbundled transmission and distribution utility must include at least one targeted low-income energy efficiency program in its energy efficiency plan, and a utility in an area in which customer choice is not offered may include a targeted low-income energy efficiency program in its energy efficiency plan.

(A) Savings achieved by the program must count toward the utility's energy efficiency goal.

(B) A utility's targeted low-income program must incorporate a whole-house assessment that will evaluate all applicable energy efficiency measures for which there are commission-approved deemed savings. The cost-effectiveness of measures eligible to be installed and the overall program must be evaluated using the Savings-to-Investment ratio.

(C) Any funds that are not obligated after July of a program year may be made available for use in a hard-to-reach program. However, such funds may not be used to satisfy the expenditure requirement under paragraph (2)(A) of this subsection.

(D) Demand reduction achieved through a targeted low-income energy efficiency program may not be used to satisfy the hard-to-reach demand reduction requirement under subsection (e)(3)(F) of this section.

(2) Elements of the targeted low-income energy efficiency program required only for unbundled transmission and distribution utilities.

(A) Annual expenditures for a targeted low-income energy efficiency program must be at least 10% of the utility's energy efficiency budget for the program year.

(B) The targeted low-income energy efficiency program must comply with requirements listed in PURA §39.905(f):

(i) a targeted low-income energy efficiency program must comply with the same audit requirements that apply to federal weatherization subrecipients;

(ii) the Texas Department of Housing and Community Affairs must participate in an energy efficiency cost recovery factor proceeding related to expenditures under this subsection to ensure that a targeted low-income energy efficiency program is consistent with federal weatherization programs and adequately funded; and

(ii) in an energy efficiency cost recovery factor proceeding related to expenditures under this subsection, the commission will make findings of fact regarding whether the utility meets requirements as described in this subsection.

(q) Energy Efficiency Implementation Project - EEIP. The commission will use the EEIP to develop best practices in standard offer market transformation, self-directed, pilot, or other programs, modifications to programs, standardized forms and procedures, protocols, deemed savings estimates, program templates, and the overall direction of the energy efficiency program established by this section. Utilities must provide timely responses to questions posed by other participants relevant to the tasks of the EEIP. Any recommendations from the EEIP process must relate to future years as described in this subsection.

(1) The following functions may also be undertaken in the EEIP:

(A) development, discussion, and review of new statewide standard offer programs;

(B) identification, discussion, design, and review of new market transformation programs;

(C) determination of measures for which deemed savings are appropriate and participation in the development of deemed savings estimates for those measures;

(D) review of and recommendations on the commission EM&V contractor's reports;

(E) review of and recommendations on program incentive payment levels and their adequacy to induce the desired level of participation by energy efficiency service providers and customers;

(F) review of and recommendations on a utility's annual energy efficiency plans and reports;

(G) utility program portfolios and proposed energy efficiency spending levels for future program years;

(H) periodic reviews of the cost-effectiveness methodology; and

(I) other activities as identified by commission staff.

(2) The EEIP projects must be conducted by commission staff. The commission's EM&V contractor's reports must be filed in the project at a date determined by commission staff.

(3) A utility that intends to launch a program that is substantially different from other programs previously implemented by any utility affected by this section must file a program template and must provide notice of such to EEIP participants. Notice to EEIP participants need not be provided if a program description or program template for the new program is provided through the utility's annual energy efficiency report. Following the first year in which a program was implemented, the utility must include the program results in the utility's annual energy efficiency report.

(4) Participants in the EEIP may submit comments and reply comments in the EEIP on dates established by commission staff.

(5) Any new programs or program redesigns must be submitted to the commission in a petition in a separate proceeding. The approved changes must be available for use in the utilities' next EEPR and EECRF filings. If the changes are not approved by the commission by November 1 in a particular year, the first time that the changes must be available for use is the second EEPR and EECRF filings made after commission approval.

(6) Any interested entity that participates in the EEIP may file a petition to the commission for consideration regarding changes to programs.

(r) Retail providers. Each utility in an area in which customer choice is offered must conduct outreach and information programs and otherwise use its best efforts to encourage and facilitate the involvement of retail electric providers as energy efficiency service companies in the delivery of efficiency and demand response programs.

(s) Customer protection. Each energy efficiency service provider that provides energy efficiency services to end-use customers under this section must provide the disclosures and include the contractual provisions required by this subsection, except for commercial customers with a peak load exceeding 50 kW. Paragraph (1) of this subsection does not apply to behavioral energy efficiency programs that do not require a contract with a customer.

(1) Clear disclosure to the customer must be made of the following:

(A) the customer's right to a cooling-off period of three business days, in which the contract may be canceled, if applicable under law;

(B) the name, telephone number, and street address of the energy efficiency service provider and any subcontractor that will be performing services at the customer's home or business;

(C) the fact that program incentive payments are made to the energy efficiency services provider through a program funded by utility customers, manufacturers or other entities and the amount of any program incentives provided by the utility;

(D) the amount of any program incentive payment that will be provided to the customer;

(E) notice of provisions that will be included in the customer's contract, including warranties;

(F) the fact that the energy efficiency service provider must measure and report to the utility the energy and peak demand savings from installed energy efficiency measures;

(G) the liability insurance to cover property damage carried by the energy efficiency service provider and any subcontractor;

(H) the financial arrangement between the energy efficiency service provider and customer, including an explanation of the total customer payments, the total expected interest charged, all possible penalties for non-payment, and whether the customer's installment sales agreement may be sold;

(I) the fact that the energy efficiency service provider is not part of or endorsed by the commission or the utility; and

(J) a description of the complaint procedure established by the utility under this section, and toll-free numbers for the Consumer Protection Division of the Public Utility Commission of Texas, and the Office of Attorney General's Consumer Protection Hotline.

(2) The energy efficiency service provider's contract with the customer, where such a contract is employed, must include:

(A) work activities, completion dates, and the terms and conditions that protect residential customers in the event of non-performance by the energy efficiency service provider;

(B) provisions prohibiting the waiver of consumer protection statutes, performance warranties, false claims of energy savings and reductions in energy costs;

(C) a disclosure notifying the customer that consumption data may be disclosed to the EM&V contractor for evaluation purposes; and

(D) a complaint procedure to address performance issues by the energy efficiency service provider or a subcontractor.

(3) When an energy efficiency service provider completes the installation of measures for a customer, it must provide the customer an "All Bills Paid" affidavit to protect against claims of subcontractors.

(t) Grandfathered programs. An electric utility that offered a load management standard offer program for industrial customers prior to May 1, 2007 must continue to make the program available, at 2007 funding and participation levels, and may include additional customers in the program to maintain these funding and participation levels.

(u) Industrial customer opt-out. An industrial customer taking electric service at distribution voltage may submit a notice identifying the distribution accounts for which it qualifies under subsection (c)(20) of this section. The identification notice must be submitted directly to the customer's utility. An identification notice submitted under this section must be renewed every three years. Each identification notice must include the name of the industrial customer, a copy of the customer's Texas Sales and Use Tax Exemption Certification (under Tax Code §151.317), a description of the industrial process taking place at the consuming facilities, and the customer's applicable account number or ESID number. The identification notice is limited solely to the metered point of delivery of the industrial process taking place at the consuming facilities. The account number or ESID number identified by the industrial customer under this section must not be charged for any costs associated with programs provided under this section, including any utility incentive awarded; nor must the identified facilities be eligible to participate in utility-administered energy efficiency programs during the term. Notices must be submitted not later than February 1 to be effective for the following program year. A utility's demand re-

duction goal must be adjusted to remove any load that is lost as a result of this subsection.

(v) Administrative penalty. The commission may impose an administrative penalty or other sanction if the utility fails to meet a goal for energy efficiency under this section. Factors, to the extent they are outside of the utility's control, that may be considered in determining whether to impose a sanction for the utility's failure to meet the goal include:

(1) the level of demand by retail electric providers and energy efficiency service providers for program incentive payments made by the utility through its programs;

(2) changes in building energy codes; and

(3) changes in government-imposed appliance or equipment efficiency standards.

§25.182. Energy Efficiency Cost Recovery Factor.

(a) Purpose. The purpose of this section is to implement Public Utility Regulatory Act (PURA) §39.905 and establish:

(1) an energy efficiency cost recovery factor (EECRF) that enables an electric utility to timely recover the reasonable costs of providing a portfolio of cost-effective energy efficiency programs that complies with this section and §25.181 of this title (relating to Energy Efficiency Goal).

(2) a utility incentive to reward an electric utility that exceeds its demand and energy reduction goals under the requirements of §25.181 of this title at a cost that does not exceed the cost caps established in subsection (d)(7) of this section.

(b) Application. This section applies to electric utilities.

(c) Definitions. The definitions provided in §25.181(c) of this title also apply in this section. The following terms, when used in this section, have the following meaning unless the context indicates otherwise:

(1) Billing determinants--The measures of energy consumption or load used to calculate a customer's bill or to determine the aggregate revenue from rates from all customers.

(2) Rate class--For the purpose of calculating EECRF rates, a utility's rate classes are those retail rate classes approved in the utility's most recent base-rate proceeding, excluding non-eligible customers.

(d) Cost recovery. A utility must establish an EECRF that complies with this subsection to timely recover the reasonable costs of providing a portfolio of cost-effective energy efficiency programs under §25.181 of this title. Each utility must file its application according to the commission's file format standards in §22.72 of this title (relating to Formal Requisites of Pleadings and Documents to be Filed with the Commission).

(1) The EECRF must be calculated based on the following:

(A) The utility's forecasted annual energy efficiency program expenditures, the preceding year's over- or under-recovery including interest and municipal and utility EECRF proceeding expenses, any utility incentive earned under subsection (e) of this section, and evaluation, measurement, and verification (EM&V) contractor costs allocated to the utility by the commission for the preceding year under §25.181 of this title.

(B) For a utility that collects any amount of energy efficiency costs in its base rates, the amounts described in subparagraph (A) of this paragraph in excess of the actual energy efficiency revenues collected from base rates as described in paragraph (2) of this subsection.

(2) The commission may approve an EECRF for each eligible rate class. The costs must be directly assigned to each rate class that received services under the programs to the maximum extent reasonably possible. In its EECRF proceeding, a utility may request a good cause exception to combine one or more rate classes, each containing fewer than 20 customers, with a similar rate class that received services under the same energy efficiency programs in the preceding year. For each rate class, the under- or over-recovery of the energy efficiency costs must be the difference between actual EECRF revenues and actual costs for that class that comply with paragraph (12) of this subsection, including interest applied on such over- or under-recovery calculated by rate class and compounded on an annual basis for a two-year period using the annual interest rates authorized by the commission for over- and under-billing for the year in which the over- or under-recovery occurred and the immediately subsequent year. Where a utility collects energy efficiency costs in its base rates, actual energy efficiency revenues collected from base rates consist of the amount of energy efficiency costs expressly included in base rates, adjusted to account for changes in billing determinants from the test year billing determinants used to set rates in the last base rate proceeding.

(3) A proceeding conducted under this subsection is a ratemaking proceeding for purposes of PURA §33.023 and §36.061. EECRF proceeding expenses must be included in the EECRF calculated under paragraph (1) of this subsection as follows:

(A) For a utility's EECRF proceeding expenses, the utility may include only its expenses for the immediately previous EECRF proceeding conducted under this subsection.

(B) For municipalities' EECRF proceeding expenses, the utility may include only expenses paid or owed for the immediately previous EECRF proceeding conducted under this subsection for services reimbursable under PURA §33.023(b).

(4) Base rates must not be set to recover energy efficiency costs.

(5) If a utility recovers energy efficiency costs through base rates, the EECRF may be changed in a general rate proceeding. If a utility is not recovering energy efficiency costs through base rates, the EECRF may be adjusted only in an EECRF proceeding under this subsection.

(6) For residential customers and for non-residential rate classes whose base rates do not provide for demand charges, the EECRF rates must be designed to provide only for energy charges. For non-residential rate classes whose base rates provide for demand charges, the EECRF rates must provide for energy charges or demand charges, but not both. Any EECRF demand charge must not be billed using a demand ratchet mechanism.

(7) The total EECRF costs outlined in paragraph (1) of this subsection, excluding EM&V costs, excluding municipal EECRF proceeding expenses, and excluding any interest amounts applied to over- or under-recoveries, must not exceed the amounts prescribed in this paragraph unless a good cause exception filed under §25.181(e)(2) of this title is granted.

(A) For residential customers for program year 2018, $0.001263 per kWh increased or decreased by a rate equal to the 2016 calendar year's percentage change in the South urban consumer price index (CPI), as determined by the Federal Bureau of Labor Statistics; and

(B) For commercial customers for program year 2018, rates designed to recover revenues equal to $0.000790 per kWh increased or decreased by a rate equal to the 2016 calendar year's percentage change in the South urban CPI, as determined by the Federal

Bureau of Labor Statistics times the aggregate of all eligible commercial customers' kWh consumption.

(C) For the 2019 program year and thereafter, the residential and commercial cost caps must be calculated to be the prior period's cost caps increased or decreased by a rate equal to the most recently available calendar year's percentage change in the South urban CPI, as determined by the Federal Bureau of Labor Statistics.

(8) Not later than May 1 of each year, a utility in an area in which customer choice is not offered must apply to adjust its EECRF effective January 1 of the following year. Not later than June 1 of each year, a utility in an area in which customer choice is offered must apply to adjust its EECRF effective March 1 of the following year. If a utility is in an area in which customer choice is offered in some but not all parts of its service area and files one energy efficiency plan and report covering all of its service area, the utility must apply to adjust the EECRF not later than May 1 of each year, with the EECRF effective January 1 in the parts of its service area in which customer choice is not offered and March 1 in the parts of its service area in which customer choice is offered.

(9) Upon a utility's filing of an application to establish a new EECRF or adjust an EECRF, the presiding officer must set a procedural schedule that will enable the commission to issue a final order in the proceeding required by subparagraphs (A), (B), and (C) of this paragraph as follows:

(A) For a utility in an area in which customer choice is not offered, the presiding officer must set a procedural schedule that will enable the commission to issue a final order in the proceeding prior to the January 1 effective date of the new or adjusted EECRF, except where good cause supports a different procedural schedule.

(B) For a utility in an area in which customer choice is offered, the effective date of a new or adjusted EECRF must be March 1. The presiding officer must set a procedural schedule that will enable the utility to file an EECRF compliance tariff consistent with the final order within ten days of the date of the final order. The procedural schedule must also provide that the compliance filing date will be at least 45 days before the effective date of March 1. The effective date of any new or adjusted EECRF must occur at least 45 days after the utility files a compliance tariff consistent with a final order approving the new or adjusted EECRF. The utility must serve notice of the approved rates and the effective date of the approved rates by the working day after the utility files a compliance tariff consistent with the final order approving the new or adjusted EECRF to retail electric providers that are authorized by the registration agent to provide service in the utility's service area. Notice under this subparagraph may be served by email. The procedural schedule may be extended for good cause, but the effective date of any new or adjusted EECRF must occur at least 45 days after the utility files a compliance tariff consistent with a final order approving the new or adjusted EECRF. The utility may not serve notice of the approved rates and the effective date of the approved rates to retail electric providers that are authorized by the registration agent to provide service in the utility's service area more than one working day after the utility files the compliance tariff.

(C) For a utility in an area in which customer choice is offered in some but not all parts of its service area and that files one energy efficiency plan and report covering all of its service area, the presiding officer must set a procedural schedule that will enable the commission to issue a final order in the proceeding prior to the January 1 effective date of the new or adjusted EECRF for the areas in which customer choice is not offered, except where good cause supports a different schedule. For areas in which customer choice is offered, the effective date of the new or adjusted EECRF must be March 1. The presiding officer must set a procedural schedule that will enable the utility to file an EECRF compliance tariff consistent with the final order within ten days of the date of the final order. The procedural schedule must also provide that the compliance filing date will be at least 45 days before the effective date of March 1. The effective date of any new or adjusted EECRF must occur at least 45 days after the utility files a compliance tariff consistent with a final order approving the new or adjusted EECRF. The utility must serve notice of the approved rates and the effective date of the approved rates by the working day after the utility files a compliance tariff consistent with the final order approving the new or adjusted EECRF to retail electric providers that are authorized by the registration agent to provide service in the utility's service area. Notice under this subparagraph of this paragraph may be served by email. The procedural schedule may be extended for good cause, but the effective date of any new or adjusted EECRF must occur at least 45 days after the utility files a compliance tariff consistent with a final order approving the new or adjusted EECRF. The utility may not serve notice of the approved rates and the effective date of the approved rates to retail electric providers that are authorized by the registration agent to provide service in the utility's service area more than one working day after the utility files the compliance tariff.

(D) If no hearing is requested within 30 days of the filing of the application, the presiding officer must set a procedural schedule that will enable the commission to issue a final order in the proceeding within 90 days after a sufficient application was filed; or

(E) If a hearing is requested within 30 days of the filing of the application, the presiding officer must set a procedural schedule that will enable the commission to issue a final order in the proceeding within 180 days after a sufficient application was filed. If a hearing is requested, the hearing will be held no earlier than the first working day after the 45th day after a sufficient application is filed.

(10) A utility's application to establish or adjust an EECRF must include the utility's most recent energy efficiency plan and report, consistent with §25.181(l) and §25.183(d) of this title, as well as testimony and schedules, in Excel format with formulas intact, showing the following, by rate class, for the prior program year and the program year for which the proposed EECRF will be collected as appropriate:

(A) the utility's forecasted energy efficiency costs;

(B) the actual base rate recovery of energy efficiency costs, adjusted for changes in load and usage subsequent to the last base rate proceeding, with supporting calculations;

(C) a calculation showing whether the utility qualifies for a utility incentive and the amount that it calculates to have earned for the prior year;

(D) any adjustment for past over- or under-recovery of energy efficiency revenues, including interest;

(E) information concerning the calculation of billing determinants for the preceding year and for the year in which the EECRF is expected to be in effect;

(F) the direct assignment and allocation of energy efficiency costs to the utility's eligible rate classes, including any portion of energy efficiency costs included in base rates, provided that the utility's actual EECRF expenditures by rate class may deviate from the projected expenditures by rate class, to the extent doing so does not exceed the cost caps in paragraph (7) of this subsection;

(G) information concerning calculations related to the requirements of paragraph (7) of this subsection;

(H) the program incentive payments by the utility, by program, including a list of each energy efficiency administrator or ser-

vice provider receiving more than 5% of the utility's overall program incentive payments and the percentage of the utility's program incentive payments received by those providers. Such information may be treated as confidential;

(I) the utility's administrative costs, including any affiliate costs and EECRF proceeding expenses and an explanation of both;

(J) the actual EECRF revenues by rate class for any period for which the utility calculates an under- or over-recovery of EECRF costs;

(K) the utility's bidding and engagement process for contracting with energy efficiency service providers, including a list of all energy efficiency service providers that participated in the utility programs and contractors paid with funds collected through the EECRF. Such information may be treated as confidential;

(L) the estimated useful life used for each measure in each program, or a link to the information if publicly available; and

(M) any other information that supports the determination of the EECRF.

(11) The following factors must be included in the application, as applicable, to support the recovery of energy efficiency costs under this subsection.

(A) the costs are less than or equal to the benefits of the programs, as calculated in §25.181(d) of this title;

(B) the program portfolio was implemented in accordance with recommendations made by the commission's EM&V contractor and approved by the commission and the EM&V contractor has found no material deficiencies in the utility's administration of its portfolio of energy efficiency programs under §25.181 of this title. This subparagraph does not preclude parties from examining and challenging the reasonableness of a utility's energy efficiency program expenses nor does it limit the commission's ability to address the reasonableness of a utility's energy efficiency program expenses;

(C) if a utility is in an area in which customer choice is offered and is subject to the requirements of PURA §39.905(f), the utility met its targeted low-income energy efficiency requirements under §25.181 of this title;

(D) existing market conditions in the utility's service territory affected its ability to implement one or more of its energy efficiency programs or affected its costs;

(E) the utility's costs incurred and achievements accomplished in the previous year or estimated for the year the requested EECRF will be in effect are consistent with the utility's energy efficiency program costs and achievements in previous years notwithstanding any recommendations or comments by the EM&V contractor;

(F) changed circumstances in the utility's service area since the commission approved the utility's budget for the implementation year that affect the ability of the utility to implement any of its energy efficiency programs or its energy efficiency costs;

(G) the number of energy efficiency service providers operating in the utility's service territory affects the ability of the utility to implement any of its energy efficiency programs or its energy efficiency costs;

(H) customer participation in the utility's prior years' energy efficiency programs affects customer participation in the utility's energy efficiency programs in previous years or its proposed programs underlying its EECRF request and the extent to which program costs were expended to generate more participation or transform the market for the utility's programs;

(I) the utility's energy efficiency costs for the previous year or estimated for the year the requested EECRF will be in effect are comparable to costs in other markets with similar conditions; and

(J) the utility has set its program incentive payments with the objective of achieving its energy and demand goals under §25.181 of this title at the lowest reasonable cost per program.

(12) The scope of an EECRF proceeding includes the extent to which the costs recovered through the EECRF complied with PURA §39.905, this section, and §25.181 of this title; the extent to which the costs recovered were reasonable and necessary to reduce demand and energy growth; and a determination of whether the costs to be recovered through an EECRF are reasonable estimates of the costs necessary to provide energy efficiency programs and to meet or exceed the utility's energy efficiency goals. The proceeding will not include a review of program design to the extent that the programs complied with the energy efficiency implementation project (EEIP) process defined in §25.181(q) of this title. The commission will not allow recovery of expenses that are designated as non-recoverable under §25.231(b)(2) of this title (relating to Cost of Service).

(13) Notice of a utility's filing of an EECRF application is reasonable if the utility provides in writing a general description of the application and the docket number assigned to the application within seven days of the application filing date to:

(A) All parties in the utility's most recent completed EECRF docket;

(B) All retail electric providers that are authorized by the registration agent to provide service in the utility's service area at the time the EECRF application is filed;

(C) All parties in the utility's most recent completed base-rate proceeding; and

(D) The state agency that administers the federal weatherization program.

(14) The utility must file an affidavit attesting to the completion of notice within 14 days after the application is filed.

(15) The commission may approve a utility's request to establish an EECRF revenue requirement or EECRF rates that are lower than the amounts otherwise determined under this section.

(e) Utility incentive. To receive a utility incentive, a utility must exceed its demand and energy reduction goals established in §25.181 of this title at a cost that does not exceed the cost caps established in subsection (d)(7) of this section. The utility incentive must be based on the utility's energy efficiency achievements for the previous program year. The utility incentive calculation must not include demand or energy savings that result from programs other than programs implemented under §25.181 of this title.

(1) The utility incentive allows a utility to receive a share of the net benefits realized in exceeding its demand reduction goal established according to §25.181 of this title.

(2) Net benefits are calculated as the sum of total avoided cost associated with the eligible programs administered by the utility minus the sum of all program costs. Program costs include the cost of program incentive payments, incurred EM&V contractor costs, any utility incentive awarded to the utility, and actual or allocated research and development and administrative costs, but do not include any interest amounts applied to over- or under-recoveries. Total avoided costs

and program costs must be calculated in accordance with this section and §25.181 of this title.

(3) If a utility exceeds 100% of its demand and energy reduction goals, it will receive a utility incentive. The utility incentive is calculated as 1% of the applicable program year's net benefits for every 2% that the demand reduction goal has been exceeded, with a maximum of 5% of the utility's total net benefits.

(4) The commission may reduce the utility incentive otherwise permitted under this subsection for a utility with a lower goal, higher administrative spending cap, or higher EECRF cost cap established by the commission under §25.181(e)(2) of this title. The utility incentive will be considered in the EECRF proceeding in which the utility incentive is requested.

(5) In calculating net benefits to determine a utility incentive, a discount rate equal to the utility's weighted average cost of capital of the utility and an escalation rate of 2% must be used. The utility must provide documentation for the net benefits calculation, including, but not limited to, the weighted average cost of capital, useful life of equipment or measure, and quantity of each measure implemented.

(6) The utility incentive must be allocated in proportion to the program costs associated with meeting the demand and energy goals under §25.181 of this title and allocated to eligible customers on a rate class basis.

(7) A utility incentive earned under this section must not be included in the utility's revenues or net income for the purpose of establishing a utility's rates or commission assessment of its earnings.

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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Rules Coordinator
Public Utility Commission of Texas
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SUBCHAPTER C. INFRASTRUCTURE AND RELIABILITY

16 TAC §25.53

The Public Utility Commission of Texas (commission) adopted amendments to 16 Texas Administrative Code (TAC) §25.53, relating to Electric Service Emergency Operations Plans with changes to the proposed text as published in the September 5, 2025 issue of the *Texas Register* (50 TexReg 5849). The amended rule requires each entity that submits an Emergency Operations Plan (EOPs) to comply with an executive summary template, include a comprehensive list of generation assets in its executive summaries, file flood annexes for transmission and distribution facilities and generation resources, file annexes in their entirety, and comprehensively re-file its EOP every three years. The amended rule additionally clarifies how an EOP should be made available to commission staff and makes other minor changes. The rule will be republished.

The commission received comments about this project from AEP Texas Inc., Electric Transmission Texas, LLC, and Southwestern Electric Power Company (AEP Companies), CenterPoint Energy Houston Electric (CenterPoint), City of Houston (Houston), El Paso Electric (EPE), Entergy Texas, Inc. (Entergy), Lower Colorado River Authority and LCRA Transmission Services Corporation (LCRA), Oncor Electric Delivery Company LLC (Oncor), Southwestern Public Service Company (SPS), Texas Competitive Power Advocates (TCPA), Texas Energy Association for Marketers (TEAM), Texas Electric Cooperatives, Inc. (TEC), and Texas Public Power Association (TPPA). The commission adopts the rule with changes to the proposal.

The commission invited interested persons to address one question related to the proposed rule.

Question One

To further assist the commission in implementing the provisions of House Bill. 145 (89th Legislature, Regular Session), the commission requested comments on the following issue:

1. What, if any, changes should the commission make to align this rule with proposed §25.60, Transmission and Distribution Wildfire Mitigation Plans, currently under consideration in Project No. 56789.

SPS recommended allowing wildfire mitigation plans (WMPs) to be included as an annex to an EOP after the WMP has been approved under §25.60. Oncor similarly commented that if a wildfire mitigation plan is approved by the commission under §25.60, then the entity should be able to comply with §25.53(e)(1)(D) by filing the wildfire mitigation plan as an annex.

LCRA recommended removing the requirement to file a wildfire annex from the EOP rule and instead recommended allowing an entity to cross reference its WMP in its EOP filing. TEC also recommended the commission allow cross reference in filing WMPs and EOPs.

TPPA suggested that providing duplicative information in WMP, EOP, and other filings may cause confusion for utility personnel and instead recommended that the commission review information from one filing that refers to discreet information on both WMP and EOP. It also recommended making the language between the two rules similar so that the executive director or the designee may request after-action reports.

AEP recommended making changes to maintain consistency between §25.53 and §25.60, including reducing duplication through cross-referencing, coordinating filing timelines, standardizing key definitions, harmonizing emergency protocols, and safeguarding confidential information.

CenterPoint recommended no changes to the rule as proposed and emphasized that mitigation plans and emergency operation plans should be kept separate, as they serve two different purposes.

Houston recommended that the commission specifically address the prudency of achieving cost savings without materially reducing the necessary effectiveness of these operational plans.

Commission Response

The commission agrees with SPS and Oncor that a wildfire mitigation plan approved by the commission under §25.60 complies with §25.53(e)(1)(D). The commission disagrees with LCRA and TEC that cross references to the WMP would be a sufficient alternative, as staff would then have to access alternative dockets

as it conducts its biennial review of EOPs required under Tex. Util. Code §186.007. Though the commission agrees that standardizing terms is best practice across agency rules, there are times when different rules must have different terms to clarify which parties are intended to be captured in a particular rule. In this case, the EOP rules apply to more types of entities than do the requirements under §25.60, such as generators, for example. The commission declines to include the factors laid out by Houston as these are outside the scope of the rulemaking project.

Proposed §25.53(c)(1)(A)

Proposed §25.53(c)(1)(A) requires entities to file an executive summary containing specific information and a complete copy of the EOP.

TEC recommended allowing for flexibility in the application of the PUC executive summary template because a standardized template may not account for corporate or governing differences that may exist between filing entities.

LCRA recommended deleting or modifying the language to allow for the optional use of the executive summary template.

Commission Response

The commission disagrees with TEC that a standardized template will not account for difference between filing entities. The commission establishes the template to rectify recurring inconsistencies and other common issues commission staff faced in the review of EOP filings. Accordingly, the commission declines to modify the template and referenced rule language. The commission disagrees with LCRA's recommendation to delete the executive summary template or modify the language to make it optional. The template is necessary for consistency of document review across multiple entities.

Proposed §25.53(c)(1)(A)(i)(III) & (c)(3)(A)(i)(III)

Proposed §25.53(c)(1)(A)(i)(III) requires an entity to include in the filed executive summary a comprehensive list of affiliated assets and facilities for power generation companies (PGCs) that are included in the EOP, and proposed §25.53(c)(3)(A)(i)(III) requires the same in the instance of a material change.

TCPA opposed the rule requirement to provide a comprehensive list of affiliated assets and facilities for PGCs. TCPA recommended limiting the list to generating units or facilities.

Commission Response

The commission agrees with TCPA and modifies §25.53 (c)(1)(A)(i)(III) and (c)(3)(A)(i)(III) so that only generating units must be listed.

Proposed §25.53(c)(1)(A)(VI)

Proposed §25.53(c)(1)(A)(VI) requires and entity to include a record of distribution and in accordance with §25.53(c)(4)(A), the entity must file this record in a formatted table.

LCRA recommended deleting §25.53(c)(4)(A) in its entirety as it does not allow parties the ability to customize the chart. Specifically, LCRA expressed the table template was overly prescriptive does not align with LCRA's practices in terms of tracking recipients of the EOP. In the alternative, Table 4 in the Executive Summary Template should be deleted or discretionary.

Commission Response

The commission declines in deleting §25.53(c)(1)(A)(VI), the template is necessary for the purposes of providing our contractor with consistent documents for ease of review.

Proposed §25.53(c)(1)(D)

Proposed §25.53(c)(1)(D) requires an entity to make its unredacted EOP available in its entirety to commission staff on request through an encrypted electronic method designated by commission staff.

EPE, SPS and TEAM recommended that §25.53(c)(1)(D) remain unchanged, which requires that EOPs be made available to staff at a physical location. Should the commission approve the amendment to §25.53(c)(1)(D), EPE requested that the rule detail the chosen encrypted electronic method.

Entergy recommended removing the requirement to upload the entire unredacted EOP through an encrypted electronic method.

Oncor recommended clarifying that existing encryption practices, such as Oncor's provision of materials to ERCOT through secure electronic means using password-protection, are sufficient for compliance.

AEP recommended adding a confidentiality requirement for commission staff.

Commission Response

The commission disagrees with commenters who recommended deletion of the requirement to make an EOP available to commission staff through an encrypted electronic process. The commission must review roughly 700 EOPs to ensure compliance with statutes and regulations and to provide a report to the Legislature related to the preparedness of the industry. Additionally, each emergency operations plan amounts to thousands of pages per document. Currently, the outside of ERCOT region entities present the EOP documents physically, but commission staff and its contractor have only one day to review the thousands of pages. Coordinating between multiple filing entities, commission staff, and the commission's contractors accrues unnecessary costs and wastes time when the same information can be delivered by secure file sharing.

The commission declines to remove the encryption language from §25.53(c)(1)(D), but will clarify that an entity may coordinate with staff to set up a secure file sharing method for document transfer. Further, the commission agrees with Oncor that the practice of sending materials to ERCOT through secure electronic means using password-protection is sufficient for compliance. However, the commission declines to modify the proposed rule language as it is unnecessary.

The commission declines to include a confidentially requirement exclusively for commission staff because it is unnecessary. Commission staff is required to follow the same confidentially rules as any other party under §22.71 of this Title.

Proposed §25.53(c)(3)

Proposed §25.53(c)(3) requires an entity to continuously maintain its EOP between the required three-year filing period.

AEP recommended eliminating the proposed three-year refiling requirement; instead, require full EOP refiling only when material changes occur or when the commission determines the existing plan is inadequate under Tex. Util. Code §186.007(b).

TEAM recommended that for a retail electric provider (REP) the requirement to file a complete EOP every three years should be

extended to no more than once every five years. LCRA similarly requested changing the rule to require a renewing the EOP every five years.

TPPA opposed the three-year refiling requirement because it is redundant and administratively burdensome. TEC requested removing the requirements to file annual updates and three-year full re-filings.

Commission Response

The commission declines to extend the refiling deadline to every five years to remain consistent with the reporting cadence of the WMP rule. Actively maintaining, reviewing, and revising an EOP is a necessary industry best practice. It mitigates against the usage of and reliance on old documents and plans for several years. Therefore, the commission declines to remove the language requiring the continuous maintenance of EOP documents.

Proposed §25.53(c)(3)(E)

Proposed §25.53(c)(3)(E) requires an entity make a revised unredacted EOP available in its entirety to commission staff on request through an encrypted electronic method designated by commission staff.

SPS recommended removing the requirement to upload an entire unredacted EOP through an encrypted electronic method and recommended making it available at a location instead.

Oncor recommended clarifying that existing encryption practices, such as Oncor's provision of materials to ERCOT through secure electronic means using password-protection, are sufficient for compliance.

AEP requested adding a confidentiality requirement for commission staff.

Commission Response

The commission disagrees with commenters who recommended deletion of the requirement to make an EOP available to commission staff through an encrypted electronic process. The commission must review roughly 700 EOPs to ensure compliance with statutes and regulations and to provide a report to the Legislature related to the preparedness of the industry. Additionally, each emergency operations plan amounts to thousands of pages per document. Currently, the outside of ERCOT region entities present the EOP documents physically, but commission staff and its contractor have only one day to review the thousands of pages. Coordinating between multiple filing entities, commission staff, and the commission's contractors accrues unnecessary costs and wastes time when the same information can be delivered by secure file sharing.

The commission declines to remove the encryption language from 25.53(c)(3)(E), but will clarify that an entity may coordinate with staff to set up a secure file sharing method for document transfer. Further, the commission agrees with Oncor that the practice of sending materials to ERCOT through secure electronic means using password-protection is sufficient for compliance. However, the commission declines to modify the proposed rule language as it is unnecessary.

The commission declines to include a confidentially requirement exclusively for commission staff because it is unnecessary. Commission staff is required to follow the same confidentially rules as any other party under §22.71 of this Title.

Proposed §25.53(c)(4)(C)

Proposed §25.53(c)(4)(C) requires an entity to file an affidavit from the entity's highest-ranking representative, official, or officer with binding authority over the entity attesting to various provisions relating to the entity's training, review processes, and management of the EOP.

TPPA recommended that the commission specify that the affidavit be signed by an officer with operational responsibility over the entity.

TEAM recommended amending 16 TAC §25.53(c)(4)(C) to state: "relevant operating personnel have received a copy of the EOP, are familiar with the EOP, and have received training on the applicable contents and execution of the EOP."

Commission Response

The commission declines to implement TPPA's and TEAM's requests as the recommended changes fall outside the scope of the modifications noticed in the proposal for publication.

Proposed §25.53(d)(6)

Proposed §25.53(d)(6) requires an entity to present each relevant annex in its full and comprehensive version.

TCPA opposed language in §25.53(d)(6) requiring presenting each annex in its full and comprehensive version because it could add thousands of pages to an entity's EOP, some information of which may be sensitive security or business information. TCPA opined that commission staff can already review any of the annexes on request, making the proposed requirement redundant.

LCRA recommended the commission allow for cross-references to previously filed plans in lieu of comprehensive re-filings of the same material.

AEP requested replacing the "full and comprehensive annex" requirement with language that ensures sufficient operational detail while allowing sensitive information to be submitted confidentially to the Commission.

SPS recommended that authorization to redact confidential information in this section be provided to preserve the security of the system.

Commission Response

The commission disagrees with TCPA's recommendation to remove the language requiring annexes to be included in their entirety and with LCRA's suggestion that cross references to the WMP would be a sufficient alternative, as staff would then have to access myriad alternative dockets, which would be administratively inefficient in its review of roughly 700 EOPs. The commission disagrees with AEP that an annex with "sufficient operational detail" would suffice in providing the commission with the comprehensive understanding about industry preparedness across the grid. Because filing entities are allowed to file information they deem confidential as a confidential filing, the commission declines to modify the proposed rule as suggested by SPS.

Proposed §25.53(e)(1)(D)

Proposed §25.53(e)(1)(D) requires an entity to file its wildfire annex as part of its EOP.

Houston recommended clarifying that an entity may reference its WMP in its EOP in lieu of including the full content of the WMP, provided the WMP is readily available, and the document

location is referenced in a manner that allows for direct access by authorized agents to the document.

Commission Response

The commission disagrees with Houston that a cross reference to the WMP filed under §25.60 of this chapter would be a sufficient alternative to the requirement proposed in this rule, as this would be administratively inefficient for staff for the reasons stated above in its response to the question for comment issued in the proposal for publication.

Proposed §25.53(e)(3)(H)

Proposed §25.53(e)(3)(H) requires a PGC or an electric cooperative, an electric utility, or a municipally owned utility that operates a generation resource in Texas to include a flood annex for its generation resources.

TCPA recommended that such an annex only be required for generation resources that are in identified flood plains or high-risk flood areas.

Commission Response

The commission declines to modify §25.53(e)(3)(H) as proposed by TCPA because it is unnecessary. Subsection (d) of this section enables an entity to provide an explanation as to why a provision of the rule should not apply. Therefore, if an entity believes a flood annex should not apply to one of its generation resources, the entity must provide an explanation for the commission to review.

Statutory Authority

The amendment is adopted under Public Utility Regulatory Act (PURA) §14.001, which grants the commission the general power to regulate and supervise the business of each public utility within its jurisdiction and to do anything specifically designated or implied by this title that is necessary and convenient to the exercise of that power and jurisdiction; §14.002, which authorizes the commission to adopt and enforce rules reasonably required in the exercise of its powers and jurisdiction The rule is also adopted under Tex. Util. Code §186.007, which requires the commission to analyze the EOPs developed by electric utilities, power generation companies, municipally owned utilities, and electric cooperatives that operate generation facilities in this state, and retail electric providers; prepare a weather emergency preparedness report; and require entities to submit updated EOPs if the EOP on file does not contain adequate information to determine whether the entity can provide adequate electric services.

Cross Reference to Statute: Public Utility Regulatory Act §14.001 and §14.002; Tex. Util. Code §186.007.

§25.53. Electric Service Emergency Operations Plans.

(a) Application. This section applies to an electric utility, transmission and distribution utility, power generation company (PGC), municipally owned utility, electric cooperative, and retail electric provider (REP), and to the Electric Reliability Council of Texas (ERCOT).

(b) Definitions.

(1) Annex--a section of an emergency operations plan that addresses how an entity plans to respond in an emergency involving a specified type of hazard or threat.

(2) Drill--an operations-based exercise that is a coordinated, supervised activity employed to test an entity's EOP or a portion of an entity's EOP. A drill may be used to develop or test new policies or procedures or to practice and maintain current skills.

(3) Emergency--a situation in which the known, potential consequences of a hazard or threat are sufficiently imminent and severe that an entity should take prompt action to prepare for and reduce the impact of harm that may result from the hazard or threat. The term includes an emergency declared by local, state, or federal government, or ERCOT or another reliability coordinator designated by the North American Electric Reliability Corporation and that is applicable to the entity.

(4) Entity--an electric utility, transmission and distribution utility, PGC, municipally owned utility, electric cooperative, REP, or ERCOT.

(5) Hazard--a natural, technological, or human-caused condition that is potentially dangerous or harmful to life, information, operations, the environment, or property, including a condition that is potentially harmful to the continuity of electric service.

(6) Threat--the intention and capability of an individual or organization to harm life, information, operations, the environment, or property, including harm to the continuity of electric service.

(c) Filing requirements.

(1) Except as provided by paragraph (3) of this subsection, an entity must file an emergency operations plan (EOP) and executive summary under this section by March 15 of every calendar year. Each individual entity is responsible for compliance with the requirements of this section. An entity filing a joint EOP or other joint document under this section on behalf of one or more entities over which it has control is jointly responsible for each entity's compliance with the requirements of this section.

(A) An entity must file with the commission:

(i) an executive summary that:

(I) describes the contents and policies contained in the EOP;

(II) includes a reference to specific sections and page numbers of the entity's EOP that correspond with the requirements of this rule;

(III) includes a comprehensive list of affiliated generation assets and facilities for PGCs that are included in the EOP including changes in facilities from the previous year such as sale of assets, relinquishments, and name changes;

(IV) includes the record of distribution required under paragraph (4)(A) of this subsection;

(V) contains the affidavit required under paragraph (4)(C) of this subsection; and

(VI) follows the executive summary template posted on PUCT website.

(ii) a complete copy of the EOP with all confidential portions removed.

(B) For an entity with operations within the ERCOT region, the entity must submit its unredacted EOP in its entirety to ERCOT.

(C) ERCOT must designate an unredacted EOP submitted by an entity as Protected Information under the ERCOT Protocols.

(D) An entity must make its unredacted EOP available in its entirety to commission staff on request through an encrypted elec-

tronic method designated by commission staff, such as a secure file sharing method selected by an entity in consultation with commission staff.

(E) An entity may file a joint EOP on behalf of itself and one or more other entities over which it has control provided that:

(i) the executive summary required under subparagraph (A)(i) of this paragraph identifies which sections of the joint EOP apply to each entity; and

(ii) the joint EOP satisfies the requirements of this section for each entity as if each entity had filed a separate EOP.

(F) An entity filing a joint EOP under subparagraph (E) of this paragraph may also jointly file one or more of the documents required under paragraph (4) of this subsection provided that each joint document satisfies the requirements for each entity to which the document applies.

(G) An entity that is required to file similar annexes for different facility types under subsection (e) of this section, such as a pandemic annex for both generation facilities and transmission and distribution facilities, may file a single combined annex addressing the requirement for multiple facility types. The combined annex must conspicuously identify the facilities to which it applies.

(2) A person seeking registration as a PGC or certification as a REP must meet the filing requirements under paragraph (1)(A) of this subsection at the time it applies for registration or certification with the commission and must submit the EOP to ERCOT if it will operate in the ERCOT region, no later than ten days after the commission approves the person's registration or certification.

(3) An entity must continuously maintain its EOP in between the annual updates required under this paragraph. No later than March 15 of each calendar year, an entity that has previously filed an EOP must submit an update in accordance with the provisions of this paragraph, except that an entity must file its EOP in full in accordance with paragraph (1) of this subsection at least once every three calendar years.

(A) An entity that in the previous calendar year made a change to its EOP that materially affects how the entity would respond to an emergency must:

(i) file with the commission an executive summary that:

(I) describes the changes to the contents or policies contained in the EOP;

(II) includes an updated reference to specific sections and page numbers of the entity's EOP that correspond with the requirements of this rule;

(III) includes a comprehensive list of affiliated generation assets and facilities for PGCs that are included in the EOP including changes in facilities from the previous year such as sale of assets, relinquishments, and name changes;

(IV) includes the record of distribution required under paragraph (4)(A) of this subsection;

(V) contains the affidavit required under paragraph (4)(C) of this section; and

(VI) follows the executive summary template posted on PUCT website.

(ii) file with the commission a complete, revised copy of the EOP with all confidential portions removed; and

(iii) submit to ERCOT its revised unredacted EOP in its entirety if the entity operates within the ERCOT region.

(B) An entity that in the previous calendar year did not make a change to its EOP that materially affects how the entity would respond to an emergency must file with the commission:

(i) a pleading that documents any changes to the list of emergency contacts as provided under paragraph (4)(B) of this subsection;

(ii) an attestation from the entity's highest-ranking representative, official, or officer with binding authority over the entity stating the entity did not make a change to its EOP that materially affects how the entity would respond to an emergency; and

(iii) the affidavit described under paragraph (4)(C) of this subsection.

(C) An entity must update its EOP or other documents required under this section if commission staff determines that the entity's EOP or other documents do not contain sufficient information to determine whether the entity can provide adequate electric service through an emergency. If directed by commission staff, the entity must file its revised EOP or other documentation, or a portion thereof, with the commission and, for entities with operations in the ERCOT region, with ERCOT.

(D) ERCOT must designate any revised unredacted EOP submitted by an entity as Protected Information under the ERCOT Protocols.

(E) An entity must make a revised unredacted EOP available in its entirety to commission staff on request through an encrypted electronic method designated by commission staff, such as a secure file sharing method selected by an entity in consultation with commission staff.

(F) The requirements for joint and combined filings under paragraph (1) of this subsection apply to revised joint and revised combined filings under this paragraph.

(4) In accordance with the deadlines prescribed by paragraphs (1) and (3) of this subsection, an entity must also file with the commission the following documents:

(A) A record of distribution that contains the following information in table format:

(i) titles and names of persons in the entity's organization receiving access to and training on the EOP; and

(ii) dates of access to or training on the EOP, as appropriate.

(B) A list of primary and, if possible, backup emergency contacts for the entity, including identification of specific individuals who can immediately address urgent requests and questions from the commission during an emergency.

(C) An affidavit from the entity's highest-ranking representative, official, or officer with binding authority over the entity affirming the following:

(i) relevant operating personnel are familiar with and have received training on the applicable contents and execution of the EOP, and such personnel are instructed to follow the applicable portions of the EOP except to the extent deviations are appropriate as a result of specific circumstances during the course of an emergency;

(ii) the EOP has been reviewed and approved by the appropriate executives;

(iii) drills have been conducted to the extent required by subsection (f) of this section;

(iv) the EOP or an appropriate summary has been distributed to local jurisdictions as needed;

(v) the entity maintains a business continuity plan that addresses returning to normal operations after disruptions caused by an incident; and

(vi) the entity's emergency management personnel who are designated to interact with local, state, and federal emergency management officials during emergency events have received the latest IS-100, IS-200, IS-700, and IS-800 National Incident Management System training.

(5) Notwithstanding the other requirements of this subsection, ERCOT must maintain its own current EOP in its entirety, consistent with the requirements of this section and available for review by commission staff.

(d) Information to be included in the emergency operations plan. An entity's EOP must address both common operational functions that are relevant across emergency types and annexes that outline the entity's response to specific types of emergencies, including those listed in subsection (e) of this section. An EOP may consist of one or multiple documents. Each entity's EOP must include the information identified below, as applicable. If a provision in this section does not apply to an entity, the entity must include in its EOP an explanation of why the provision does not apply.

(1) An approval and implementation section that:

(A) introduces the EOP and outlines its applicability;

(B) lists the individuals responsible for maintaining and implementing the EOP, and those who can change the EOP;

(C) provides a revision control summary that lists the dates of each change made to the EOP since the initial EOP filing pursuant to paragraph (1) of this subsection;

(D) provides a dated statement that the current EOP supersedes previous EOPs; and

(E) states the date the EOP was most recently approved by the entity.

(2) A communication plan.

(A) An entity with transmission or distribution service operations must describe the procedures during an emergency for handling complaints and for communicating with the public; the media; customers; the commission; the Office of Public Utility Counsel (OPUC); local and state governmental entities, officials, and emergency operations centers, as appropriate in the circumstances for the entity; the reliability coordinator for its power region; and critical load customers directly served by the entity.

(B) An entity with generation operations must describe the procedures during an emergency for communicating with the media; the commission; OPUC; fuel suppliers; local and state governmental entities, officials, and emergency operations centers, as appropriate in the circumstances for the entity; and the applicable reliability coordinator.

(C) A REP must describe the procedures for communicating during an emergency with the public, media, customers, the commission, and OPUC, and the procedures for handling complaints during an emergency.

(D) ERCOT must describe the procedures for communicating, in advance of and during an emergency, with the public, the media, the commission, OPUC, governmental entities and officials, the state emergency operations center, and market participants.

(3) A plan to maintain pre-identified supplies for emergency response.

(4) A plan that addresses staffing during emergency response.

(5) A plan that addresses how an entity identifies weather-related hazards, including tornadoes, hurricanes, extreme cold weather, extreme hot weather, drought, and flooding, and the process the entity follows to activate the EOP.

(6) Each relevant annex presented in its full and comprehensive version, as detailed in subsection (e) of this section and other annexes applicable to an entity.

(e) Annexes to be included in the emergency operations plan.

(1) An electric utility, a transmission and distribution utility, a municipally owned utility, and an electric cooperative must include in its EOP for its transmission and distribution facilities the following annexes:

(A) A weather emergency annex that includes:

(i) operational plans for responding to a cold or hot weather emergency, distinct from the weather preparations required under §25.55 of this title (relating to Weather Emergency Preparedness); and

(ii) a checklist for transmission or distribution facility personnel to use during cold or hot weather emergency response that includes lessons learned from past weather emergencies to ensure necessary supplies and personnel are available through the weather emergency;

(B) A load shed annex that must include:

(i) procedures for controlled shedding of load;

(ii) priorities for restoring shed load to service; and

(iii) a procedure for maintaining an accurate registry of critical load customers, as defined under 16 TAC §25.5(22) of this title (relating to Definitions), §25.52(c)(1) and (2) of this title (relating to Reliability and Continuity of Service) and §25.497 of this title (relating to Critical Load Industrial Customers, Critical Load Public Safety Customers, Critical Care Residential Customers, and Chronic Condition Residential Customers), and TWC §13.1396 (relating to Coordination of Emergency Operations), directly served, if maintained by the entity. The registry must be updated as necessary but, at a minimum, annually. The procedure must include the processes for providing assistance to critical load customers in the event of an unplanned outage, for communicating with critical load customers during an emergency, coordinating with government and service agencies as necessary during an emergency, and for training staff with respect to serving critical load customers;

(C) A pandemic and epidemic annex;

(D) A wildfire annex;

(E) A hurricane annex that includes evacuation and re-entry procedures if facilities are located within a hurricane evacuation zone, as defined by the Texas Division of Emergency Management (TDEM);

(F) A cyber security annex;

(G) A physical security incident annex;

(H) A flood annex; and

(I) Any additional annexes as needed or appropriate to the entity's particular circumstances.

(2) A transmission and distribution utility that leases or operates facilities under PURA §39.918(b)(1) or procures, owns, and operates facilities under PURA §39.918(b)(2) must include an annex that details its plan for the use of those facilities.

(3) A PGC or an electric cooperative, an electric utility, or a municipally owned utility that operates a generation resource in Texas must include the following annexes for its generation resources:

(A) A weather emergency annex that includes:

(i) operational plans for responding to a cold or hot weather emergency, distinct from the weather preparations required under §25.55 of this title;

(ii) verification of the adequacy and operability of fuel switching equipment, if installed; and

(iii) a checklist for generation resource personnel to use during a cold or hot weather emergency response that includes lessons learned from past weather emergencies to ensure necessary supplies and personnel are available through the weather emergency;

(B) A water shortage annex that addresses supply shortages of water used in the generation of electricity;

(C) A restoration of service annex that identifies plans intended to restore to service a generation resource that failed to start or that tripped offline due to a hazard or threat;

(D) A pandemic and epidemic annex;

(E) A hurricane annex that includes evacuation and re-entry procedures if facilities are located within a hurricane evacuation zone, as defined by TDEM;

(F) A cyber security annex;

(G) A physical security incident annex;

(H) A flood annex; and

(I) Any additional annexes as needed or appropriate to the entity's particular circumstances.

(4) A REP must include in its EOP the following annexes:

(A) A pandemic and epidemic annex;

(B) A hurricane annex that includes evacuation and re-entry procedures if facilities are located within a hurricane evacuation zone, as defined by TDEM;

(C) A cyber security annex;

(D) A physical security incident annex; and

(E) Any additional annexes as needed or appropriate to the entity's particular circumstances.

(5) ERCOT must include the following annexes:

(A) A pandemic and epidemic annex;

(B) A weather emergency annex that addresses ERCOT's plans to ensure continuous market and grid management operations during weather emergencies, such as tornadoes, wildfires, extreme cold weather, extreme hot weather, and flooding;

(C) A hurricane annex that includes evacuation and re-entry procedures if facilities are located within a hurricane evacuation zone, as defined by TDEM;

(D) A cyber security annex;

(E) A physical security incident annex; and

(F) Any additional annexes as needed or appropriate to ERCOT's particular circumstances.

(f) Drills. An entity must conduct or participate in at least one drill each calendar year to test its EOP. Following an annual drill the entity must assess the effectiveness of its emergency response and revise its EOP as needed. If the entity operates in a hurricane evacuation zone as defined by TDEM, at least one of the annual drills must include a test of its hurricane annex. An entity conducting an annual drill must, at least 30 days prior to the date of at least one drill each calendar year, notify commission staff, using the method and form prescribed by commission staff on the commission's website, and the appropriate TDEM District Coordinators, by email or other written form, of the date, time, and location of the drill. An entity that has activated its EOP in response to an emergency is not required, under this subsection, to conduct or participate in a drill in the calendar year in which the EOP was activated.

(g) Reporting requirements. Upon request by commission staff during an activation of the State Operations Center by TDEM, an affected entity must provide updates on the status of operations, outages, and restoration efforts. Updates must continue until all incident-related outages of customers able to take service are restored or unless otherwise notified by commission staff. After an emergency, commission staff may require an affected entity to provide an after action or lessons learned report and file it with the commission by a date specified by commission staff.

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 December 12, 2025.

TRD-202504607
Seaver Myers
Rules Coordinator
Public Utility Commission of Texas
Effective date: January 1, 2026
Proposal publication date: September 5, 2025
For further information, please call: (512) 936-7433

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TITLE 22. EXAMINING BOARDS

PART 17. TEXAS STATE BOARD OF PLUMBING EXAMINERS

CHAPTER 365. LICENSING AND REGISTRATION

22 TAC §365.22

The Texas State Board of Plumbing Examiners (Board) adopts the amendment to 22 Texas Administrative Code (TAC), Chapter 365, §365.22 which implements how state agencies process occupational licenses for military service members, veterans, and

their spouses as instructed by H.B. 5629, 89th Legislature, Regular Session (2025).

The rule is adopted without changes to the proposed text published in the October 10th, 2025, issue of the *Texas Register* (50 TexReg 6637) The rule will not be republished.

REASONED JUSTIFICATION FOR THE RULE

The rule is necessary to implement H.B. 5629, 89th Legislature, Regular Session (2025). H.B. 5629 amended the Texas Occupations Code, specifically §§ 55.004 and 55.0041, to reform how state agencies process occupational licenses for military service members, veterans, and their spouses, with the goal of easing license portability and speeding up application timelines.

The bill requires Texas state agencies to recognize out-of-state licenses held by military service members, veterans, and spouses, provided the license is in good standing and is similar in scope of practice to the corresponding Texas license.

Applicants must provide documentation such as proof of good standing, relocation orders, or marriage licenses, but do not have to prove Texas residency. The agency must process license applications within 10 days.

SECTION-BY-SECTION SUMMARY

Section 365.22(b)--The rule amends the existing rule by recognizing that a military service member, military veteran, or military spouse who holds a current license in good standing, issued in another jurisdiction that is similar in scope of practice may be issued the same license type. The applicant will be notified not later than 10 business days that TSBPE recognizes the out-of-state license, the application is incomplete, or the agency is unable to recognize the applicant's out-of-state license because the agency does not issue a license similar in scope of practice to the applicant's out-of-state license.

A person is in good standing with another state's licensing authority if they hold a license that is current, has not been suspended or revoked, and has not been voluntarily surrendered during an investigation for unprofessional conduct. A person is in good standing if they have not been disciplined by the licensing authority with respect to the license or person's practice of the occupation for which the license is issued. Lastly, a person is in good standing if they are not currently under investigation by the licensing authority for unprofessional conduct related to the person 's license or profession.

Section 365.22(c)--The rule is amended to show that the agency has the sole discretion in determining whether an applicant's out-of-state license is similar in scope to a license issued by TSBPE.

Section 365.22(e)--The rule is amended to show that the agency shall process and issue, if qualified, an application submitted by a military service member, military veteran, or military spouse not later than the 10th business day after it is received.

Section 365.22(g)--The rule is amended to show that military spouses may have their out-of-state licenses recognized by providing a copy of their marriage license and out-of-state license in good standing with their application.

Section 365.22(h)--The rule is amended to eliminate the presumption of intent to practice in Texas.

Section 365.22(i)--The rule is amended to eliminate the three year maximum allowance for practice under an out-of-state license recognition.

Section 365.22(h)--The rule is amended to show that a person whose out-of-state license is recognized must comply with Chapter 1301 of the Texas Occupations Code and all other applicable laws and regulations.

Section 365.22(j)--The rule is amended to show that an applicant under this section must pass a criminal history background check. The agency may deny an application if the applicant has a disqualifying criminal history.

Section 365.22(l)--The rule is amended to eliminate the provision that military service members and military veterans who do not hold a current out-of-state license or who have not held a Texas license in the five (5) years preceding their application must not have a restricted license in another jurisdiction or an unacceptable criminal history to be eligible to sit for an examination for licensure.

SUMMARY OF COMMENT

No comment was received on the published rule amendment.

BOARD ACTION

At its meeting on December 3, 2025, the Board adopted the rule as published in the *Texas Register*.

STATUTORY AUTHORITY

The rule is adopted under the authority of House Bill 5629, 89th Texas Legislature, Regular Session, 2025 which amended the Texas Occupations Code, specifically §§ 55.004 and 55.0041, to reform how state agencies process occupational licenses for military service members, veterans, and their spouses, with the goal of easing license portability and speeding up application timelines and §1301.251(2) of the Occupations Code, which requires the Board to adopt and enforce rules necessary to administer and enforce the Plumbing License Law.

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

Filed with the Office of the Secretary of State on December 11, 2025.

TRD-202504520
Patricia Latombe
General Counsel
Texas State Board of Plumbing Examiners
Effective date: December 31, 2025
Proposal publication date: October 10, 2025
For further information, please call: (512) 936-5216

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TITLE 28. INSURANCE

PART 1. TEXAS DEPARTMENT OF INSURANCE

CHAPTER 3. LIFE, ACCIDENT, AND HEALTH INSURANCE AND ANNUITIES

SUBCHAPTER V. COORDINATION OF BENEFITS

28 TAC §3.3520

The commissioner of insurance adopts new 28 TAC §3.3520, concerning Uniform Coordination of Benefits Questionnaire. The new section is adopted without changes to the proposed text published in the October 24, 2025 issue of the *Texas Register* (50 TexReg 6976). The section will not be republished.

REASONED JUSTIFICATION. New §3.3520 is necessary to implement House Bill 388, 89th Legislature, 2025. HB 388 requires the Texas Department of Insurance (TDI) to adopt a uniform coordination of benefits (COB) questionnaire. Thirty days after the effective date, health benefit plan issuers that include COB provisions in their forms are required to use the adopted uniform COB questionnaire and make the questionnaire available to health care providers, as appropriate.

New §3.3520 adopts by reference two versions of a uniform COB questionnaire. Health plans must use and accept the Patient Health Plan Coverage Form (LHL138) in connection with a requirement for a health care provider to maintain information on coordination of benefits. Health plans must use and accept the Enrollee's Other Health Plan Coverage Form (LHL139) when requiring an enrollee to provide information on other health coverage.

SUMMARY OF COMMENTS AND AGENCY RESPONSE. TDI provided an opportunity for public comment on the rule proposal for a period that ended on November 24, 2025, and at a public rule hearing held on November 18, 2025.

Commenters: TDI received comments from two commenters. No commenters spoke at the public hearing. A commenter in support of the proposal was Community Health Choice, and a commenter in support with changes was the Texas Health and Human Services Commission.

Comment on §3.3520

Comment. One commenter requests a minor change to Section 2 of both versions of the COB questionnaire form to clarify that the respondent should report any Medicaid or CHIP coverage when reporting other health plan information.

Agency Response. TDI agrees and has changed the form language as suggested.

Comment. One commenter asks whether plans are required to use both forms, or whether plans may choose the form that best fits their products and population. The commenter also asks whether plans have autonomy to determine when and how the forms are distributed to members and providers.

Agency Response. The rule specifies when each form should be used. If a plan requires a health care provider to maintain information on coordination of benefits, it must use LHL138. If a plan requires an enrollee to provide information on other health coverage, it must use LHL139. Plans do have autonomy to determine when and how the forms are distributed to members and providers, as those issues are not addressed by the rule.

STATUTORY AUTHORITY. The commissioner adopts new §3.3520 under Insurance Code §1203.152 and §36.001.

Insurance Code §1203.152 requires the adoption of rules establishing a uniform coordination of benefits questionnaire to be used by all health benefit plan issuers in this 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.

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Jessica Barta
General Counsel
Texas Department of Insurance
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For further information, please call: (512) 676-6555

SUBCHAPTER RR. VALUATION MANUAL

28 TAC §3.9901

The commissioner of insurance adopts amendments to 28 TAC §3.9901, concerning the adoption of a valuation manual for reserving and related requirements. The amendments are adopted without changes to the proposed text published in the October 10, 2025, issue of the *Texas Register* (50 TexReg 6653). The section will not be republished.

REASONED JUSTIFICATION. The amended section is necessary to comply with Insurance Code §425.073, which requires the commissioner to adopt by rule a valuation manual that is substantially similar to the National Association of Insurance Commissioners (NAIC) Valuation Manual.

Under Insurance Code §425.073(c), when the NAIC adopts changes to its valuation manual, the commissioner must adopt substantially similar changes. This subsection also requires the commissioner to determine that NAIC's changes were approved by an affirmative vote representing at least three-fourths of the voting NAIC members but not less than a majority of the total membership. In addition, the NAIC members voting in favor of amending the valuation manual must represent jurisdictions totaling greater than 75% of the direct written premiums as reported in the most recently available life, accident, and health/fraternal annual statements and health annual statements.

TDI originally adopted the valuation manual in §3.9901 on December 29, 2016, in compliance with Insurance Code §425.073. On August 13, 2025, the NAIC voted to adopt changes to the valuation manual. Forty-nine jurisdictions, representing jurisdictions totaling 94.67% of the relevant direct written premiums, voted in favor of adopting the amendments to the valuation manual. The votes adopting changes to the NAIC Valuation Manual meet the requirements of Insurance Code §425.073(c).

This proposal includes provisions related to NAIC rules, regulations, directives, or standards. Under Insurance Code §36.004, TDI must consider whether authority exists to enforce or adopt the NAIC's changes. In addition, under Insurance Code §36.007, the commissioner cannot adopt or enforce a rule implementing an interstate, national, or international agreement that infringes on the authority of this state to regulate the business of insurance in this state, unless the agreement is approved by the Texas Legislature. TDI has determined that neither §36.004 nor §36.007 prohibit this proposal because Insurance Code §425.073 requires the commissioner to adopt

a valuation manual that is substantially similar to the valuation manual approved by the NAIC, and §425.073(c) expressly requires the commissioner to adopt changes to the valuation manual that are substantially similar to changes adopted by the NAIC.

In addition to clarifying existing provisions, the 2026 NAIC Valuation Manual includes changes that:

- update the Valuation Manual economic scenario generator references for the adoption of the Conning-maintained prescribed economic scenario generator; and

- introduce a new principle-based reserving framework for non-variable annuities, located in Section VM-22 of the Valuation Manual.

The NAIC's adopted changes to the valuation manual can be viewed at https://content.naic.org/sites/default/files/pbr_data_valuation_manual_future_edition_redline.pdf.

SUMMARY OF COMMENTS. TDI provided an opportunity for public comment on the rule proposal for a period that ended on November 10, 2025. TDI did not receive any comments on the proposed amendments.

STATUTORY AUTHORITY. The commissioner adopts amendments to 28 TAC §3.9901 under Insurance Code §425.073 and §36.001.

Insurance Code §425.073 requires the commissioner to adopt by rule changes to the valuation manual previously adopted by the commissioner that are substantially similar to any changes adopted by NAIC to its valuation manual. Insurance Code §425.073 also requires that after a valuation manual has been adopted by rule, any changes to the valuation manual must also be adopted by rule.

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.

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Jessica Barta
General Counsel
Texas Department of Insurance
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For further information, please call: (512) 676-6555

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CHAPTER 9. TITLE INSURANCE

SUBCHAPTER C. TEXAS TITLE INSURANCE STATISTICAL PLAN

28 TAC §9.402

The commissioner of insurance adopts new 28 TAC §9.402, concerning annual submission of title insurance statistical reports. Section 9.402 implements Insurance Code §2703.153. The new section is adopted with changes to the proposed text published in the August 15, 2025 issue of the *Texas Register* (50 TexReg 5308). Section 9.402 was revised in response to public comments. The section will be republished.

REASONED JUSTIFICATION. TDI is required by Insurance Code §2703.153 to promulgate title insurance rates based on data submitted annually from title insurance agents and companies. Insurance Code §2703.153 also requires title insurance agents and companies to report that data to TDI annually. TDI then publishes a compilation report about the data following its collection and review.

The new section is necessary to increase the efficiency of data collection by creating fixed annual reporting due dates for the industry with corresponding due dates for the Texas Department of Insurance (TDI) to publish instructions for the data collection and to publish compilation reports. This will make the annual data collection consistent and efficient without issuing a data call bulletin, aiding both TDI and the industry.

In response to stakeholder comments, TDI changed the data reporting requirements to a later time in the year and added an additional month for TDI to compile the data received from the industry. Additionally, TDI added "reporting forms" to subparagraph (a) of the rule in response to a comment.

SUMMARY OF COMMENTS AND AGENCY RESPONSE. TDI provided an opportunity for public comment on the rule proposal for a period that ended on September 15, 2025. A commenter requested a hearing, and TDI extended the comment period to the close of business on October 7, 2025, following the conclusion of the hearing.

Commenters: TDI received written comments from 13 commenters and heard from six commenters at a public hearing held on October 7, 2025. Commenters in support of the proposal were the Office of Public Insurance Counsel and Texans for Free Enterprise. Commenters in support of the proposal with changes were Fidelity National Financial, First American Title Insurance Co., Stewart Title, WFG National Title Insurance, Texas Land Title Association, First National Title Insurance, Aaron Day in his official capacity for TLTA, and four individual commenters.

Comments on §9.402

Comment. Most commenters support the rule but suggest that the proposed deadlines for industry data reporting are too early in the year and would be unduly burdensome. The deadlines would align with several other competing deadlines for audits, tax filings, financial reporting, and other regulatory filings that occur at or near the same time as TDI's proposed dates. The commenters assert that having the statistical plan data reporting coincide with these other reporting obligations would overwhelm title agents' and companies' accounting resources--the volume required at the same time would be too much.

Most of these commenters request that TDI change the reporting dates for title insurance agents from March 1 to May 1, and for title companies from April 1 to June 1. Others suggested the compliance dates be changed to May 15 and June 15. And two commenters suggested that TDI adopt the rule without changes to the dates.

Agency Response. TDI appreciates the commenters' input and agrees to change the deadlines dates to May 1 for title agents and June 1 for title companies.

Comment. One of the commenters suggests that TDI amend subsection (a) to add "and fillable report forms" in addition to the sentence stating that TDI will make available instructions for submitting reports. The commenter also suggests that TDI make a single date of "on or before February 1" for both the agent and company instructions instead of staggering the instructions and forms on February 1 for agents and March 1 for companies.

Agency Response. TDI agrees to add "and reporting forms" for additional clarity of the industry's expectation of what instructions and resources TDI will provide for data reporting. Instead of using "fillable report forms," TDI will call them "reporting forms." This will allow the department to not be limited if a superior format becomes available. TDI declines to combine issuing instructions and reporting forms for agents and companies on the same date to be consistent with how the data calls were issued in the past. Since the rule text allows for instructions and forms for agents and companies to be available at the same time, when possible, TDI declines to change that portion of the rule.

Comment. One of the commenters suggests that TDI amend subsection (d) to have both compilation reports published on the same day instead of staggering them a month apart.

Agency Response. TDI disagrees with having the agent and company compilation reports published on the same day, since the data received for both of those reports are staggered. TDI will change the dates of the compilation report deadlines to harmonize with the deadline changes for subsections (b) and (c).

Comment. One of the commenters suggests that TDI amend subsections (b) and (c) to move the reporting deadlines to June 15 for title agents and July 15 for title companies.

Agency Response. TDI disagrees with those deadlines because it is counter to the goal of having more current data available for ratemaking. Changing those reporting deadlines would push the compilation reports past the end of the same year. In response to other comments, TDI has changed the reporting dates to May 1 and June 1.

STATUTORY AUTHORITY. The commissioner adopts new §9.402 under Insurance Code §§2551.003(a)(3), 2703.153(a) and (b), and 36.001.

Insurance Code §2551.003(a)(3) authorizes the commissioner to adopt rules the commissioner finds necessary to implement the purpose of Insurance Code Title 11.

Insurance Code §2703.153(a) requires that each title insurance company and title insurance agent engaged in the business of title insurance in this state annually report data to TDI for the purpose of assisting with the promulgation of premium rates. Insurance Code §2703.153(b) authorizes TDI to establish the form in which title insurance data is submitted to TDI.

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.

§9.402. Annual Submission of Title Insurance Statistical Reports.

(a) Each title insurance company and title insurance agent must submit its statistical report required by Insurance Code §2703.153, concerning Collection of Data for Fixing Premium Rates; Annual Statistical Report, in the form and manner TDI prescribes. Instructions for submission and reporting forms will be available on TDI's website by:

(1) March 1 for title agents, and

(2) April 1 for title companies.

(b) Title agents must submit their statistical report by May 1 of each year.

(c) Title companies must submit their statistical report by June 1 of each year.

(d) TDI will publish on its website compilation reports summarizing the submitted statistical reports by:

(1) October 1 of each year for title agents; and

(2) November 1 of each year for title companies.

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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Jessica Barta
General Counsel
Texas Department of Insurance
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For further information, please call: (512) 676-6555

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TITLE 34. PUBLIC FINANCE

PART 1. COMPTROLLER OF PUBLIC ACCOUNTS

CHAPTER 1. CENTRAL ADMINISTRATION

SUBCHAPTER G. GIFT ACCEPTANCE

34 TAC §1.400

The Comptroller of Public Accounts adopts new §1.400 concerning gift acceptance policy and procedures, without changes to the proposed text as published in the August 29, 2025, issue of the *Texas Register* (50 TexReg 5591). The rule will not be republished.

The new section will be located in Chapter 1, new Subchapter G, titled "Gift Acceptance".

Subsection (a) outlines certain definitions regarding gift acceptance.

Subsection (b) describes the authority of the agency to solicit or accept gifts.

Subsection (c) outlines the criteria the agency will use to determine whether to refuse a gift. The agency will refuse gifts to the agency from any person who is: currently a party in a contested case with the agency until at least 30 days have passed since the date of the final order; currently a party in litigation with the agency until at least 30 days have passed since the date of the final order; currently indebted to the state or owes delinquent taxes to the state based on the records of the agency; currently under investigation by the agency's Criminal Investigations Division; currently in default on a guaranteed student loan based on the records of the agency; currently indebted to the state for past due child support based on Attorney General records pro-

vided to the agency; a foreign (non-U.S.) business entity that is not licensed to do business in Texas; or a foreign adversary.

Subsection (d) outlines a procedure in which prospective donors may provide advance notice to the agency of their intent to make a gift, so that the prospective donor can be screened for potential conflicts of interest.

Subsection (e) describes the review procedures the agency will use to determine if the gift is consistent with applicable law, agency policies, and the agency's gift acceptance rule.

Subsection (f) sets forth gift acceptance procedures.

Subsection (g) outlines steps the agency will take if the agency refuses to accept a gift.

Subsection (h) allows the agency to deposit a donation of money into a suspense account, pending completion of the review.

Subsection (i) prescribes the process and notice requirements for using a refused gift to offset certain indebtedness owed to the state by the donor.

Subsection (j) specifies that for gifts valued at $500 or more, the agency will keep certain records regarding the gift and the donor.

Subsection (k) specifies that gifts will be used for public purposes, will not be used for the monetary enrichment of any agency employee, and donors may not direct the use or investment of the gift.

Subsection (l) addresses the donation of services to the agency.

Subsection (m) provides that this section does not address acceptance of gifts by individual employees. Gift acceptance by individual employees and the restrictions on such acceptance, are governed by Government Code, Chapter, 572 (Standards of Conduct); Penal Code, Chapter 36 (Prohibited Gifts); Penal Code, Chapter 39 (Misuse of State Resources); and the agency's ethics policies.

The comptroller did not receive any comments regarding adoption of the amendment.

The new section is adopted under Government Code, §403.011(b), which authorizes the comptroller to solicit, accept or refuse gifts to the state; Government Code, Chapter 575, which governs acceptance of gifts by state agencies; and Government Code, §2255.001, which requires a state agency to adopt rules regarding the relationship between private donors and the agency and its employees.

The new section implements the Government Code, §403.011(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.

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Victoria North
General Counsel for Fiscal and Agency Affairs
Comptroller of Public Accounts
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For further information, please call: (512) 475-2220

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CHAPTER 6. INVESTMENT MANAGEMENT
SUBCHAPTER B. STANDARDS FOR MEMBERS OF THE COMPTROLLER'S INVESTMENT ADVISORY BOARD

34 TAC §§6.10 - 6.18

The Comptroller of Public Accounts adopts new §6.10, concerning definitions; §6.11, concerning advisory capacity; §6.12, concerning advisory board member duties; §6.13, concerning advisory board composition; §6.14, concerning compensation and expenses; §6.15, concerning disclosures and annual affirmation of compliance; §6.16, concerning term of office; and §6.17, concerning charter and policies; and §6.18, concerning removal of advisory board members, without changes to the proposed text as published in the August 22, 2025, issue of the *Texas Register* (50 TexReg 5429). The rules will not be republished. The new rules will be located in Texas Administrative Code, Title 34, Part 1, Chapter 6 (Investment Management), new Subchapter B (Standards for Members of the Comptroller's Investment Advisory Board).

These new sections address the standards for the members of the Comptroller's Investment Advisory Board, including disclosure requirements applicable to advisory board members.

Section 6.10 provides definitions.

Section 6.11 acknowledges the advisory nature of the role of the members of the advisory board.

Section 6.12 lists the advisory board member duties and responsibilities.

Section 6.13 provides the advisory board composition.

Section 6.14 addresses compensation and expense reimbursement for advisory board members.

Section 6.15 provides the advisory board member ethics disclosure requirements and related annual affirmation requirements.

Section 6.16 sets the term of office for advisory board members.

Section 6.17 provides the requirement for the trust company to create an advisory board charter and related policies and to provide such information to the advisory board members.

Section 6.18 provides standards for the removal of advisory board members for cause.

The comptroller received no comments on the proposed rules.

The new sections are adopted under Government Code, §404.028(c), which authorizes the comptroller to adopt rules governing members of the comptroller's investment advisory board.

The new sections implement Government Code, §404.028 concerning the comptroller's investment advisory board.

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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Victoria North
General Counsel for Fiscal and Agency Affairs
Comptroller of Public Accounts
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For further information, please call: (512) 475-2220

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PART 3. TEACHER RETIREMENT SYSTEM OF TEXAS

CHAPTER 25. MEMBERSHIP CREDIT
SUBCHAPTER B. COMPENSATION

34 TAC §25.21

The Teacher Retirement System of Texas (TRS) adopts amendments to §25.21, relating to Compensation Subject to Deposit and Credit, under Subchapter B (relating to Compensation) of Chapter 25 in Part 3 of Title 34 of the Texas Administrative Code without changes to the text as proposed in the October 24, 2025 issue of the *Texas Register* (50 TexReg 6994). The rule will not be republished.

REASONED JUSTIFICATION

TRS amends §25.21 in order to conform with legislation passed during the regular session of the 89th Legislature. Specifically, House Bill 2 (HB 2) amended Government Code §822.201 to provide that any increased compensation paid to an employee by a school district using funds received by the district from the teacher retention allotment (TRA) or support staff retention allotment (SSRA) is creditable compensation. HB 2 added these allotments to the Education Code to provide compensation increases for classroom teachers and other employees. In addition, HB 2 amended Section 822.201 to ensure that regardless of how these increases are distributed to teachers and other employees, the increases would qualify as creditable compensation for the purpose of TRS reporting. Based on these changes, TRS amends §25.21 to similarly provide that any compensation paid by a school district to an employee from the TRA or SSRA is creditable compensation.

COMMENTS

No comments on the proposed adoption of the amendments were received.

STATUTORY AUTHORITY

Amended §25.21 is adopted under the authority of Section 1.09 of House Bill 2, 89th Legislature, Regular Session; Government Code § 822.201, which provides that increased compensation paid to an employe by a school district using funds received by the district under the teacher retention allotment under Section 48.158, Education Code or support staff retention allotment under Section 48.1581, Education Code qualifies as "salary and wages" for TRS purposes and is, therefore, subject to deposit and credit by TRS; and Government Code §825.102, which authorizes the board of trustees to adopt rules for administration of the funds of the retirement system and eligibility for membership.

CROSS-REFERENCE TO STATUTE

Amended §25.21 affects the following statutes: Government Code §822.201, relating to member compensation.

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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Don Green
Chief Financial Officer
Teacher Retirement System of Texas
Effective date: December 30, 2025
Proposal publication date: October 24, 2025
For further information, please call: (512) 542-6506

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CHAPTER 27. TERMINATION OF MEMBERSHIP AND REFUNDS

34 TAC §27.6

The Teacher Retirement System of Texas (TRS) adopts amendments to §27.6 (relating to Reinstatement of an Account) of Chapter 27 in Part 3 of Title 34 of the Texas Administrative Code without changes to the text as proposed in the October 17, 2025 issue of the *Texas Register* (50 TexReg 6860). The rule will not be republished.

REASONED JUSTIFICATION

In TRS' adopted four-year rule review published in the August 12, 2022 issue of the *Texas Register* (47 TexReg 4859), TRS identified §27.6 as a rule for future amendment. Based on that review, TRS adopts amendments to this rule.

The amendments to §27.6 remove reference to purchasing withdrawn service at the previous reinstatement fee rate of 6% per year since the member's service was withdrawn. The opportunity to purchase at this fee rate expired in 2013.

COMMENTS

TRS did not receive comments on the proposed adoption of the amendments.

STATUTORY AUTHORITY

The amended rule is adopted under the authority of Government Code §825.102, which authorizes the board of trustees to adopt rules for the transaction of the business of the board and Government Code §823.501, which establishes fees and requirements for a member to reinstate withdrawn service credit.

CROSS-REFERENCE TO STATUTE

The amended rule implements the following statutes: Government Code §823.501, establishes fees and requirements for a member to reinstate withdrawn service credit.

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 December 10, 2025.

TRD-202504514

Don Green
Chief Financial Officer
Teacher Retirement System of Texas
Effective date: December 30, 2025
Proposal publication date: October 17, 2025
For further information, please call: (512) 542-6506

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CHAPTER 29. BENEFITS

The Teacher Retirement System of Texas (TRS) adopts amendments to §29.9 (relating to Survivor Benefits) of Chapter 29, Subchapter A, in Title 34, Part 3, of the Texas Administrative Code and §29.56 (relating to Minimum Distribution Requirements) of Chapter 29, Subchapter D, in Title 34, Part 3, of the Texas Administrative Code without changes to the text as proposed in the October 17, 2025 issue of the *Texas Register* (50 TexReg 6861). The rules will not be republished.

REASONED JUSTIFICATION

In TRS' adopted four-year rule review published in the August 12, 2022 issue of the *Texas Register* (47 TexReg 4859), TRS identified §29.9 and §29.56 as rules for future amendment. Based on that review, TRS now amends these rules.

The adopted amendments to §29.9 simply clarify that the beneficiary designated to receive survivor benefits by a retiree is the beneficiary eligible to receive benefits payable under Government Code §824.501.

The adopted amendments to §29.56 update the rule to conform with federal law, primarily the changes made in the Secure Act and Secure Act 2.0 that were passed by Congress in 2019 and 2022, respectfully. The primary change from both pieces of legislation that is being implemented here was to increase the age that retired participants must begin receiving required minimum distributions. Under the Secure Act, the age increases from age 70 1/2 to age 72 for participants born after Jan. 1, 1949 and before Jan. 1, 1951. Secure Act 2.0 increases the age from 72 to age 73 for participants that were born after Jan. 1, 1951 and before Jan. 1, 1960 and increases from 73 to 75 for plan participants that were born on or after Jan. 1, 1960. The amendments to §29.56 also include other minor updates and nonsubstantive changes to terminology and citations in the rule.

COMMENTS

TRS did not receive comments on the proposed adoption of the amendments.

SUBCHAPTER A. RETIREMENT

34 TAC §29.9

STATUTORY AUTHORITY

The amendments to §29.9 are adopted under the authority of Government Code §825.102 which authorizes the TRS Board of Trustees to adopt rules for the eligibility for membership, the administration of the funds of the retirement system, and the transaction of business of the board; and Government Code §824.101, which provides requirements relating to the designation of beneficiaries in the TRS retirement system and provides that TRS may adopt rules to administer that section.

CROSS-REFERENCE TO STATUTE

The amendments to §29.9 implement Subchapter B (concerning Beneficiaries) of Chapter 824 of the Government Code.

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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Don Green
Chief Financial Officer
Teacher Retirement System of Texas
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For further information, please call: (512) 542-6506

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SUBCHAPTER D. PLAN LIMITATIONS

34 TAC §29.56

STATUTORY AUTHORITY

The amendments are adopted under the authority of Government Code §825.102 which authorizes the TRS Board of Trustees to adopt rules for the eligibility for membership, the administration of the funds of the retirement system, and the transaction of business of the board, and Government Code §825.506, which provides that TRS' pension plan shall be administered as a qualified plan under §401(a) of the Internal Revenue Code of 1986 (26 U.S.C. Section 401); that TRS shall administer the plan in a manner that satisfies the required minimum distribution provisions of Section 401(a)(9), Internal Revenue Code of 1986; and that TRS may adopt rules to administer these requirements.

CROSS-REFERENCE TO STATUTE

The amendments implement §825.506, Texas Government Code (relating to Plan Qualification).

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 December 10, 2025.

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Don Green
Chief Financial Officer
Teacher Retirement System of Texas
Effective date: December 30, 2025
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For further information, please call: (512) 542-6506

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CHAPTER 31. EMPLOYMENT AFTER RETIREMENT

SUBCHAPTER A. GENERAL PROVISIONS AND PROCEDURES

34 TAC §31.3

The Teacher Retirement System of Texas (TRS) adopts amendments to §31.3 (relating to Return-to-Work Employer Pension Surcharge) under Subchapter A (relating to General Provisions and Procedures) of Chapter 31 in Part 3 of Title 34 of the Texas Administrative Code without changes to the text as proposed in the October 24, 2025 issue of the *Texas Register* (50 TexReg 6997). The rule will not be republished.

REASONED JUSTIFICATION

TRS amends §31.3 to conform with legislation passed during the regular session of the 89th Legislature. Specifically, House Bill 2 (HB 2) repealed Government Code §825.4092(f). This subsection was originally added in 2021 by Senate Bill 202 (SB 202). Subsection 825.4092(f), as added by SB 202, prohibited TRS employers from directly or indirectly passing on the cost of pension or health care surcharges to TRS retirees they employ. To implement SB 202, TRS added this "pass-through prohibition" to §31.3 and §41.4 (relating to Employer Health Benefit Surcharge), which is also amended elsewhere in this issue of the *Texas Register*. Because HB 2 repealed Subsection 824.4092(f), TRS amends §31.3 to remove this provision from §31.3(e) as well.

COMMENTS

TRS received no comments on the proposed adoption of these amendments.

STATUTORY AUTHORITY

The amended rule is adopted under the authority of Section 2.20(c) of House Bill 2, 89th Legislature, Regular Session; Government Code §824.604, which provides that board of trustees may adopt rules to administer laws under Subchapter G of Chapter 824 of the Government Code; Government Code §825.4092, which relates to employer contributions for employed retirees; and Government Code §825.102, which authorizes the board of trustees to adopt rules for the transaction of the business of the board.

CROSS-REFERENCE TO STATUTE

The amended rule affects the following statute: Government Code §825.4092, which relates to employer contributions for employed retirees.

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 December 10, 2025.

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Don Green
Chief Financial Officer
Teacher Retirement System of Texas
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For further information, please call: (512) 542-6506

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CHAPTER 41. HEALTH CARE AND INSURANCE PROGRAMS

SUBCHAPTER A. RETIREE HEALTH CARE BENEFITS (TRS-CARE)

34 TAC §41.4

The Teacher Retirement System of Texas (TRS) adopts amendments to §41.4, relating to Employer Health Benefit Surcharge, under Subchapter A (relating to Retiree Health Care Benefits (TRS-CARE)) of Chapter 41 in Part 3 of Title 34 of the Texas Administrative Code without changes to the text proposed in the October 24, 2025 issue of the *Texas Register* (50 TexReg 6998). The rule will not be republished.

REASONED JUSTIFICATION

TRS amends §41.4 to conform with legislation passed during the regular session of the 89th Legislature. Specifically, House Bill 2 (HB 2) repealed Government Code §825.4092(f). This subsection was originally added in 2021 by Senate Bill 202 (SB 202). Subsection 825.4092(f), as added by SB 202, prohibited TRS employers from directly or indirectly passing on the cost of pension or health care surcharges to TRS retirees they employ. To implement SB 202, TRS added this "pass-through prohibition" to §41.4 and to §31.3 (relating to Return-to-Work Employer Pension Surcharge), which is also amended elsewhere in this issue of the *Texas Register*. Because HB 2 repealed Subsection 824.4092(f), TRS amends §41.4 to remove this provision from §41.4(i) as well.

COMMENTS

TRS did not receive comments on the proposed adoption of the amendments.

STATUTORY AUTHORITY

Amended §41.4 is adopted under the authority of Section 2.20(c) of House Bill 2, 89th Legislature, Regular Session; Government Code §824.604, which provides that board of trustees may adopt rules to administer laws under Subchapter G of Chapter 824 of the Government Code; Government Code §825.4092, which relates to employer contributions for employed retirees; and Government Code §825.102, which authorizes the board of trustees to adopt rules for the transaction of the business of the board.

CROSS-REFERENCE TO STATUTE

Amended §41.4 affects the following statutes: Government Code §825.4092, relating to employer contributions for employed retirees.

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 December 10, 2025.

TRD-202504513
Don Green
Chief Financial Officer
Teacher Retirement System of Texas
Effective date: December 30, 2025
Proposal publication date: October 24, 2025
For further information, please call: (512) 542-6506

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TITLE 37. PUBLIC SAFETY AND CORRECTIONS

PART 1. TEXAS DEPARTMENT OF PUBLIC SAFETY

CHAPTER 6. LICENSE TO CARRY HANDGUNS

SUBCHAPTER B. ELIGIBILITY AND APPLICATION PROCEDURES FOR A LICENSE TO CARRY A HANDGUN

37 TAC §6.14, §6.19

The Texas Department of Public Safety (the department) adopts amendments to §6.14 and adopts new §6.19, concerning Eligibility And Application Procedures For A License To Carry A Handgun. These rules are adopted without changes to the proposed text as published in the October 24, 2025, issue of the *Texas Register* (50 TexReg 7000) and will not be republished.

Amendments to §6.14 clarify that applicants for a license to carry who are tactical medical professionals must submit their certificate of training in accordance with new §6.19, which provides that the certificate of training is valid for one year. New §6.19 establishes the training, continuing education course, and certification requirements for tactical medical professionals with a license to carry in compliance with House Bill 4995, 89th Leg. R.S. (2025).

No comments were received regarding the adoption of these rules.

These rules are adopted pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; §411.1884 which requires the director to adopt rules establishing minimum standards for an initial training course and an annual continuing education course for tactical medical professionals who hold licenses to carry; and House Bill 4995, 89th Leg., R.S. (2025).

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

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TRD-202504574
D. Phillip Adkins
General Counsel
Texas Department of Public Safety
Effective date: January 1, 2026
Proposal publication date: October 24, 2025
For further information, please call: (512) 424-5848

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SUBCHAPTER G. TACTICAL MEDICAL PROFESSIONAL INSTRUCTOR CERTIFICATION

37 TAC §6.111, §6.112

The Texas Department of Public Safety (the department) adopts new §6.111 and §6.112, concerning Tactical Medical Professional Instructor Certification. These rules are adopted without changes to the proposed text as published in the October 24, 2025, issue of the *Texas Register* (50 TexReg 7001) and will not be republished.

These new rules are necessary to implement House Bill 4995, 89th Leg. R.S. (2025), which requires the department to establish by rule minimum standards for a training course to be completed by tactical medical professionals who also hold a license to carry. New §6.111 and §6.112 provide the application procedures and training requirements to enable qualified license to carry handgun instructors to obtain the training and certification required to offer the tactical medical professional training course to tactical medical professionals who hold a license to carry.

No comments were received regarding the adoption of these rules.

These rules are adopted pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; §411.1884 which requires the director to adopt rules establishing minimum standards for an initial training course and an annual continuing education course for tactical medical professionals who hold licenses to carry; and House Bill 4995, 89th Leg., R.S. (2025).

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

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TRD-202504575
D. Phillip Adkins
General Counsel
Texas Department of Public Safety
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For further information, please call: (512) 424-5848

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CHAPTER 10. IGNITION INTERLOCK DEVICE

SUBCHAPTER C. MILITARY SERVICE MEMBERS, VETERANS, AND SPOUSES - SPECIAL CONDITIONS FOR VENDOR AUTHORIZATIONS

37 TAC §10.24, §10.25

The Texas Department of Public Safety (the department) adopts an amendment to §10.24 and new §10.25, concerning Military Service Members, Veterans, And Spouses - Special Conditions For Vendor Authorizations. These rules are adopted without changes to the proposed text as published in the October 24, 2025, issue of the *Texas Register* (50 TexReg 7002) and will not be republished.

The amendment and new rule implement House Bill 5629, 89th Leg., R.S. (2025) by clarifying the alternative vendor authoriza-

tion or licensing process and by establishing new rules for recognizing another state's license similar in scope of practice to the vendor authorization in this state for the Ignition Interlock Device Program.

The department accepted comments on the proposals through November 24, 2025. The substantive comments received and the department's responses are summarized below.

COMMENT:

Written comments relating to §10.25 were submitted by Edward Timmons, on behalf of Archbridge Institute recommending replacing the proposed language from "comparing the other state's license requirements" to "comparing the other state's scope of practice".

RESPONSE: The department disagrees with this comment. It is necessary for the department to review the licensing requirements of other states, along with their statutes, rules, and application review processes. Conducting this review is essential to ensure that an applicant's prior authorization in another state corresponds with the lawful scope of regulated activities in Texas. No changes were made to the proposal based on this comment.

These rules are adopted pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; Texas Transportation Code, §521.247, which authorizes the department to adopt rules for the approval of ignition interlock devices; §521.2476, which authorizes the department to establish by rule minimum standards for vendors of ignition interlock devices who conduct business in this state and procedures to ensure compliance with those standards; and House Bill 5629, 89th Leg., R.S. (2025).

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

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TRD-202504576
D. Phillip Adkins
General Counsel
Texas Department of Public Safety
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For further information, please call: (512) 424-5848

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CHAPTER 23. VEHICLE INSPECTION
SUBCHAPTER C. VEHICLE INSPECTION STATION OPERATION

37 TAC §23.25

The Texas Department of Public Safety (the department) adopts an amendment to §23.25, concerning Vehicle Inspection Fees. This rule is adopted without changes to the proposed text as published in the October 24, 2025, issue of the *Texas Register* (50 TexReg 7004) and will not be republished.

The amendment removes subsection (e) to implement Senate Bill 1729, 89th Leg., R.S. (2025), which repeals the department's authority to establish the three-year inspection fee for certain rental vehicles.

No comments were received regarding the adoption of this rule.

This rule is adopted pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; Texas Transportation Code, §548.002, which authorizes the department to adopt rules to administer and enforce this chapter; and Senate Bill 1729, 89th Leg., R.S. (2025).

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

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TRD-202504577
D. Phillip Adkins
General Counsel
Texas Department of Public Safety
Effective date: January 1, 2026
Proposal publication date: October 24, 2025
For further information, please call: (512) 424-5848

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SUBCHAPTER I. MILITARY SERVICE MEMBERS, VETERANS, AND SPOUSES--SPECIAL CONDITIONS

37 TAC §23.93, §23.95

The Texas Department of Public Safety (the department) adopts an amendment to §23.93 and new §23.95, concerning Military Service Members, Veterans, and Spouses--Special Conditions. These rules are adopted without changes to the proposed text as published in the October 24, 2025, issue of the *Texas Register* (50 TexReg 7005) and will not be republished.

The amendment and new rule implement House Bill 5629, 89th Leg., R.S. (2025) by clarifying the alternative certificate or licensing process and by establishing new rules for recognizing another state's license similar in scope of practice to the certificate in this state for the Vehicle Inspection Program.

The department accepted comments on the proposals through November 24, 2025. The substantive comments received and the department's responses are summarized below.

COMMENT:

Written comments relating to §23.95 were submitted by Edward Timmons, on behalf of Archbridge Institute recommending replacing the proposed language from "comparing the other state's license requirements" to "comparing the other state's scope of practice".

RESPONSE: The department disagrees with this comment. It is necessary for the department to review the licensing requirements of other states, along with their statutes, rules, and application review processes. Conducting this review is essential to ensure that an applicant's prior authorization in another state corresponds with the lawful scope of regulated activities in Texas. No changes were made to the proposal based on this comment.

These rules are adopted pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; Texas Transportation Code, §548.002, which authorizes the department to adopt rules to administer and enforce this chapter; and House Bill 5629, 89th Leg., R.S. (2025).

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

Filed with the Office of the Secretary of State on December 12, 2025.

TRD-202504578
D. Phillip Adkins
General Counsel
Texas Department of Public Safety
Effective date: January 1, 2026
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For further information, please call: (512) 424-5848

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CHAPTER 35. PRIVATE SECURITY
SUBCHAPTER O. MILITARY SERVICE MEMBERS, MILITARY VETERANS, AND MILITARY SPOUSES - SPECIAL CONDITIONS

37 TAC §35.183, §35.186

The Texas Department of Public Safety (the department) adopts an amendment to §35.183 and new §35.186, concerning Military Service Members, Military Veterans, And Military Spouses - Special Conditions. These rules are adopted without changes to the proposed text as published in the October 24, 2025, issue of the *Texas Register* (50 TexReg 7006) and will not be republished.

The amendment and new rule implement House Bill 5629, 89th Leg., R.S. (2025) by clarifying the alternative licensing process and by establishing new rules for recognizing another state's license similar in scope of practice to the license in this state for the Private Security Program.

The department accepted comments on the proposals through November 24, 2025. The substantive comments received and the department's responses are summarized below.

COMMENT:

Written comments relating to §35.183 were submitted by Edward Timmons, on behalf of Archbridge Institute recommending replacing the proposed language from "comparing the other state's license requirements" to "comparing the other state's scope of practice".

RESPONSE: The department disagrees with this comment. It is necessary for the department to review the licensing requirements of other states, along with their statutes, rules, and application review processes. Conducting this review is essential to ensure that an applicant's prior authorization in another state corresponds with the lawful scope of regulated activities in Texas. No changes were made to the proposal based on this comment.

These rules are adopted pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; Texas Occupations Code, §1702.061(a), which authorizes the Public Safety Commission to adopt rules and general policies to guide the department in the administration of this chapter; and House Bill 5629, 89th Leg., R.S. (2025).

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

Filed with the Office of the Secretary of State on December 12, 2025.

TRD-202504579
D. Phillip Adkins
General Counsel
Texas Department of Public Safety
Effective date: January 1, 2026
Proposal publication date: October 24, 2025
For further information, please call: (512) 424-5848

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CHAPTER 36. METALS RECYCLING ENTITIES
SUBCHAPTER C. PRACTICE BY CERTIFICATE HOLDERS AND REPORTING REQUIREMENTS

37 TAC §36.33, §36.39

The Texas Department of Public Safety (the department) adopts an amendment to §36.33 and new §36.39, concerning Practice By Certificate Holders And Reporting Requirements. Section 36.39 is adopted with a change to the proposed text as published in the October 24, 2025, issue of the *Texas Register* (50 TexReg 7007) and will be republished. Section 36.33 is adopted without changes and will not be republished.

The amendment and new rule are necessary to implement Senate Bill 1646, 89th Leg., R.S. (2025). The amendment to §36.33 outlines the documentation a seller who sells insulated communications wire must provide to a metal recycling entity to establish that the wire was salvaged from a fire, and proposed new §36.39 establishes the method by which a metal recycling entity is required to document the type of seller from which the entity purchased or acquired copper or brass material.

The department accepted comments on the proposals through November 24, 2025. The substantive comments received and the department's responses are summarized below.

COMMENT:

Written comments relating to §36.39(a) were submitted by Trey LaMair on behalf of AT&T and recommended modifying the second sentence of §36.39(a) from "… a metal recycling entity purchased or acquired copper or brass material as defined in §1956.133" to "…a metal recycling entity purchased or acquired copper or brass material as defined in §1956.131".

RESPONSE: The department agrees with this comment and is modifying the second sentence in §36.39(a) to refer to §1956.131 of the Texas Occupations Code.

These rules are adopted pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to

adopt rules considered necessary for carrying out the department's work; Texas Occupations Code, §1956.013, which authorizes the Public Safety Commission to adopt rules to administer this chapter; §1956.0134(e), which authorizes the Public Safety Commission to adopt rules establishing the method by which a metal recycling entity is required to document in a record the type of seller from which the entity purchased or acquired copper or brass material; §1956.0134(f), which authorizes the Public Safety Commission to establish the type of documentation that a person selling insulated communications wire must provide to a metal recycling entity to establish that the wire was salvaged from a fire; and Senate Bill 1646, 89th Leg., R.S. (2025).

§36.39. Documentation of Seller Type for Certain Copper or Brass Material.

(a) A metal recycling entity shall keep an accurate electronic record or an accurate and legible written record of each purchase of copper or brass material made in the course of the entity's business. The record must clearly identify the type of seller listed in §1956.133 of the Act, from which a metal recycling entity purchased or acquired copper or brass material as defined in §1956.131 of the Act.

(b) The record indicating the type of seller must be in a retrievable format and available for inspection as part of the records requirements pursuant to §1956.134 of the Act.

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 December 12, 2025.

TRD-202504584
D. Phillip Adkins
General Counsel
Texas Department of Public Safety
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For further information, please call: (512) 424-5848

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SUBCHAPTER D. MILITARY EXEMPTIONS

37 TAC §36.43, §36.45

The Texas Department of Public Safety (the department) adopts an amendment to §36.43 and new §36.45, concerning Military Exemptions. These rules are adopted without changes to the proposed text as published in the October 24, 2025, issue of the *Texas Register* (50 TexReg 7008) and will not be republished.

The amendment and new rule implement House Bill 5629, 89th Leg., R.S. (2025) by clarifying the alternative certificate or licensing process and by establishing a new rule for recognizing another state's license similar in scope of practice to the certificate of registration in this state for the Metals Recycling Entities Program.

The department accepted comments on the proposals through November 24, 2025. The substantive comments received and the department's responses are summarized below.

COMMENT:

Written comments relating to §36.45 were submitted by Edward Timmons, on behalf of Archbridge Institute recommending replacing the proposed language from "comparing the other state's license requirements" to "comparing the other state's scope of practice".

RESPONSE: The department disagrees with this comment. It is necessary for the department to review the licensing requirements of other states, along with their statutes, rules, and application review processes. Conducting this review is essential to ensure that an applicant's prior authorization in another state corresponds with the lawful scope of regulated activities in Texas. No changes were made to the proposal based on this comment.

These rules are adopted pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; Texas Occupations Code, §1956.013, which authorizes the Public Safety Commission to adopt rules to administer this chapter; and House Bill 5629, 89th Leg., R.S. (2025).

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

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D. Phillip Adkins
General Counsel
Texas Department of Public Safety
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For further information, please call: (512) 424-5848

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SUBCHAPTER E. DISCIPLINARY PROCEDURES AND ADMINISTRATIVE PROCEDURES

37 TAC §36.60

The Texas Department of Public Safety (the department) adopts amendments to §36.60, concerning Administrative Penalties. This rule is adopted without changes to the proposed text as published in the October 24, 2025, issue of the *Texas Register* (50 TexReg 7009) and will not be republished.

The amendments modify the penalty schedule and add penalties for violation of proposed changes to §36.33, concerning Documentation of Fire-Salvaged Insulated Communications Wire and §36.39, concerning Documentation of Seller Type for Certain Copper or Brass Material. These changes are necessary to implement Senate Bill 1646, 89th Leg., R.S. (2025).

No comments were received regarding the adoption of this rule.

This rule is adopted pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; Texas Occupations Code, §1956.013, which authorizes the Public Safety Commission to adopt rules to administer this chapter; and Senate Bill 1646, 89th Leg., R.S. (2025).

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

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TRD-202504586
D. Phillip Adkins
General Counsel
Texas Department of Public Safety
Effective date: January 1, 2026
Proposal publication date: October 24, 2025
For further information, please call: (512) 424-5848

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CHAPTER 39. AUTOMATED MOTOR VEHICLES

37 TAC §§39.1 - 39.3

The Texas Department of Public Safety (the department) adopts new §§39.1 - 39.3, concerning Automated Motor Vehicles. These rules are adopted without changes to the proposed text as published in the October 24, 2025, issue of the *Texas Register* (50 TexReg 7010) and will not be republished.

The new rules are necessary to implement Senate Bill 2807, 89th Leg., R.S. (2025), regarding an authorization for a person to operate one or more automated motor vehicles to transport property or passengers in furtherance of a commercial enterprise on highways and streets in this state without a human driver. The department is required to adopt rules related to the form and manner in which a person seeking an authorization must submit a plan to the department specifying how a person who provides firefighting, law enforcement, ambulance, medical, or other emergency services should interact with an automated motor vehicle during the provision of those services.

New §39.1, provides the purpose and scope of new Chapter 39; new §39.2, provides definitions and a cross reference to the definitions in Transportation Code, Chapter 545, Subchapter J; and new §39.3, prescribes the form and manner by which a person must submit a first responder interaction plan to the department.

Section 12(b) of Senate Bill 2807 provides that a person is not required to comply with Subchapter J, Chapter 545 of the Transportation Code until the 90th day after the effective date of rules adopted by the department and the Texas Department of Motor Vehicles. The effective date of these rules is January 1, 2026. The effective date of the Texas Department of Motor Vehicles rules is February 27, 2026, as published in the October 3, 2025, issue of the *Texas Register* (50 TexReg 6520). Therefore, a person is required to comply with Subchapter J of Chapter 545 on May 28, 2026.

The department accepted comments on the proposals through November 24, 2025. The substantive comments received and the department's responses are summarized below.

COMMENT:

Written comments relating to §39.3(c)(1) were submitted by Volvo Autonomous Solutions and the Autonomous Vehicle Industry Association generally in support of the rules with the following recommendations. The commenters recommend operators be permitted to provide first responder contact information through either a telephone number or a QR code, the QR code be linked to trained support specialists instead of the First Responder Interaction Plan (FRIP), and removal of the word "prominently."

RESPONSE: The department disagrees with these comments. First responders require quick and immediate access to a fleet support specialist that is most efficiently provided through an easily identified telephone number prominently displayed on the vehicle. Furthermore, the display of a telephone number is not uncommon and is consistent with other typical commercial vehicle operations and passenger carrying commercial vehicle operations across the country. A QR code which links to the First Responder Interaction Plan provides an additional layer of access if a fleet support specialist is not immediately available through a telephone number. In addition, separate requirements for a telephone number and QR code provides redundancy in maximizing the chances a first responder will access support in the event either the telephone number or QR code is not visible due to extenuating circumstances, such as damage resulting from a collision. No changes were made to the proposal based on these comments.

COMMENT:

Written comments relating to §39.3(c)(1) were submitted by Waymo LLC and Tesla with the following recommendations. The commenters recommend the removal of the mandatory display on the vehicle of a telephone number and QR code linked to the FRIP.

RESPONSE: The department disagrees with these comments. First responders require quick and immediate access to a fleet support specialist that is most efficiently provided through an easily identified telephone number prominently displayed on the vehicle. Furthermore, the display of a telephone number is not uncommon and is consistent with other typical commercial vehicle operations and passenger carrying commercial vehicle operations across the country. A QR code which links to the First Responder Interaction Plan provides an additional layer of access if a fleet support specialist is not immediately available through a telephone number. In addition, separate requirements for a telephone number and QR code provides redundancy in maximizing the chances a first responder will access support in the event either the telephone number or QR code is not visible due to extenuating circumstances, such as damage resulting from a collision. No changes were made to the proposal based on these comments.

COMMENT:

Written comments relating to §39.3(c)(1) were submitted by Zoox with the following recommendation. The commenter recommends that the department clarify that phone numbers and QR codes are not required to be displayed on "drivered" test fleet autonomous vehicles with human operators in the vehicle.

RESPONSE: The department disagrees with this comment. Subchapter J of Chapter 545 of the Transportation Code defines an "automated driving system, an "automated motor vehicle," and a "human driver." Section 545.455(c) of the Transportation Code applies to an automated motor vehicle without a human driver operated to transport property or passengers in furtherance of a commercial enterprise on a highway or street in this state. Any fact scenario beyond the statutory definitions is outside the scope of the department's rulemaking authority. No changes were made to the proposal based on this comment.

COMMENT:

Written comments relating to §39.3(c)(5) and §39.3(d) were submitted by Tesla, Inc. with the following recommendations. Relating to §39.3(c)(5), the commenter recommends that instead

of requiring the disclosure of the name, title, and contact details of the individual authorized and responsible for enforcement actions, the department instead require a dedicated email address or telephone number. Relating to §39.3(d), the commenter recommends the department clarify what constitutes a "material change."

RESPONSE: The department disagrees with these comments. A specific contact is required to ensure that the department has a single point of contact that is responsible for the preparation of the first responder interaction plan, including an individual authorized and responsible for enforcement actions; however, a person may choose to provide an additional dedicated email address and telephone number in addition to a specific contact. A material change is sufficiently described as any material change related to how to communicate with a fleet support specialist who is available during the period in which the automated motor vehicle is in operation, how to safely remove the automated motor vehicle from the roadway and safely tow the vehicle, how to recognize whether the automated motor vehicle is being operated with the automated driving system engaged, and any additional information the authorization holder, the manufacturer of the automated motor vehicle, or the manufacturer of the automated driving system considers necessary regarding hazardous conditions or public safety risks associated with the operation of the vehicle. No changes were made to the proposal based on these comments.

COMMENT:

Written comments relating to §39.1, §39.2, and §39.3 were submitted by the City of Austin, with the following comments and recommendations.

Relating to §39.1, the commenter recommends clarifying whether the FRIPs will be accessible to or required to be shared with local first responder agencies in the jurisdictions where automated motor vehicles operate.

Relating to §39.2, the commenter recommends that the department clarify what the FRIP must include so that all operators submit comparable, useful information for first responders, including the automated motor vehicle's cut points to safely access the vehicle as well as procedures for law enforcement stops, crash response, fire suppression, emergency extrication, and hazardous materials incidents.

Relating to §39.3, the commenter recommends: (a) clarifying whether and how local first responder agencies will be able to access plans submitted through the department's designated system and, if direct access is not provided, requiring operators to certify that their plans have been shared with affected local agencies; (b) including a required 24-hour emergency contact field; and (c) developing a secure portal or access mechanism to allow authorized first responders to view filed plans when responding to incidents.

Relating to §39.3, the commenter recommends that the plan include how to identify the vehicle per SAE J0911, First Responder Interactions with Fleet Managed Automated Driving System Dedicated Vehicles.

Relating to §39.3, the commenter recommends that the first responder plan should be clear about how to contact the "support specialist" and where on the vehicle the QR code and telephone number may be found by first responders.

Relating to §39.3, the commenter recommends that the first responder plan be explicit about what personally protective equipment is recommended when interacting with the vehicle in various emergencies.

Relating to §39.3(c)(2), the commenter recommends that the first responder plan have instructions on how to disable the automated driver feature to ensure the vehicle will not move unexpectedly.

Relating to §39.3(c)(2), the commenter recommends that the first responder interaction plan should include clear instructions for safely moving the vehicle during an emergency- either through manual operations, if possible, or by specifying the procedure for relocating the vehicle when manual control is not available.

Relating to §39.3(c)(2), the commenter recommends including an Operational Design Domain or a map of the service area.

Relating to §39.3(c)(3), the commenter recommends including "fleet operator" in the list of who can provide an updated first responder plan for compliance with SAE definitions for automated vehicles.

RESPONSE: The department disagrees with these comments. The recommendations are outside the scope of the department's rulemaking authority. No changes were made to the proposal based on these comments.

These rules are adopted pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; Texas Transportation Code, §545.455(c)(2), which authorizes the department to adopt rules for a plan specifying how a person who provides firefighting, law enforcement, ambulance, medical, or other emergency services should interact with the automated motor vehicle during the provision of those services; and Senate Bill 2807, 89th Leg., R.S. (2025).

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

Filed with the Office of the Secretary of State on December 12, 2025.

TRD-202504587
D. Phillip Adkins
General Counsel
Texas Department of Public Safety
Effective date: January 1, 2026
Proposal publication date: October 24, 2025
For further information, please call: (512) 424-5848

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PART 9. TEXAS COMMISSION ON JAIL STANDARDS

CHAPTER 263. LIFE SAFETY RULES
SUBCHAPTER D. PLANS AND DRILLS FOR EMERGENCIES

37 TAC §263.40

The Texas Commission on Jail Standards (TCJS) adopts amendments to §263.40 (relating to life safety in county jails) under Chapter 263 Part 9 of Title 37 of the Texas Administrative Code without changes to the text as proposed in the September

5, 2025, issue of the *Texas Register* (50 TexReg 5885). The rule will not be republished.

The adoption of this rule corrects grammar in the administrative code.

No comments were received during the public comment period.

Statutory authority to adopt this rule comes from Texas Government Code 511.009.

No further article, statute, or code is 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.

Filed with the Office of the Secretary of State on December 10, 2025.

TRD-202504493
Brandon Wood
Executive Director
Texas Commission on Jail Standards
Effective date: December 30, 2025
Proposal publication date: September 5, 2025
For further information, please call: (512) 850-9668

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SUBCHAPTER E. LIFE SAFETY AND EMERGENCY EQUIPMENT

37 TAC §263.53

The Texas Commission on Jail Standards (TCJS) adopts amendments to §263.53 (relating to life safety in county jails) under Chapter 263 Part 9 of Title 37 of the Texas Administrative Code without changes to the text as proposed in the September 5, 2025, issue of the *Texas Register* (50 TexReg 5886). The rule will not be republished.

The adoption of this rule clarifies citations made in this rule.

No comments were received during the public comment period.

Statutory authority to adopt this rule comes from Texas Government Code 511.009.

No further article, statute, or code is 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.

Filed with the Office of the Secretary of State on December 10, 2025.

TRD-202504494
Brandon Wood
Executive Director
Texas Commission on Jail Standards
Effective date: December 30, 2025
Proposal publication date: September 5, 2025
For further information, please call: (512) 850-9668

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37 TAC §263.54

The Texas Commission on Jail Standards (TCJS) adopts amendments to §263.54 (relating to life safety in county jails) under Chapter 263 Part 9 of Title 37 of the Texas Administrative Code without changes to the text as proposed in the September 5, 2025, issue of the *Texas Register* (50 TexReg 5886). The rule will not be republished.

The adoption of this rule corrects grammar in the administrative code.

No comments were received during the public comment period.

Statutory authority to adopt this rule comes from Texas Government Code 511.009.

No further article, statute, or code is 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.

Filed with the Office of the Secretary of State on December 10, 2025.

TRD-202504495
Brandon Wood
Executive Director
Texas Commission on Jail Standards
Effective date: December 30, 2025
Proposal publication date: September 5, 2025
For further information, please call: (512) 850-9668

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CHAPTER 265. ADMISSION

37 TAC §265.13

The Texas Commission on Jail Standards (TCJS) adopts amendments to §265.13 (relating to verification of inmate veteran status) under Chapter 265 Part 9 of Title 37 of the Texas Administrative Code without changes to the text as proposed in the September 5, 2025, issue of the *Texas Register* (50 TexReg 5887). The rule will not be republished.

The adoption of this rule requires county jails to conduct inmate veteran status verification within the standard intake procedure.

No comments were received during the public comment period.

Statutory authority to adopt this rule comes from Texas Government Code 511.009.

No further article, statute, or code is 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.

Filed with the Office of the Secretary of State on December 10, 2025.

TRD-202504491
Brandon Wood
Executive Director
Texas Commission on Jail Standards
Effective date: December 30, 2025
Proposal publication date: September 5, 2025
For further information, please call: (512) 850-9668

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CHAPTER 291. SERVICES AND ACTIVITIES

37 TAC §291.4

The Texas Commission on Jail Standards (TCJS) adopts amendments to §291.4 (relating to visitation plans in county jails) under Chapter 291 Part 9 of Title 37 of the Texas Administrative Code without changes to the text as proposed in the September 5, 2025, issue of the *Texas Register* (50 TexReg 5885). The rule will not be republished.

The adoption of this rule requires county jails to amend their visitation plans to allow certain visitation to veterans.

No comments were received during the public comment period.

Statutory authority to adopt this rule comes from Texas Government Code 511.009.

No further article, statute, or code is 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.

Filed with the Office of the Secretary of State on December 10, 2025.

TRD-202504492
Brandon Wood
Executive Director
Texas Commission on Jail Standards
Effective date: December 30, 2025
Proposal publication date: September 5, 2025
For further information, please call: (512) 850-9668

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TITLE 43. TRANSPORTATION

PART 10. TEXAS DEPARTMENT OF MOTOR VEHICLES

CHAPTER 217. VEHICLE TITLES AND REGISTRATION

INTRODUCTION. The Texas Department of Motor Vehicles (department) adopts amendments to 43 Texas Administrative Code (TAC) Chapter 217, Vehicle Titles and Registration. The department adopts the simultaneous repeal of Subchapter A, Motor Vehicle Titles; §217.10, relating to Appeal to the County, and addition of new Subchapter A, Motor Vehicle Titles; §217.10, relating to Department Decisions on Titles and Appeals to the County. The department additionally adopts amendments to Subchapter B, Motor Vehicle Registration; §217.41, relating to Disabled Person License Plates and Disabled Parking Placards. The department further adopts new Subchapter D, Nonrepairable and Salvage Motor Vehicles; §217.87, relating to Requirements for Certain Vehicles Acquired by a Used Automotive Parts Recycler Without a Title. The amendments, new sections, and repeal are necessary to implement legislation, to clarify existing statutory requirements, and to make nonsubstantive grammatical changes to improve readability.

The department adopts §217.10 and §217.41 without changes to the proposed text as published in the October 3, 2025, issue of the *Texas Register* (50 TexReg 6469) and they will not be republished. The department adopts §217.87 with revisions to the proposed text as published in the October 3, 2025, issue of the *Texas Register* (50 TexReg 6469) and it will be republished. In conjunction with this adoption, the department is adopting the repeal of §217.10, which is also published in this issue of the *Texas Register*.

REASONED JUSTIFICATION. The repeal of §217.10, relating to Appeal to the County, is adopted because the current language in the section is duplicative of the statutory requirements in Transportation Code, §501.052, and is therefore unnecessary as rule text. To replace the repealed section, the department adopts new §217.10, relating to Department Decisions on Titles and Appeals to the County. Adopted new §217.10(a) clarifies what constitutes evidence of a title refusal or revocation by the department under Transportation Code, §501.051, for purposes of determining eligibility for a hearing by a tax accessor-collector under Transportation Code, §501.052. The adopted language in new §217.10(a) specifies that for purposes of determining whether a person is eligible for a tax accessor-collector hearing under Transportation Code §501.052, the official record of the department's refusal to issue a title is a written notice of determination from the department. Adopted new §217.10(a) also clarifies that the official record of a revoked title is a revocation remark on the motor vehicle record in the department's Registration and Title System. These adopted new provisions clarify and prevent confusion about the official records of department action that demonstrate eligibility for an appeal hearing under Transportation Code, §501.052.

Adopted new §217.10(b) clarifies that a department decision that an applicant is ineligible to obtain a bonded title under Transportation Code §501.053 is a not a refusal to issue title under Transportation Code, §501.051, and therefore is not subject to a tax accessor-collector hearing under Transportation Code, §501.052. This adopted new language addresses confusion by some tax accessor-collectors, who have incorrectly treated the department's ineligibility determinations under Transportation Code, §501.053 as refusals to title under Transportation Code, §501.051. Adopted new §217.10(b) also aligns the department's rules with recent court rulings, which held that a notice from the department that a vehicle is ineligible for bonded title is not a refusal by the department to issue title under Transportation Code, §501.051.

Adopted amendments to §217.41, relating to Disabled Person License Plates and Disabled Parking Placards, implement Senate Bill (SB) 2001, 89th Legislature, Regular Session (2025), which created Transportation Code, §504.2025, relating to Peace Officers with Disabilities. Section 504.2025 established the right of a qualifying peace officer to obtain disabled peace officer license plates and disabled parking placards. Adopted amendments to §217.41(b)(1), (b)(2)(A), and (b)(3)(A) add statutory references to Transportation Code, §504.2025, to include qualifying disabled peace officers as "disabled persons" for purposes of the eligibility for and issuance of disabled person license plates and disabled parking placards under §217.41. Adopted new §217.41(b)(2)(D) clarifies Transportation Code, §504.202(h) and §504.2025(h) by explaining that qualifying disabled veterans and disabled peace officers have the option to obtain general issue license plates at no expense, in lieu of disabled veteran or peace officer license plates. An adopted amendment to §217.41(b)(1) also adds a reference to the Transportation Code to the citation to §504.202(b-1). An adopted amendment to §217.41(b)(2)(B) adds the titles to §217.43 and §217.45 for ease of reference

to these sections. An adopted amendment to §217.41(c) adds the title to §217.28 for ease of reference. Adopted amendments throughout §217.41 correct punctuation to statutory citations by inserting commas between the Texas code and section number.

Adopted new §217.87, relating to Requirements for Certain Vehicles Acquired by a Used Automotive Parts Recycler Without a Title, implements House Bill (HB) 5436, 89th Legislature, Regular Session (2025). Transportation Code, §501.098, relating to Exception to Title Requirement for Certain Vehicles, provides a process for a used automotive parts recycler (recycler) to acquire motor vehicles without titles for the purpose of dismantling, scraping and parting them, without incurring the cost and delay of going through the bonded title process. Adopted new §217.87(a)(1) informs a recycler of their obligation to determine if a motor vehicle acquired without a title under Transportation Code, §501.098(a) has been reported stolen or is subject to a recorded lien or security interest by submitting a form to the department within the time prescribed by Transportation Code, §501.098(c) and §501.098(g). Adopted new §217.87(a)(2) requires the recycler to separately report this information to the National Motor Vehicle Title Information System (NMVTIS), to comply with Transportation Code, §501.098(c) and to clarify that the department will not be reporting information to NMVTIS on the recycler's behalf. Adopted new §217.87(b) describes the information that the recycler must submit on a department form to ascertain whether a vehicle was reported stolen or is subject to any recorded liens, consistent with the information specified under 28 C.F.R. §25.56, to implement the requirements provided in Transportation Code, §501.098(c) and §501.098(g). Adopted new §217.87(b)(5) requires recyclers to attest that the vehicle meets the requirements of Transportation Code, §501.098(a)(1) and (2), in order to ensure that the vehicle is eligible for a recycler to purchase without obtaining title, so that the department can avoid wasting resources by processing forms for ineligible vehicles. At adoption and in response to a public comment, the proposed language for new §217.87(c) was modified to add "or electronically following the procedures set out on the department's website," to allow for an electronic method of delivering the form to the department. This is an optional, but likely faster and more efficient alternative to delivering the form in person to one of the department's 18 regional service centers. The language added to new §217.87(c) at adoption will also allow the department flexibility on the specific method of electronic delivery, so that the department can use monitored email or electronic forms until it has an opportunity to develop and deploy a more sophisticated electronic system for handling the submission of the forms.

Adopted new §217.87(d) describes the actions the department will take in response to receiving the recycler's form under subsection (b) of this section. Adopted new §217.87(d)(1)(A) requires the department to provide the recycler with notice of whether the motor vehicle has been reported stolen either in person or by email, to assure that the department meets the 48-hour deadline for issuing the notice in accordance with Transportation Code, §501.098(d). Adopted new §217.87(d)(1)(B) describes the department's method of informing the recycler in person or by email if the vehicle is subject to a recorded lien or security interest in the department's Registration and Title System, to expedite the notice required under Transportation Code, §501.098(g). Adopted new §217.87(d)(1)(B) also informs the recycler of the process of obtaining from the department the contact information for a recorded lien holder, which is information that Transportation Code, §501.098(h)(2) requires the recycler provide to the county tax accessor-collector. Adopted new §217.87(d)(2) clarifies that if there is a motor vehicle record for the vehicle in the department's Registration and Title System, the department will make a notation in the motor vehicle record that the motor vehicle has been dismantled, scrapped or destroyed, and cancel the title issued by the department for the motor vehicle, in accordance with Transportation Code, §501.098(f).

Adopted new §217.87(e) describes the process for a lienholder or last registered owner of a motor vehicle acquired by a recycler under Transportation Code, §501.098 to request that the department reinstate the title and remove a notation in the department's records for the motor vehicle made under Transportation Code, §501.098(f)(1) and adopted new §217.87(d)(2), indicating that the vehicle had been dismantled, scrapped or destroyed. Adopted new §217.87(e) describes the process of making the request to the department by presenting valid proof of identification and submitting a receipt received from the recycler transferring the motor vehicle back to the lienholder or last registered owner. The adopted new provisions for §217.87(e) implement and administer Transportation Code, §501.098(j), which provides a lienholder or last registered owner the right to retrieve the motor vehicle acquired by the recycler under Transportation Code, §501.098. Additionally, adopted new §217.87(e) avoids subjecting the lienholder or last registered owner to any additional costs, such as the bonded title process would require.

Adopted new §217.87(f) describes the form and format for the records a recycler is required to compile under Transportation Code, §501.098(b) and have available for inspection by law enforcement or department personnel under Transportation Code, §501.098(m). Adopted new §217.87(f)(1) requires a recycler to collect and record the information specified under Transportation Code, §501.098(b)(1)-(9) on a department form made available on the department's website, and to maintain that form together with the identification documents under Transportation Code, §501.098(b)(10) and the department's response under adopted new §217.87(d). Adopted new §217.87(f)(2) allows a recycler the option to maintain records in an electronic format. The adopted new §217.87(f) implements Transportation Code, §501.098(b), to clarify the manner in which a recycler is to compile and maintain the information specified in Transportation Code, §501.098(b) and (c), for inspection under Transportation Code, §501.098(m).

SUMMARY OF COMMENTS.

The department received one written comment on the proposal from the Texas Automotive Recyclers Association (TARA).

Comment: TARA commented that while they understood the department is currently developing an electronic system to receive and process forms submitted by recyclers, they requested the department revise §217.87(c) to provide an option for recyclers to deliver the forms to the department by electronic means as a more efficient alternative to an in-person visit to a department regional service center. TARA further commented that the department could offer an interim hybrid system allowing recyclers to submit a department form via email or in person.

Response. The department agrees. The department modified the proposed language in §217.87(c) at adoption to address this concern by adding "or electronically following the procedures set out on the department's website" that allows for an electronic submission of the form by recyclers.

SUBCHAPTER A. MOTOR VEHICLE TITLES

43 TAC §217.10

STATUTORY AUTHORITY. The department adopts the repeal of §217.10 under Transportation Code, §501.0041, which gives the department authority to adopt rules to administer Transportation Code, Chapter 501, Certificate of Title Act; Transportation Code, §501.051, which gives the department authority to refuse, cancel, suspend or revoke a title; Transportation Code, §501.052, which provides an interested person aggrieved by a refusal, rescission, cancellation, suspension, or revocation under Transportation Code, §501.051, the right to apply for hearing to the county assessor-collector; and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department.

CROSS REFERENCE TO STATUTE. The adopted repeal would implement Transportation Code, Chapters 501 and 1002.

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

Filed with the Office of the Secretary of State on December 12, 2025.

TRD-202504580
Laura Moriaty
General Counsel
Texas Department of Motor Vehicles
Effective date: January 1, 2026
Proposal publication date: October 3, 2025
For further information, please call: (512) 465-4160

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43 TAC §217.10

STATUTORY AUTHORITY. The department adopts new §217.10 under Transportation Code, §501.0041, which gives the department authority to adopt rules to administer Transportation Code, Chapter 501; Transportation Code, §501.051, which gives the department authority to refuse, cancel, suspend or revoke a title; Transportation Code, §501.053, which gives the department authority to determine the eligibility for a bonded title; Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department; and the statutory authority referenced throughout the preamble and in the rule text.

CROSS REFERENCE TO STATUTE. The adopted new section would implement Transportation Code, Chapters 501 and 1002.

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

Filed with the Office of the Secretary of State on December 12, 2025.

TRD-202504581
Laura Moriaty
General Counsel
Texas Department of Motor Vehicles
Effective date: January 1, 2026
Proposal publication date: October 3, 2025
For further information, please call: (512) 465-4160

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SUBCHAPTER B. MOTOR VEHICLE REGISTRATION

43 TAC §217.41

STATUTORY AUTHORITY. The department adopts amendments to §217.41 under Transportation Code, §504.0011, which gives the board authority to adopt rules to implement and administer Transportation Code, Chapter 504, License Plates; Transportation Code, §504.010, which authorizes the board to adopt rules governing the placement of license plates on motor vehicles; Transportation Code, §504.202, entitling a qualifying disabled veteran to elect for license plates issued under Transportation Code, Chapter 502 in lieu of disabled veteran license plates; Transportation Code, §504.2025, as created by Senate Bill 2001, 89th Legislature, Regular Session (2025), providing a qualifying peace officer with the option to obtain disabled peace officer license plates and disabled parking placards; Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department; and the statutory authority referenced throughout the preamble and in the rule text.

CROSS REFERENCE TO STATUTE. The adopted amendments would implement Transportation Code, Chapters 504 and 1002.

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

Filed with the Office of the Secretary of State on December 12, 2025.

TRD-202504582
Laura Moriaty
General Counsel
Texas Department of Motor Vehicles
Effective date: January 1, 2026
Proposal publication date: October 3, 2025
For further information, please call: (512) 465-4160

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SUBCHAPTER D. NONREPAIRABLE AND SALVAGE MOTOR VEHICLES

43 TAC §217.87

STATUTORY AUTHORITY. The department adopts new §217.87 under Transportation Code, §501.0041, which gives the department authority to adopt rules to administer Transportation Code, Chapter 501, Certificate of Title Act; Transportation Code, §501.098, as created by House Bill 5436, 89th Legislature, Regular Session (2025), which gives the department authority to prescribe the manner in which a used automotive parts recycler compiles the information required under Transportation

Code, §501.098(b) on motor vehicles purchased without title for purposes of dismantling, scrapping or parting, the authority to prescribe the manner in which a used automotive parts recycler submits to the department any information necessary to satisfy any applicable requirement for reporting information to the National Motor Vehicle Title Information System, and the authority to inspect records under Transportation Code, §501.098(m); and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department; and the statutory authority referenced throughout the preamble and in the rule text.

CROSS REFERENCE TO STATUTE. The adopted new section would implement Transportation Code, Chapters 501 and 1002.

§217.87. Requirements for Certain Vehicles Acquired by a Used Automotive Parts Recycler Without a Title.

(a) Reporting requirements.

(1) A used automotive parts recycler (recycler), as defined in Occupations Code §2309.002, that purchases a motor vehicle without a title, in accordance with Transportation Code, §501.098(a), shall determine if the motor vehicle is reported stolen and if the motor vehicle is the subject of any recorded security interests or liens by completing and submitting the form described in subsection (b) of this section to the department within the time provided under Transportation Code, §501.098(c) and §501.098(g).

(2) A recycler must separately report the information specified under Transportation Code, §501.098(c) to the National Motor Vehicle Title Information System.

(b) Information on form. A recycler shall submit a form containing the following information:

(1) name, mailing address, email address and phone number of the recycler;

(2) the vehicle identification number for the motor vehicle;

(3) the date the motor vehicle was obtained;

(4) the name of the individual or entity from whom the motor vehicle was obtained;

(5) A statement that the vehicle:

(A) is at least 13 years old,

(B) is purchased solely for parts, dismantling, or scrap, and

(C) has not been registered for at least seven years; and

(6) the signature of the recycler or the recycler's authorized agent.

(c) Submittal of form. The form shall be submitted to the department in person at one of the department's regional offices or electronically following the procedures set out on the department's website.

(d) Department response.

(1) Upon receipt of a completed and signed form under subsection (b) of this section, the department shall:

(A) notify the recycler, in person or via the email address specified on the form, within the time specified under Transportation Code, §501.098(d), whether the motor vehicle has been reported stolen; and

(B) notify the recycler, in person or via the email address specified on the form, whether the motor vehicle is the subject of a recorded security interest or lien in the department's Registration and Title System. If the vehicle has a recorded lien or security interest, the recycler may obtain the contact information of the holder of that recorded lien or security interest from the department by submitting a request in accordance with §217.123 of this title (relating to Access to Motor Vehicle Records).

(2) If the motor vehicle has a motor vehicle record in the department's Registration and Title System, the department shall:

(A) add a notation to the motor vehicle record that the motor vehicle has been dismantled, scrapped, or destroyed; and

(B) cancel the title issued by the department for the motor vehicle.

(e) Vehicles retrieved from recycler. The department shall reinstate the title and remove the notation in the department's records specified under subsection (d)(2) of this section and Transportation Code, §501.098(f)(1) at the request of a lienholder or last registered owner of a vehicle that is retrieved from a recycler under Transportation Code, §501.098(j). The request must include:

(1) a receipt from the recycler transferring the vehicle to the lienholder or last registered owner that includes the vehicle identification number, year and make; and

(2) valid proof of identification as provided in §217.7 of this title (relating to Replacement of Title).

(f) Records.

(1) A recycler shall collect and record the information specified in Transportation Code, §501.098(b)(1)-(9) on a form available on the department's website and maintain that form with the identification documents under Transportation Code, §501.098(b)(10) and the department's response under subsection (d) of this section.

(2) The records may be maintained in an electronic format.

The agency certifies that legal counsel has reviewed the 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 December 12, 2025.

TRD-202504583
Laura Moriaty
General Counsel
Texas Department of Motor Vehicles
Effective date: January 1, 2026
Proposal publication date: October 3, 2025
For further information, please call: (512) 465-4160

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PART 18. MONTGOMERY COUNTY TAX ASSESSOR-COLLECTOR

CHAPTER 445. MOTOR VEHICLE TITLE SERVICES

43 TAC §§445.1 - 445.17

The Montgomery County Tax Assessor-Collector adopts new 43 TAC §§445.1 - 445.17, concerning the regulation of motor vehicle title services, without changes to the proposed text as pub-

lished in the October 17, 2025, issue of the *Texas Register* (50 TexReg 6868). The rules will not be republished.

There were no comments on the proposed new sections submitted to Tammy McRae, Montgomery County Tax Assessor-Collector, or to the office in general.

Statutory Authority. The Montgomery County Tax Assessor-Collector adopts the new sections pursuant to Transportation Code, Chapter 520, Subchapter E, which provides the county tax assessor-collector the authority to adopt rules regarding motor vehicle title services.

This adoption does not affect any other statutes, articles or codes.

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 December 9, 2025.

TRD-202504482
Tammy J. McRae
Montgomery County Tax Assessor-Collector
Montgomery County Tax Assessor-Collector
Effective date: December 29, 2025
Proposal publication date: October 17, 2025
For further information, please call: (936) 538-8124

REVIEW OF AGENCY RULES

This section contains notices of state agency rule review as directed by the Texas Government Code, §2001.039. Included here are proposed rule review notices, which invite public comment to specified rules under review; and adopted rule review notices, which summarize public comment received as part of the review. The complete text of an agency's rule being reviewed is available in the *Texas Administrative Code* on the Texas Secretary of State's website.

For questions about the content and subject matter of rules, please contact the state agency that is reviewing the rules. Questions about the website and printed copies of these notices may be directed to the *Texas Register* office.

Proposed Rule Reviews

Texas State Board of Pharmacy

Title 22, Part 15

The Texas State Board of Pharmacy files this notice of intent to review Chapter 291, Subchapter C (§§291.51 – 291.55), concerning Nuclear Pharmacy (Class B), pursuant to Texas Government Code §2001.039, regarding Agency Review of Existing Rules.

Comments regarding whether the reason for adopting the rule continues to exist, may be submitted to Eamon D. Briggs, Deputy General Counsel, Texas State Board of Pharmacy, 1801 Congress Avenue, Suite 13.100, Austin, Texas 78701-1319, FAX (512) 305-8061. The deadline for comments is 30 days after publication in the *Texas Register*.

TRD-202504518
Daniel Carroll, Pharm.D.
Executive Director
Texas State Board of Pharmacy
Filed: December 11, 2025

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The Texas State Board of Pharmacy files this notice of intent to review Chapter 309 (§§309.1 – 309.8), concerning Substitution of Drug Products, pursuant to Texas Government Code §2001.039, regarding Agency Review of Existing Rules.

Comments regarding whether the reason for adopting the rule continues to exist, may be submitted to Eamon D. Briggs, Deputy General Counsel, Texas State Board of Pharmacy, 1801 Congress Avenue, Suite 13.100, Austin, Texas 78701-1319, FAX (512) 305-8061. The deadline for comments is 30 days after publication in the *Texas Register*.

TRD-202504519
Daniel Carroll, Pharm.D.
Executive Director
Texas State Board of Pharmacy
Filed: December 11, 2025

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Texas State Soil and Water Conservation Board

Title 31, Part 17

The Texas State Soil and Water Conservation Board (State Board) proposes its notice of intent to review and consider for re-adoption, revision, or repeal 31 Texas Administrative Code, Part 17, Chapter 523, §523.3 Agricultural and Silvicultural Water Quality Management pursuant to the Texas Government Code §2001.039.

The State Board will consider whether the reasons for adopting the rules contained in this chapter continue to exist. As required by the Texas Government Code §2001.039.

The State Board will accept comments as to the reasons for adopting 31 Texas Administrative Code, Part 17, Chapter 523, §523.3 Agricultural and Silvicultural Management.

The comment period on the review of 31 Texas Administrative Code, Part 17, Chapter 523, §523.3 Agricultural and Silvicultural Management begins with the publication in the *Texas Register* and ends 30 days thereafter. Comments regarding this rule review may be submitted to Heather Bounds, Texas State Soil and Water Conservation Board, 1497 Country View Lane, Temple, Texas 76504.

Comments may also be submitted electronically to hbounds@tsswcb.texas.gov Comments should be identified as "State Board Rule Review."

Any proposed amendments as a result of the review will be published in the *Texas Register* in compliance with Texas Government Code, Chapter 2001, and will be open for the required public comment period prior to adoption or repeal by the commission.

TRD-202504659
Heather Bounds
Government Affairs Representative
Texas State Soil and Water Conservation Board
Filed: December 16, 2025

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The Texas State Soil and Water Conservation Board (State Board) proposes its notice of intent to review and consider for re-adoption, revision, or repeal 31 Texas Administrative Code, Part 17, Chapter 523, §§523.4, 523.6, and 523.7 Agricultural and Silvicultural Water Quality Management pursuant to the Texas Government Code §2001.039.

The State Board will consider whether the reasons for adopting the rules contained in this chapter continue to exist. As required by the Texas Government Code §2001.039.

The State Board will accept comments as to the reasons for adopting 31 Texas Administrative Code, Part 17, Chapter 523, §§523.4, 523.6, and 523.7 Agricultural and Silvicultural Management.

The comment period on the review of 31 Texas Administrative Code, Part 17, Chapter 523, §§523.4, 523.6, and 523.7 Agricultural and Silvicultural Management begins with the publication in the *Texas Register* and ends 30 days thereafter. Comments regarding this rule review may be submitted to Heather Bounds, Texas State Soil and Water Conservation Board, 1497 Country View Lane, Temple, Texas 76504.

Comments may also be submitted electronically to hbounds@tsswcb.texas.gov Comments should be identified as "State Board Rule Review."

Any proposed amendments as a result of the review will be published in the *Texas Register* in compliance with Texas Government Code, Chapter 2001, and will be open for the required public comment period prior to adoption or repeal by the commission.

TRD-202504656
Heather Bounds
Government Affairs Representative
Texas State Soil and Water Conservation Board
Filed: December 16, 2025

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The Texas State Soil and Water Conservation Board (State Board) proposes its notice of intent to review and consider for re-adoption, revision, or repeal 31 Texas Administrative Code, Part 17, Chapter 523, §523.5 Agricultural and Silvicultural Water Quality Management pursuant to the Texas Government Code §2001.039.

The State Board will consider whether the reasons for adopting the rules contained in this chapter continue to exist. As required by the Texas Government Code §2001.039.

The State Board will accept comments as to the reasons for adopting 31 Texas Administrative Code, Part 17, Chapter 523, §523.5 Agricultural and Silvicultural Management

The comment period on the review of 31 Texas Administrative Code, Part 17, Chapter 523, §523.5 Agricultural and Silvicultural Management begins with the publication in the *Texas Register* and ends 30 days thereafter. Comments regarding this rule review may be submitted to Heather Bounds, Texas State Soil and Water Conservation Board, 1497 Country View Lane, Temple, Texas 76504.

Comments may also be submitted electronically to hbounds@tsswcb.texas.gov Comments should be identified as "State Board Rule Review."

Any proposed amendments as a result of the review will be published in the *Texas Register* in compliance with Texas Government Code, Chapter 2001, and will be open for the required public comment period prior to adoption or repeal by the commission.

TRD-202504660
Heather Bounds
Government Affairs Representative
Texas State Soil and Water Conservation Board
Filed: December 16, 2025

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Texas Department of Motor Vehicles

Title 43, Part 10

The Texas Department of Motor Vehicles (department) will review and consider whether to readopt, readopt with amendments, or repeal 43 Texas Administrative Code, Chapter 208, Employment Practices. This review is being conducted pursuant to Government Code, §2001.039.

The board will assess whether the reasons for initially adopting these rules continue to exist and whether the rules should be repealed, readopted, or readopted with amendments. No changes are currently proposed for Chapter 208.

If you want to comment on this rule review proposal, submit your written comments by 5:00 p.m. CST on January 26, 2026. A request for a public hearing must be sent separately from your written comments. Send written comments or hearing requests by email to *rules@txdmv.gov* or by mail to Office of General Counsel, Texas Department of Motor Vehicles, 4000 Jackson Avenue, Austin, Texas 78731. If a hearing is held, the department will consider written comments and public testimony presented at the hearing.

TRD-202504521
Laura Moriaty
General Counsel
Texas Department of Motor Vehicles
Filed: December 11, 2025

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Adopted Rule Reviews

Texas Ethics Commission

Title 1, Part 2

The Texas Ethics Commission (the Commission) has completed its review of all sections in Chapter 22 (Restrictions on Contributions and Expenditures) of Title 1, Part 2, Texas Administrative Code.

This review was conducted in accordance with Texas Gov't Code § 2001.039. Notice of the review was published in the July 18, 2025, issue of the *Texas Register* (50 TexReg 4093). No comments were received in response to the notice. The Commission determined that the initial reasons for adopting rules in this chapter continue to exist and readopts this chapter.

The Commission finds the original reasons for adopting these rules continue to exist but with amendments needed. The amendments were published previously in the Proposed Rules section of the *Texas Register.*

This concludes the review of Chapter 22, as required by Tex. Gov't Code § 2001.039.

TRD-202504572
Amanda Arriaga
General Counsel
Texas Ethics Commission
Filed: December 11, 2025

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The Texas Ethics Commission (the Commission) has completed its review of all sections in Chapter 24 (Restrictions on Contributions and Expenditures applicable to Corporations and Labor Organizations) of Title 1, Part 2, Texas Administrative Code.

This review was conducted in accordance with Texas Gov't Code § 2001.039. Notice of the review was published in the July 18, 2025, issue of the *Texas Register* (50 TexReg 4093). No comments were received in response to the notice. The Commission determined that the initial reasons for adopting rules in this chapter continue to exist and readopts this chapter.

The Commission finds the original reasons for adopting these rules continue to exist but with amendments needed. The amendments were published previously in the Proposed Rules section of the *Texas Register.*

This concludes the review of Chapter 24, as required by Tex. Gov't Code § 2001.039.

TRD-202504573

Amanda Arriaga
General Counsel
Texas Ethics Commission
Filed: December 11, 2025

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Office of Consumer Credit Commissioner

Title 7, Part 5

The Finance Commission of Texas (commission) has completed the rule review of Texas Administrative Code, Title 7, Part 5, Chapter 88, concerning Consumer Debt Management Services, in its entirety. The rule review was conducted under Texas Government Code, §2001.039.

Notice of the review of 7 TAC Chapter 88 was published in the October 3, 2025, issue of the *Texas Register* (50 TexReg 6547). The commission received no comments in response to that notice. The commission believes that the reasons for initially adopting the rules contained in this chapter continue to exist.

As a result of the rule review, the commission finds that the reasons for initially adopting the rules in 7 TAC Chapter 88 continue to exist, and readopts this chapter in accordance with the requirements of Texas Government Code, §2001.039.

The commission and the Office of Consumer Credit Commissioner, which administers these rules, anticipate that amendments to 7 TAC Chapter 88 may be proposed in 2026. This may include amendments to registration rules to implement a future transition to the Nationwide Multistate Licensing System (NMLS), an online platform used by state financial regulatory agencies to manage licenses and registrations. This may also include separate amendments to 7 TAC §88.107 (relating to Fees), in order to ensure that registration assessments cover the current and expected costs of regulation.

TRD-202504611
Matthew Nance
General Counsel
Office of Consumer Credit Commissioner
Filed: December 12, 2025

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Texas Education Agency

Title 19, Part 2

The Texas Education Agency (TEA) adopts the review of 19 TAC Chapter 70, Technology-Based Instruction, Subchapter AA, Commissioner's Rules Concerning the Texas Virtual School Network (TxVSN), pursuant to Texas Government Code, §2001.039. TEA proposed the review of 19 TAC Chapter 70, Subchapter AA, in the February 28, 2025 issue of the *Texas Register* (50 TexReg 1704).

Relating to the review of 19 TAC Chapter 70, Subchapter AA, TEA finds that the reasons for adopting the rules continue to exist through the 2026-2027 school year. Senate Bill 569, 89th Texas Legislature, Regular Session, 2025, removed the statutory authority for the rules by repealing Texas Education Code (TEC), Chapter 30A. However, Section 15 of the bill allows an exception until the end of the 2026-2027 school year for school districts providing an electronic course or a full-time program through the state virtual school network. The agency anticipates proposing rules at a later date to implement new TEC, Chapter 30B, related to virtual and hybrid education. TEA received no comments related to the review of Subchapter AA.

This concludes the review of Chapter 70.

TRD-202504646
Cristina De La Fuente Valadez
Director, Rulemaking
Texas Education Agency
Filed: December 15, 2025

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Texas State Soil and Water Conservation Board

Title 31, Part 17

The Texas State Soil & Water Conservation Board has completed the rule review required by Texas Government Code §2001.039. On May 15, 2025, the State Board initiated a rule review of Title 31, Part 17, Chapter 523, §523.1 and §523.2. The rule review and subsequent public comment period was published in the *Texas Register* on June 13, 2025 (50 TexReg 3571). No comments were received.

The agency determined that the original reasons for adopting rules in the chapter continue to exist and readopts Title 31, Part 17, Chapter 523, §523.1 and §523.2 as written.

TRD-202504657
Heather Bounds
Government Affairs Representative
Texas State Soil and Water Conservation Board
Filed: December 16, 2025

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The Texas State Soil & Water Conservation Board has completed the rule review required by Texas Government Code §2001.039. On July 17, 2025, the State Board initiated a rule review of Title 31, Part 17, Chapter 523, §§523.4, 523.6 and 523.7. The rule review and subsequent public comment period was published in the *Texas Register* on October 17, 2025 (50 TexReg 6887). No comments were received.

The agency determined that the original reasons for adopting rules in the chapter continue to exist and readopts Title 31, Part 17, Chapter 523, §§523.4, 523.6 and 523.7 as written.

TRD-202504658
Heather Bounds
Government Affairs Representative
Texas State Soil and Water Conservation Board
Filed: December 16, 2025

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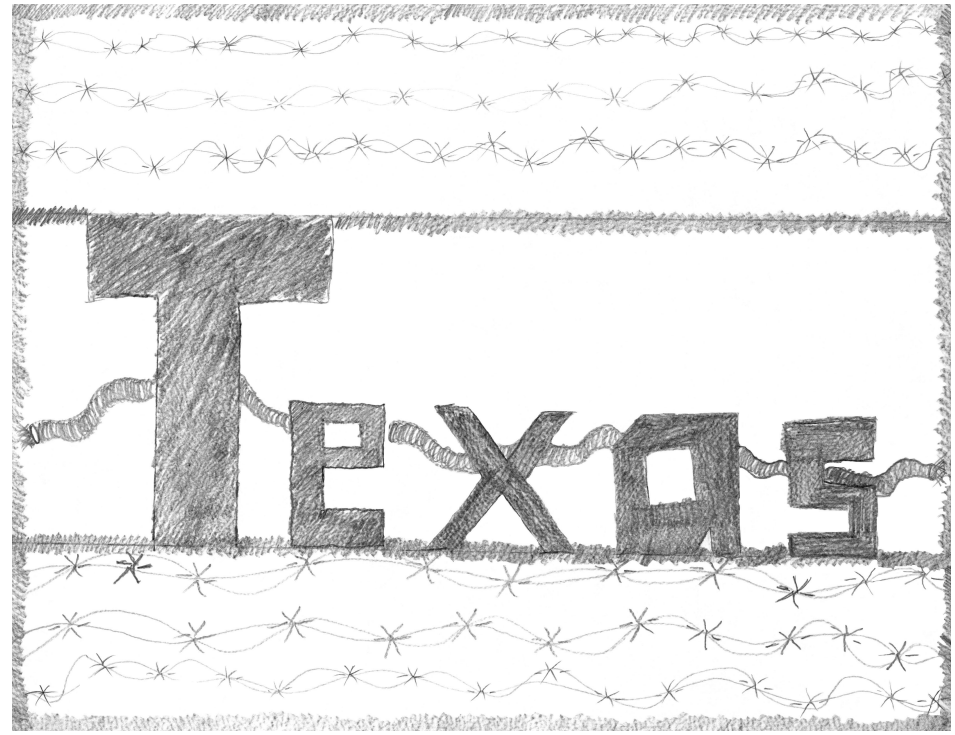
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IN ADDITION

The *Texas Register* is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings issued by the Office of Consumer Credit Commissioner, and consultant proposal requests and awards. State agencies also may publish other notices of general interest as space permits.

Texas State Affordable Housing Corporation

Draft 2026 Annual Action Plan Available for Public Comment

The Texas State Affordable Housing Corporation (TSAHC) invites public comment on its **Draft 2026 Annual Action Plan**, which is a component of the **2026 State Low Income Housing Plan**.

A copy of the Draft 2026 Annual Action Plan is available on TSAHC's website at: https://www.tsahc.org/about/plans-reports

The public comment period for the Draft 2026 Annual Action Plan will be open from **December 17, 2025 through January 16, 2026**.

Written comments may be submitted to **Anna Orendain-Chavez** by email at **aorendain-chavez@tsahc.org.**

TRD-202504672
David Long
President
Texas State Affordable Housing Corporation
Filed: December 16, 2025

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Office of the Attorney General

Texas Health and Safety Code and Texas Water Code Settlement Notice

The State of Texas (the "State") gives notice of the following proposed resolution of an environmental enforcement action under the Texas Health and Safety Code and the Texas Water Code. Before the State may enter into a voluntary settlement agreement, pursuant to section 7.110 of the Texas Water Code, the State shall permit the public to comment in writing. The Attorney General will consider any written comments and may withdraw or withhold consent to the proposed agreement if the comments disclose facts or considerations indicating that consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the law.

Case Title and Court: *State of Texas v. Huntsman Petrochemical LLC*; Cause No. D-1-GN-21-003481; in the 419th District Court of Travis County, Texas.

Background: Defendant, Huntsman Petrochemical LLC, ("Huntsman" or "Defendant") formerly owned and operated a petrochemical manufacturing plant located at 2701 Spur 136, Port Neches, Jefferson County, Texas 77651 (the "Plant"). From 2016 to 2019, while Huntsman owned and operated the Plant, the Plant experienced eighteen unauthorized emissions events, in addition to several other incidences of violations of its permits, in violation of the Texas Clean Air Act and rules promulgated thereunder. Huntsman subsequently sold the Plant on February 3, 2020. Parties have reached an agreement to resolve the State's pending claims against Defendant Huntsman.

Proposed Settlement: The State of Texas and Huntsman Petrochemical LLC propose an Agreed Final Judgment that awards the State of Texas $1,350,000.00 in civil penalties and $150,000.00 in attorney's fees.

For a complete description of the proposed settlement, the Agreed Final Judgment should be reviewed in its entirety. Requests for copies of the proposed judgment and settlement, and written comments on the same, should be directed to Shelby Thompson, Assistant Attorney General, Office of the Texas Attorney General, P.O. Box 12548, MC-066, Austin, Texas 78711-2548, (512) 463-2012, facsimile (512) 320-0911, email: Shelby.Thompson@oag.texas.gov. Written comments must be received within 30 days of publication of this notice to be considered.

TRD-202504687
Justin Gordon
General Counsel
Office of the Attorney General
Filed: December 17, 2025

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Comptroller of Public Accounts

Certification of the Average Closing Price of Gas and Oil - October 2025

The Comptroller of Public Accounts, administering agency for the collection of the Oil Production Tax, has determined, as required by Tax Code, §202.058, that the average taxable price of oil for reporting period October 2025 is $39.12 per barrel for the three-month period beginning on July 1, 2025, and ending September 30, 2025. Therefore, pursuant to Tax Code, §202.058, oil produced during the month of October 2025, from a qualified low-producing oil lease, is not eligible for credit on the oil production tax imposed by Tax Code, Chapter 202. Due to a lack of consumer price index (CPI) data for October 2025, the Comptroller utilized the CPI data from September 2025 when calculating the 2005 price for the month of October 2025.

The Comptroller of Public Accounts, administering agency for the collection of the Natural Gas Production Tax, has determined, as required by Tax Code, §201.059, that the average taxable price of gas for reporting period October 2025 is $1.20 per mcf for the three-month period beginning on July 1, 2025, and ending September 30, 2025. Therefore, pursuant to Tax Code, §201.059, gas produced during the month of October 2025, from a qualified low-producing well, is eligible for a 100% credit on the natural gas production tax imposed by Tax Code, Chapter 201. Due to a lack of CPI data for October 2025, the Comptroller utilized the CPI data from September 2025 when calculating the 2005 price for the month of October 2025.

The Comptroller of Public Accounts, administering agency for the collection of the Franchise Tax, has determined, as required by Tax Code, §171.1011(s), that the average closing price of West Texas Intermediate crude oil for the month of October 2025 is $71.56 per barrel. Therefore, pursuant to Tax Code, §171.1011(r), a taxable entity shall not exclude total revenue received from oil produced during the month of October 2025, from a qualified low-producing oil well.

The Comptroller of Public Accounts, administering agency for the collection of the Franchise Tax, has determined, as required by Tax Code, §171.1011(s), that the average closing price of gas for the month of October 2025 is $3.37 per MMBtu. Therefore, pursuant to Tax Code, §171.1011(r), a taxable entity shall exclude total revenue received from gas produced during the month of October 2025, from a qualified low-producing gas well.

Inquiries should be submitted to Jenny Burleson, Director, Tax Policy Division, P.O. Box 13528, Austin, Texas 78711-3528.

This agency hereby certifies that legal counsel has reviewed this notice and found it to be within the agency's authority to publish.

Issued in Austin, Texas, on December 15, 2025.

TRD-202504632
Jenny Burleson
Director, Tax Policy
Comptroller of Public Accounts
Filed: December 15, 2025

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Certification of the Single Local Use Tax Rate for Remote Sellers - 2026

The Comptroller of Public Accounts, administering agency for the collection of the Single Local Use Tax Rate for Remote Sellers, has determined, as required by Tax Code, §151.0595(e), that the estimated average rate of local sales and use taxes imposed in this state during the preceding state fiscal year ending August 2025 is 1.75%. This rate will be in effect for the period of January 1, 2026 to December 31, 2026.

Inquiries should be submitted to Jenny Burleson, Director, Tax Policy Division, P.O. Box 13528, Austin, Texas 78711-3528.

Issued in Austin, Texas, on December 12, 2025.

TRD-202504613
Jenny Burleson
Director, Tax Policy
Comptroller of Public Accounts
Filed: December 12, 2025

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Local Sales Tax Rate Changes Effective January 1, 2026

The additional 1/8 percent city sales and use tax for Sports and Community Venue as permitted under Chapter 334 of the Texas Local Government Code will be abolished effective December 31, 2025 in the city listed below.

CITY NAME	LOCAL CODE	LOCAL RATE	TOTAL RATE
San Antonio (Bexar Co)	2015012	.020000	.082500

The additional 1/2 percent city sales and use tax for improving and promoting economic and industrial development as permitted under Chapter 505 of the Texas Local Government Code, Type B Corporations (4B) will be abolished effective December 31, 2025 and an additional 1/2 percent city sales and use tax for Municipal Street Maintenance and Repair as permitted under Chapter 327 of the Texas Tax Code will become effective January 1, 2026 in the city listed below. There will be no change in the local rate or total rate.

CITY NAME	LOCAL CODE	LOCAL RATE	TOTAL RATE
Petersburg (Hale Co)	2095042	.020000	.082500

The additional 1/8 percent city sales and use tax for improving and promoting economic and industrial development as permitted under Chapter 504 of the Texas Local Government Code, Type A Corporations (4A) will be abolished effective December 31, 2025 and an additional 1/8 percent city sales and use tax for improving and promoting economic and industrial development as permitted under Chapter 505 of the Texas Local Government Code, Type B Corporations (4B) will become effective January 1, 2026 in the city listed below. There will be no change in the local rate or total rate.

CITY NAME	LOCAL CODE	LOCAL RATE	TOTAL RATE
Corpus Christi (Nueces and San Patricio Co)	2178015	.020000	.082500

The additional 1/4 percent transit sales and use tax as permitted under Chapter 451 of the Texas Transportation Code will be increased to 3/8 percent effective January 1, 2026 in the district listed below.

CITY NAME	LOCAL CODE	LOCAL RATE	TOTAL RATE
San Antonio Advanced Transportation District (Bexar Co)	3015664	.020000	.082500

The combined area has been created to administer the local sales and use tax between overlapping local jurisdictions as permitted under Chapter 321 of the Texas Tax Code, effective January 1, 2026 in the entities listed below.

COMBINED AREA NAME	LOCAL CODE	NEW RATE	DESCRIPTION
Briarcliff/Travis Emergency Services District No. 8-A	6227070	.017500	SEE NOTE 1
Liberty Hill/Williamson County Emergency Services District No. 4-A	6246004	.020000	SEE NOTE 2
Todd Mission/Montgomery County Emergency Services District No. 10	6170674	.020000	SEE NOTE 3

NOTE 1: The Briarcliff/Travis County Emergency Services District No. 8-A combined area is the area within Travis County Emergency Services District No. 8-A annexed by the city of Briarcliff on or

after June 25, 2025.

NOTE 2: The Liberty Hill/Williamson County Emergency Services District No. 4-A combined area is the area within Williamson County Emergency Services District No. 4-A annexed by the city of Liberty Hill on or after August 13, 2025.

NOTE 3: The Todd Mission/Montgomery County Emergency Services District No. 10 combined area is the area within Montgomery County Emergency Services District No. 10 annexed for limited purposes by the City of Todd Mission which includes a strategic partnership agreement with Colton Municipal Utility District No. 2.

TRD-202504685
Jenny Burleson
Director, Tax Policy
Comptroller of Public Accounts
Filed: December 17, 2025

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Office of Consumer Credit Commissioner

Notice of Rate Ceilings

The Consumer Credit Commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in §303.003, §303.009, and §304.003 Texas Finance Code.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 12/22/25 - 12/28/25 is 18.00% for consumer[1] credit.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 12/22/25 - 12/28/25 is 18.00% for commercial[2] credit.

The postjudgment interest rate as prescribed by §304.003 for the period of 01/01/26 - 01/31/26 is 6.75%.

[1] Credit for personal, family, or household use.

[2] Credit for business, commercial, investment, or other similar purpose.

TRD-202504684
Leslie L. Pettijohn
Commissioner
Office of Consumer Credit Commissioner
Filed: December 17, 2025

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Credit Union Department

Notice of Final Action Taken

In accordance with the provisions of 7 TAC §91.103, the Credit Union Department provides notice of the final actions taken on the following applications:

Field of Membership - Approved

Associated CU of Texas - See *Texas Register* dated on September 26, 2025.

Merger or Consolidation - Approved

Texoma Community Credit Union (Wichita Falls) and IBEW Local #681 Credit Union (Wichita Falls) - See *Texas Register* dated July 25, 2025.

TRD-202504683
Robert W. Etheridge
Commissioner
Credit Union Department
Filed: December 17, 2025

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State Board for Educator Certification

Correction of Error

The State Board for Educator Certification proposed amendments to 19 TAC Chapter 229 in the August 15, 2025 issue of the *Texas Register* (50 TexReg 5296).

Due to error as submitted by the Texas Education Agency, on page 4 of the Texas Accountability System for Educator Preparation (ASEP) Manual, proposed as Figure: 19 TAC §229.1(c), the words "Yes" and "No" were inadvertently omitted from Illustration 2, Alternative Evaluation of Three-year Cumulative Group Procedure.

TRD-202504668
Cristina De La Fuente-Valadez
Director, Rulemaking
State Board for Educator Certification
Filed: December 16, 2025

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Texas Commission on Environmental Quality

Agreed Orders

The Texas Commission on Environmental Quality (TCEQ, agency, or commission) staff is providing an opportunity for written public comment on the listed Agreed Orders (AOs) in accordance with Texas Water Code (TWC), §7.075. TWC, §7.075 requires that before the commission may approve the AOs, the commission shall allow the public an opportunity to submit written comments on the proposed AOs. TWC, §7.075 requires that notice of the proposed orders and the opportunity to comment must be published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **January 28, 2026**. TWC, §7.075 also requires that the commission promptly consider any written comments received and that the commission may withdraw or withhold approval of an AO if a comment discloses facts or considerations that indicate that consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the statutes and rules within the commission's jurisdiction or the commission's orders and permits issued in accordance with the commission's regulatory authority. Additional notice of changes to a proposed AO is not required to be published if those changes are made in response to written comments.

A physical copy of each proposed AO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building C, 1st Floor, Austin, Texas 78753, (512) 239-2545 and at the applicable regional office listed as follows. Additionally, copies of the proposed AO can be found online by using either the Chief Clerk's eFiling System at https://www.tceq.texas.gov/goto/efilings or the TCEQ Commissioners' Integrated Database at https://www.tceq.texas.gov/goto/cid, and searching either of those databases with the proposed AO's identifying information, such as its docket number. Written comments about an AO should be sent to the enforcement coordinator designated for each AO at the commission's central office at Enforcement Division, MC 128, P.O. Box 13087, Austin, Texas 78711-3087 and must be postmarked by 5:00 p.m. on **January 28, 2026**. Written comments may also be sent to the enforcement coordinator by email to ENFCOMNT@tceq.texas.gov or by facsimile machine at (512) 239-2550. The commission enforcement coordinators are available to discuss the AOs and/or the comment procedure at the listed contact information; however, TWC, §7.075 provides that comments on the AOs shall be submitted to the commission in writing.

(1) COMPANY: ANDERSON, EDMOND DEWAYNE; DOCKET NUMBER: 2025-0913-OSI-E; IDENTIFIER: RN103436093; LOCATION: Silsbee, Hardin County; TYPE OF FACILITY: operator; PENALTY: $175; ENFORCEMENT COORDINATOR: Madison Travis, (512) 239-4687; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

(2) COMPANY: Air Liquide Large Industries U.S. LP; DOCKET NUMBER: 2024-1020-AIR-E; IDENTIFIER: RN100215334; LOCATION: Freeport, Brazoria County; TYPE OF FACILITY: chemical manufacturing plant; PENALTY: $40,950; ENFORCEMENT COORDINATOR: Katie Phillips, (713) 767-3628; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, REGION 12 - HOUSTON.

(3) COMPANY: Chevron Phillips Chemical Company LP; DOCKET NUMBER: 2023-1137-AIR-E; IDENTIFIER: RN100209857; LOCATION: Port Arthur, Jefferson County; TYPE OF FACILITY: petrochemical manufacturing plant; PENALTY: $184,250; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET: $92,125; ENFORCEMENT COORDINATOR: Kadrienn Woodard, (713) 767-3602; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, REGION 12 - HOUSTON.

(4) COMPANY: City of Dallas; DOCKET NUMBER: 2024-0565-MWD-E; IDENTIFIER: RN100762590; LOCATION: Dallas, Dallas County; TYPE OF FACILITY: wastewater treatment facility; PENALTY: $25,500; ENFORCEMENT COORDINATOR: Bethany Batchelor, (713) 767-3586; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, REGION 12 - HOUSTON.

(5) COMPANY: City of Donna; DOCKET NUMBER: 2023-1352-MWD-E; IDENTIFIER: RN102080751; LOCATION: Donna, Hidalgo County; TYPE OF FACILITY: wastewater treatment plant; PENALTY: $22,000; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET: $17,600; ENFORCEMENT COORDINATOR: Samantha Smith, (512) 239-2099; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, REGION 12 - HOUSTON.

(6) COMPANY: City of Lytle; DOCKET NUMBER: 2025-1116-PWS-E; IDENTIFIER: RN102674157; LOCATION: Lytle, Atascosa County; TYPE OF FACILITY: public water supply; PENALTY: $350; ENFORCEMENT COORDINATOR: Kaisie Hubschmitt, (512) 239-1482; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

(7) COMPANY: City of Miles; DOCKET NUMBER: 2024-0619-MWD-E; IDENTIFIER: RN101918886; LOCATION: Miles, Runnels County; TYPE OF FACILITY: wastewater treatment facility; PENALTY: $30,750; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET: $24,600; ENFORCEMENT COORDINATOR: Penny Wimberly, (512) 239-0538; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

(8) COMPANY: City of Silsbee; DOCKET NUMBER: 2023-1344-MWD-E; IDENTIFIER: RN102179082; LOCATION: Silsbee, Hardin County; TYPE OF FACILITY: wastewater treatment facility; PENALTY: $74,750; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET: $74,750; ENFORCEMENT COORDINATOR: Penny Wimberly, (512) 239-0538; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

(9) COMPANY: Equistar Chemicals, LP; DOCKET NUMBER: 2025-1468-AIR-E; IDENTIFIER: RN100224377; LOCATION: Mont Belvieu, Chambers County; TYPE OF FACILITY: chemical storage terminal; PENALTY: $4,275; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET: $1,710; ENFORCEMENT COORDINATOR: John Burkett, (512) 239-4169; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, REGION 12 - HOUSTON.

(10) COMPANY: Galveston County Water Control Improvement District No 19; DOCKET NUMBER: 2025-1133-PWS-E; IDENTIFIER: RN101408599; LOCATION: Hitchcock, Galveston County; TYPE OF FACILITY: public water supply; PENALTY: $2,500; ENFORCEMENT COORDINATOR: Katherine Argueta, (512) 239-4131; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, REGION 12 - HOUSTON.

(11) COMPANY: Gulf Coast Trades Center; DOCKET NUMBER: 2025-0974-MLM-E; IDENTIFIER: RN102677606; LOCATION: New Waverly, Walker County; TYPE OF FACILITY: public water supply; PENALTY: $3,785; ENFORCEMENT COORDINATOR: Wyatt Throm, (512) 239-1120; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

(12) COMPANY: HOLLERS, BRIAN; DOCKET NUMBER: 2025-1070-OSI-E; IDENTIFIER: RN112141650; LOCATION: Lufkin, Angelina County; TYPE OF FACILITY: on-site sewage facility; PENALTY: $500; ENFORCEMENT COORDINATOR: Amy Lane, (512) 239-2614; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

(13) COMPANY: INV Nylon Chemicals Americas, LLC; DOCKET NUMBER: 2024-1502-AIR-E; IDENTIFIER: RN102663671; LOCATION: Victoria, Victoria County; TYPE OF FACILITY: organic chemical manufacturing plant; PENALTY: $28,975; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET: $14,487; ENFORCEMENT COORDINATOR: Krystina Sepulveda, (956) 430-6045; REGIONAL OFFICE: 1804 West Jefferson Avenue, Harlingen, Texas 78550-5247, REGION 15 - HARLINGEN.

(14) COMPANY: JCK Batch Plant, LLC; DOCKET NUMBER: 2025-0068-WQ-E; IDENTIFIER: RN111187704; LOCATION: Mabank, Kaufman County; TYPE OF FACILITY: ready-mix concrete facility; PENALTY: $1,312; ENFORCEMENT COORDINATOR: Samantha Smith, (512) 239-2099; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, REGION 12 - HOUSTON.

(15) COMPANY: Jaime Lopez; DOCKET NUMBER: 2025-0858-WOC-E; IDENTIFIER: RN112198981; LOCATION: Canutillo, El Paso County; TYPE OF FACILITY: landscape irrigation business; PENALTY: $500; ENFORCEMENT COORDINATOR: Obianuju

Iyasele, (512) 239-5280; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, REGION 12 - HOUSTON.

(16) COMPANY: Liberty-Danville Fresh Water Supply District No. 2; DOCKET NUMBER: 2024-0698-MWD-E; IDENTIFIER: RN101918217; LOCATION: Kilgore, Gregg County; TYPE OF FACILITY: wastewater treatment facility; PENALTY: $28,500; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET: $28,500; ENFORCEMENT COORDINATOR: Penny Wimberly, (512) 239-0538; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

(17) COMPANY: Lunar Business LLC; DOCKET NUMBER: 2022-1492-PST-E; IDENTIFIER: RN101447712; LOCATION: Floresville, Wilson County; TYPE OF FACILITY: convenience store; PENALTY: $9,695; ENFORCEMENT COORDINATOR: Celicia Garza, (210) 657-8422; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, REGION 13 - SAN ANTONIO.

(18) COMPANY: Maxey Energy Company; DOCKET NUMBER: 2024-1531-PST-E; IDENTIFIER: RN102782448; LOCATION: Uvalde, Uvalde County; TYPE OF FACILITY: convenience store with retail sales of gasoline; PENALTY: $3,750; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET: $1,500; ENFORCEMENT COORDINATOR: Adriana Fuentes, (956) 425-6010; REGIONAL OFFICE: 1804 West Jefferson Avenue, Harlingen, Texas 78550-5247, REGION 15 - HARLINGEN.

(19) COMPANY: Motiva Enterprises LLC; DOCKET NUMBER: 2025-0100-AIR-E; IDENTIFIER: RN100209451; LOCATION: Port Arthur, Jefferson County; TYPE OF FACILITY: oil refinery; PENALTY: $14,250; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET: $5,700; ENFORCEMENT COORDINATOR: Morgan Kopcho, (512) 239-4167; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, REGION 13 - SAN ANTONIO.

(20) COMPANY: Nabors Drilling Technologies USA, Inc.; DOCKET NUMBER: 2025-1175-PWS-E; IDENTIFIER: RN101205110; LOCATION: Magnolia, Montgomery County; TYPE OF FACILITY: public water supply; PENALTY: $410; ENFORCEMENT COORDINATOR: Katherine Argueta, (512) 239-4131; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, REGION 12 - HOUSTON.

(21) COMPANY: Prairie View A&M University; DOCKET NUMBER: 2025-1030-PWS-E; IDENTIFIER: RN102686599; LOCATION: Prairie View, Waller County; TYPE OF FACILITY: public water supply; PENALTY: $750; ENFORCEMENT COORDINATOR: Tessa Bond, (512) 239-1269; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

(22) COMPANY: SEDBERRY, JIMMY J; DOCKET NUMBER: 2025-1764-WOC-E; IDENTIFIER: RN105842447; LOCATION: Aspermont, Stonewall County; TYPE OF FACILITY: operator; PENALTY: $175; ENFORCEMENT COORDINATOR: Corinna Willis, (512) 239-2504; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

(23) COMPANY: SUTTON, BRIAN; DOCKET NUMBER: 2024-1610-SLG-E; IDENTIFIER: RN111749735; LOCATION: Abilene, Taylor County; TYPE OF FACILITY: registered sludge transporter business; PENALTY: $6,500; ENFORCEMENT COORDINATOR: Kadrienn Woodard, (713) 767-3602; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, REGION 12 - HOUSTON.

(24) COMPANY: Silent Properties, LLC; DOCKET NUMBER: 2025-1108-MSW-E; IDENTIFIER: RN111856043; LOCATION: Grandview, Johnson County; TYPE OF FACILITY: scrap tire processing facility; PENALTY: $5,250; ENFORCEMENT COORDINATOR: Ramyia Wendt, (512) 239-2513; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

(25) COMPANY: Steel Dynamics Southwest, LLC; DOCKET NUMBER: 2025-0076-IWD-E; IDENTIFIER: RN110750965; LOCATION: Sinton, San Patricio County; TYPE OF FACILITY: iron and steel manufacturing and coil coating facility; PENALTY: $121,600; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET: $60,800; ENFORCEMENT COORDINATOR: Harley Hobson, (512) 239-1337; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

(26) COMPANY: Stonetown Telge Manor, LLC; DOCKET NUMBER: 2025-0763-PWS-E; IDENTIFIER: RN101456291; LOCATION: Cypress, Harris County; TYPE OF FACILITY: public water supply; PENALTY: $900; ENFORCEMENT COORDINATOR: Wyatt Throm, (512) 239-1120; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

(27) COMPANY: Taoson Group LLC; DOCKET NUMBER: 2025-0546-PWS-E; IDENTIFIER: RN101208536; LOCATION: Cypress, Harris County; TYPE OF FACILITY: public water supply; PENALTY: $3,250; ENFORCEMENT COORDINATOR: Katherine Mckinney, (512) 239-4619; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

(28) COMPANY: Texas Land Holdings I, LLC; DOCKET NUMBER: 2025-1700-WR-E; IDENTIFIER: RN112204896; LOCATION: Bowie, Montague County; TYPE OF FACILITY: operator; PENALTY: $875; ENFORCEMENT COORDINATOR: Monica Larina, (512) 239-2545; REGIONAL OFFICE: 500 North Shoreline Boulevard, Suite 500, Corpus Christi, Texas 78401, REGION 14 - CORPUS CHRISTI.

(29) COMPANY: Texas Water Utilities, L.P.; DOCKET NUMBER: 2025-0637-PWS-E; IDENTIFIER: RN101281004; LOCATION: Flint, Smith County; TYPE OF FACILITY: public water supply; PENALTY: $7,500; ENFORCEMENT COORDINATOR: Anjali Talpallikar, (512) 239-2507; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

(30) COMPANY: Undine Texas Environmental, LLC; DOCKET NUMBER: 2024-1165-MWD-E; IDENTIFIER: RN103637807; LOCATION: Bolivar, Galveston County; TYPE OF FACILITY: wastewater treatment facility; PENALTY: $153,300; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET: $76,650; ENFORCEMENT COORDINATOR: Taylor Williamson, (512) 239-2097; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, REGION 12 - HOUSTON.

(31) COMPANY: Undine Texas, LLC; DOCKET NUMBER: 2024-1236-PWS-E; IDENTIFIER: RN101259679; LOCATION: Legett, Polk County; TYPE OF FACILITY: public water supply; PENALTY: $25,200; ENFORCEMENT COORDINATOR: Wyatt Throm, (512) 239-1120; REGIONAL OFFICE: 12100 Park 35 Circle, Austin, Texas 78753, CENTRAL OFFICE - AUSTIN.

(32) COMPANY: Young Men's Christian Association of The Greater Houston Area; DOCKET NUMBER: 2025-0207-MWD-E; IDENTIFIER: RN101279412; LOCATION: Trinity, Trinity County; TYPE OF FACILITY: wastewater treatment facility; PENALTY: $17,076; ENFORCEMENT COORDINATOR: Taylor Williamson, (512) 239-2097; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, REGION 12 - HOUSTON.

TRD-202504651

Gitanjali Yadav
Deputy Director, Litigation Division
Texas Commission on Environmental Quality
Filed: December 16, 2025

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Enforcement Orders

An agreed order was adopted regarding Aqua Texas, Inc., Docket No. 2023-0552-MWD-E on December 16, 2025 assessing $7,188 in administrative penalties with $1,437 deferred. Information concerning any aspect of this order may be obtained by contacting Mark Gamble, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding GREASE MONKEY INTERNATIONAL, LLC dba Grease Monkey, Docket No. 2023-0681-MLM-E on December 16, 2025 assessing $3,250 in administrative penalties with $650 deferred. Information concerning any aspect of this order may be obtained by contacting Rachel Murray, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Presidio Flats Apartments LLC, Docket No. 2023-0724-MWD-E on December 16, 2025 assessing $10,125 in administrative penalties with $2,025 deferred. Information concerning any aspect of this order may be obtained by contacting Mistie Gonzales, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Oasis Pipeline, LP, Docket No. 2023-1179-AIR-E on December 16, 2025 assessing $1,625 in administrative penalties with $325 deferred. Information concerning any aspect of this order may be obtained by contacting Rajesh Acharya, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Undine Texas, LLC, Docket No. 2023-1477-PWS-E on December 16, 2025 assessing $2,502 in administrative penalties with $500 deferred. Information concerning any aspect of this order may be obtained by contacting Emerson Rinewalt, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding The Premcor Refining Group Inc., Docket No. 2024-0289-AIR-E on December 16, 2025 assessing $11,175 in administrative penalties with $2,235 deferred. Information concerning any aspect of this order may be obtained by contacting Krystina Sepulveda, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Chevron U.S.A. Inc., Docket No. 2024-0345-AIR-E on December 16, 2025 assessing $6,438 in administrative penalties with $1,287 deferred. Information concerning any aspect of this order may be obtained by contacting Christina Ferrara, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding GulfTex Energy, LLC, Docket No. 2024-0382-AIR-E on December 16, 2025 assessing $3,750 in administrative penalties with $750 deferred. Information concerning any aspect of this order may be obtained by contacting Trenton White, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Indigo Mart LLC, Docket No. 2024-0517-MWD-E on December 16, 2025 assessing $5,025 in administrative penalties with $1,005 deferred. Information concerning any aspect of this order may be obtained by contacting Samantha Smith, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Lonestar Fiberglass Components of Texas, LLC, Docket No. 2024-1534-AIR-E on December 16, 2025 assessing $5,250 in administrative penalties with $1,050 deferred. Information concerning any aspect of this order may be obtained by contacting Michael Wilkins, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding NILCO ENTERPRISES, INC., Docket No. 2024-1540-MLM-E on December 16, 2025 assessing $10,488 in administrative penalties with $2,097 deferred. Information concerning any aspect of this order may be obtained by contacting Amy Lane, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding BC TRACTORWORK LLC, Docket No. 2024-1649-WQ-E on December 16, 2025 assessing $7,500 in administrative penalties with $1,500 deferred. Information concerning any aspect of this order may be obtained by contacting Monica Larina, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Camp Eagle, Docket No. 2024-1787-PWS-E on December 16, 2025 assessing $6,450 in administrative penalties with $1,290 deferred. Information concerning any aspect of this order may be obtained by contacting Tessa Bond, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding JJ Operations, Inc., Docket No. 2024-1912-AIR-E on December 16, 2025 assessing $2,250 in administrative penalties with $450 deferred. Information concerning any aspect of this order may be obtained by contacting Michael Wilkins, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding J PEREZ INVESTMENTS, LLC, Docket No. 2025-0188-WQ-E on December 16, 2025 assessing $11,000 in administrative penalties with $2,200 deferred. Information concerning any aspect of this order may be obtained by contacting Mistie Gonzales, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding City of Cedar Park, Docket No. 2025-0246-EAQ-E on December 16, 2025 assessing $4,500 in administrative penalties with $900 deferred. Information concerning any aspect of this order may be obtained by contacting Jasmine Jimerson, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding ETC Texas Pipeline, Ltd., Docket No. 2025-0278-AIR-E on December 16, 2025 assessing $4,000 in administrative penalties with $800 deferred. Information concerning any aspect of this order may be obtained by contacting John Burkett, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Cresson Crossroads, LLC, Docket No. 2025-0295-PWS-E on December 16, 2025 assessing

$5,120 in administrative penalties with $1,024 deferred. Information concerning any aspect of this order may be obtained by contacting Emerson Rinewalt, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Coronado Grease removal services L.L.C., Docket No. 2025-0676-SLG-E on December 16, 2025 assessing $9,687 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Mistie Gonzales, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding the City of Sweeny, Docket No. 2025-0713-PWS-E on December 16, 2025 assessing $2,750 in administrative penalties with $550 deferred. Information concerning any aspect of this order may be obtained by contacting De'Shaune Blake, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Aqua Texas, Inc., Docket No. 2025-0720-PWS-E on December 16, 2025 assessing $3,000 in administrative penalties with $600 deferred. Information concerning any aspect of this order may be obtained by contacting Tessa Bond, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Aqua Texas, Inc., Docket No. 2025-0722-PWS-E on December 16, 2025 assessing $750 in administrative penalties with $150 deferred. Information concerning any aspect of this order may be obtained by contacting Savannah Jackson, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding TELGE INDUSTRIAL PARK, INC., Docket No. 2025-0765-PWS-E on December 16, 2025 assessing $1,150 in administrative penalties with $230 deferred. Information concerning any aspect of this order may be obtained by contacting Wyatt Throm, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Robert J. Crawford dba Little Texan Public Water System and Carolyn Crawford dba Little Texan Public Water System, Docket No. 2025-0766-PWS-E on December 16, 2025 assessing $500 in administrative penalties with $100 deferred. Information concerning any aspect of this order may be obtained by contacting Taner Hengst, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Oasis Resort Properties, LLC, Docket No. 2025-0768-PWS-E on December 16, 2025 assessing $1,250 in administrative penalties with $250 deferred. Information concerning any aspect of this order may be obtained by contacting Emerson Rinewalt, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Undine Texas, LLC, Docket No. 2025-0770-PWS-E on December 16, 2025 assessing $802 in administrative penalties with $160 deferred. Information concerning any aspect of this order may be obtained by contacting Ronica Rodriguez, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Northgate Waco, LLC, Docket No. 2025-0788-WR-E on December 16, 2025 assessing $4,500 in administrative penalties with $900 deferred. Information concerning any aspect of this order may be obtained by contacting Monica Larina, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Northside Subdivision Water Plant and Distribution Corp, Docket No. 2025-0793-PWS-E on December 16, 2025 assessing $585 in administrative penalties with $117 deferred. Information concerning any aspect of this order may be obtained by contacting Corinna Willis, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Break it Down, L.L.C. dba Break it Down Blue Goose Recycling, Docket No. 2025-0856-MSW-E on December 16, 2025 assessing $3,750 in administrative penalties with $750 deferred. Information concerning any aspect of this order may be obtained by contacting Celicia Garza, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding William Donald Smith dba Kingmont Mobile Home Park, Docket No. 2025-0868-PWS-E on December 16, 2025 assessing $990 in administrative penalties with $198 deferred. Information concerning any aspect of this order may be obtained by contacting Corinna Willis, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding the City of Somerville, Docket No. 2025-0888-PWS-E on December 16, 2025 assessing $850 in administrative penalties with $170 deferred. Information concerning any aspect of this order may be obtained by contacting Savannah Jackson, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was adopted regarding Peyton Thomas Luxury Homes LLC, Docket No. 2025-0910-WQ-E on December 16, 2025 assessing $875 in administrative penalties. Information concerning any aspect of this citation may be obtained by contacting Madison Travis, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding CENTRAL BAPTIST CHURCH, BRYAN, TEXAS, Docket No. 2025-1035-WR-E on December 16, 2025 assessing $4,000 in administrative penalties with $800 deferred. Information concerning any aspect of this order may be obtained by contacting Mistie Gonzales, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Mountain Creek Power, LLC, Docket No. 2025-1039-IWD-E on December 16, 2025 assessing $1,453 in administrative penalties with $290 deferred. Information concerning any aspect of this order may be obtained by contacting Madison Travis, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding The Westover Village Estates Homeowners Association, Inc., Docket No. 2025-1069-WR-E on December 16, 2025 assessing $4,000 in administrative penalties with $800 deferred. Information concerning any aspect of this order may be obtained by contacting Monica Larina, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Northwest Harris County Municipal Utility District No. 9, Docket No. 2025-1224-MWD-E on December 16, 2025 assessing $11,700 in administrative penalties with

$2,340 deferred. Information concerning any aspect of this order may be obtained by contacting Madison Crawford, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding the City of Highland Village, Docket No. 2025-1257-WQ-E on December 16, 2025 assessing $2,250 in administrative penalties with $450 deferred. Information concerning any aspect of this order may be obtained by contacting Alejandra Basave, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was adopted regarding Pedro Martinez, Docket No. 2025-1329-WQ-E on December 16, 2025 assessing $875 in administrative penalties. Information concerning any aspect of this citation may be obtained by contacting Madison Travis, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was adopted regarding Trew, Philip, Docket No. 2025-1474-OSS-E on December 16, 2025 assessing $175 in administrative penalties. Information concerning any aspect of this citation may be obtained by contacting Madison Travis, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

TRD-202504693
Laurie Gharis
Chief Clerk
Texas Commission on Environmental Quality
Filed: December 17, 2025

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Enforcement Orders

An agreed order was adopted regarding ArcelorMittal Texas HBI LLC f/k/a voestalpine Texas LLC, Docket No. 2019-1114-AIR-E on December 17, 2025 assessing $319,354 in administrative penalties with $63,870 deferred. Information concerning any aspect of this order may be obtained by contacting Yuliya Dunaway, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding the City of Goree, Docket No. 2020-0490-MWD-E on December 17, 2025 assessing $19,500 in administrative penalties with $19,500 deferred. Information concerning any aspect of this order may be obtained by contacting Madison Stringer, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding the City of Premont, Docket No. 2021-0714-MWD-E on December 17, 2025 assessing $63,250 in administrative penalties with $12,650 deferred. Information concerning any aspect of this order may be obtained by contacting Mistie Gonzales, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Aqua Texas, Inc., Docket No. 2021-1133-MWD-E on December 17, 2025 assessing $49,875 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Harley Hobson, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Westwood Shores Municipal Utility District, Docket No. 2022-0281-MWD-E on December 17, 2025 assessing $14,500 in administrative penalties with $2,900 deferred. Information concerning any aspect of this order may be obtained by contacting Madison Stringer, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding the City of Rockport, Docket No. 2022-0466-MLM-E on December 17, 2025 assessing $35,315 in administrative penalties with $7,063 deferred. Information concerning any aspect of this order may be obtained by contacting Harley Hobson, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Industrial Container Services - Tx, LLC, Docket No. 2022-0585-AIR-E on December 17, 2025 assessing $15,750 in administrative penalties with $3,150 deferred. Information concerning any aspect of this order may be obtained by contacting Yuliya Dunaway, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding BASF TotalEnergies Petrochemicals LLC, Docket No. 2022-0678-AIR-E on December 17, 2025 assessing $111,175 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Johnnie Wu, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Regal Rexnord Corporation, Docket No. 2022-0716-AIR-E on December 17, 2025 assessing $27,000 in administrative penalties with $5,400 deferred. Information concerning any aspect of this order may be obtained by contacting Johnnie Wu, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Aziza Investments, Inc. dba C-Store, Docket No. 2022-0959-PST-E on December 17, 2025 assessing $14,252 in administrative penalties with $2,850 deferred. Information concerning any aspect of this order may be obtained by contacting Eunice Adegelu, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding the University of Texas Medical Branch at Galveston, Docket No. 2022-1165-AIR-E on December 17, 2025 assessing $55,100 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Amy Cox, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding LAKEVIEW WATER SUPPLY & SEWER SERVICE CORPORATION, Docket No. 2022-1516-PWS-E on December 17, 2025 assessing $7,425 in administrative penalties with $3,375 deferred. Information concerning any aspect of this order may be obtained by contacting Laney Foeller, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding INEOS USA LLC, Docket No. 2023-0132-AIR-E on December 17, 2025 assessing $36,875 in administrative penalties with $7,375 deferred. Information concerning any aspect of this order may be obtained by contacting Caleb Martin, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Intercontinental Terminals Company LLC, Docket No. 2023-0175-AIR-E on December 17, 2025 assessing $25,000 in administrative penalties. Information

concerning any aspect of this order may be obtained by contacting Yuliya Dunaway, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding the City of Shepherd, Docket No. 2023-0433-MWD-E on December 17, 2025 assessing $25,425 in administrative penalties with $5,085 deferred. Information concerning any aspect of this order may be obtained by contacting Mistie Gonzales, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding the City of Hidalgo, Docket No. 2023-0602-MWD-E on December 17, 2025 assessing $65,600 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Kolby Farren, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding HEP Javelina Company, LLC, Docket No. 2023-0611-IWD-E on December 17, 2025 assessing $35,200 in administrative penalties with $7,040 deferred. Information concerning any aspect of this order may be obtained by contacting Harley Hobson, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding the City of Savoy, Docket No. 2023-0813-MWD-E on December 17, 2025 assessing $23,000 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Kolby Farren, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding S.L.C. Water Supply Corporation, Docket No. 2023-1239-PWS-E on December 17, 2025 assessing $7,098 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Tessa Bond, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Campbell Soup Supply Company L.L.C, Docket No. 2023-1347-IWD-E on December 17, 2025 assessing $22,382 in administrative penalties with $4,476 deferred. Information concerning any aspect of this order may be obtained by contacting Samantha Smith, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding the City of San Augustine, Docket No. 2023-1543-MWD-E on December 17, 2025 assessing $18,125 in administrative penalties with $3,625 deferred. Information concerning any aspect of this order may be obtained by contacting Harley Hobson, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Wood Chippers LLC and Caprock Enterprises LP, Docket No. 2023-1681-MLM-E on December 17, 2025 assessing $18,166 in administrative penalties with $3,633 deferred. Information concerning any aspect of this order may be obtained by contacting Rachel Murray, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding COLUMBIA MEDICAL CENTER OF PLANO SUBSIDIARY, L.P., Docket No. 2023-1729-IHW-E on December 17, 2025 assessing $37,575 in administrative penalties with $7,515 deferred. Information concerning any aspect of this order may be obtained by contacting Stephanie McCurley, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas

An agreed order was adopted regarding the City of Rio Hondo, Docket No. 2024-0108-MWD-E on December 17, 2025 assessing $40,625 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Mistie Gonzales, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Rohm and Haas Texas Incorporated, Docket No. 2024-0383-AIR-E on December 17, 2025 assessing $16,800 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Caleb Martin, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Luminant Generation Company LLC, Docket No. 2024-0423-IWD-E on December 17, 2025 assessing $15,478 in administrative penalties with $3,095 deferred. Information concerning any aspect of this order may be obtained by contacting Kolby Farren, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding ELITE ASPHALT, L.L.C. and Lhoist North America of Texas, LLC, Docket No. 2024-0485-WQ-E on December 17, 2025 assessing $25,000 in administrative penalties with $5,000 deferred. Information concerning any aspect of this order may be obtained by contacting Mistie Gonzales, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding JET AERATION OF TEXAS LLC, Docket No. 2024-0776-SLG-E on December 17, 2025 assessing $20,125 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Mistie Gonzales, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding MANSHACK & SONS, INC. dba Manshack Chipper, Docket No. 2024-1136-MSW-E on December 17, 2025 assessing $14,625 in administrative penalties with $2,925 deferred. Information concerning any aspect of this order may be obtained by contacting Rachel Murray, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding WS CAMPUS HOLDINGS, LLC, Docket No. 2024-1217-MLM-E on December 17, 2025 assessing $85,200 in administrative penalties with $17,040 deferred. Information concerning any aspect of this order may be obtained by contacting Jasmine Jimerson, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding MURPHY OIL USA, INC. dba Murphy USA 7013, Docket No. 2024-1246-PST-E on December 17, 2025 assessing $13,500 in administrative penalties with $2,700 deferred. Information concerning any aspect of this order may be obtained by contacting Rachel Murray, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding MILLER WASTE MILLS, INCORPORATED, Docket No. 2024-1383-IWD-E on December 17, 2025 assessing $56,399 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Saman-

tha Smith, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Vopak Terminal Deer Park Inc., Docket No. 2024-1458-AIR-E on December 17, 2025 assessing $70,200 in administrative penalties with $14,040 deferred. Information concerning any aspect of this order may be obtained by contacting Desmond Martin, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Frito-Lay, Inc., Docket No. 2024-1632-PST-E on December 17, 2025 assessing $34,786 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Ken Moller, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding 3301 E Berry St LLC dba Stop & Shop, Docket No. 2024-1881-PST-E on December 17, 2025 assessing $17,184 in administrative penalties with $3,436 deferred. Information concerning any aspect of this order may be obtained by contacting Rachel Murray, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding MVP Players, LLC, Docket No. 2024-1968-WR-E on December 17, 2025 assessing $3,300 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Alejandra Basave, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding PORT ARANSAS FISHERMAN'S WHARF, LLC dba Fisherman's Wharf, Docket No. 2025-0037-PST-E on December 17, 2025 assessing $15,526 in administrative penalties with $3,105 deferred. Information concerning any aspect of this order may be obtained by contacting Rachel Murray, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Houston County Water Control and Improvement District 1, Docket No. 2025-0072-PWS-E on December 17, 2025 assessing $4,500 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Katherine Mckinney, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding KROGER TEXAS L.P. dba Kroger Fuel Facility 950, Docket No. 2025-0106-PST-E on December 17, 2025 assessing $40,726 in administrative penalties with $8,145 deferred. Information concerning any aspect of this order may be obtained by contacting Eunice Adegelu, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Refuel Operating Company, LLC dba Refuel 343, Docket No. 2025-0493-PST-E on December 17, 2025 assessing $12,688 in administrative penalties with $2,537 deferred. Information concerning any aspect of this order may be obtained by contacting Eunice Adegelu, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding PARSH INVESTMENT, INC. dba Orbits, Docket No. 2025-0582-PST-E on December 17, 2025 assessing $29,328 in administrative penalties with $5,865 deferred. Information concerning any aspect of this order may be obtained by contacting Bryce Huck, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding LUCKYS HAPPY KAMPERS INC dba Happy Kamper, Docket No. 2025-0731-PST-E on December 17, 2025 assessing $36,000 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Amy Lane, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Harris County Municipal Utility District No. 358, Docket No. 2025-0984-MWD-E on December 17, 2025 assessing $29,000 in administrative penalties with $5,800 deferred. Information concerning any aspect of this order may be obtained by contacting Samantha Smith, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

TRD-202504694
Laurie Gharis
Chief Clerk
Texas Commission on Environmental Quality
Filed: December 17, 2025

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Notice of District Petition - D-11182025-036

Notice issued December 12, 2025

TCEQ Internal Control No. D-11182025-036: Value Growth Co McKinney LP, a Texas limited partnership, (Petitioner) filed a petition for creation of Sixth Element Alpha Municipal Utility District of Collin County (District) with the Texas Commission on Environmental Quality (TCEQ). The petition was filed pursuant to Article XVI, §59 of the Constitution of the State of Texas; Chapters 49 and 54 of the Texas Water Code; 30 Texas Administrative Code Chapter 293; and the procedural rules of the TCEQ. The petition states that: (1) the Petitioner holds title to a majority in value of the land to be included in the proposed District; (2) there is one lienholder, Ceasons Holdings, LLC, a Texas limited liability company, on the property to be included in the proposed District and information provided indicates that the lienholder consents to the creation of the proposed District; (3) the proposed District will contain approximately 75.198 acres located within Collin County, Texas; and (4) none of the land within the proposed District is within the corporate limits or extraterritorial jurisdiction of any city. The petition further states that the proposed District will: (1) purchase, construct, acquire, improve, or extend inside or outside of its boundaries and any and all works, improvements, facilities, plants, equipment, and appliances necessary or helpful to supply and distribute water for municipal, domestic, and commercial purposes; (2) collect, transport, process, dispose of, and control domestic, and commercial wastes; (3) gather, conduct, divert, abate, amend, and control local storm water or other local harmful excesses of water in the proposed District; (4) design, acquire, construct, finance, improve, operate, and maintain macadamized, graveled, or paved roads and turnpikes, or improvements in aid of those roads; and (5) purchase, construct, acquire, improve, or extend inside or outside of its boundaries such additional facilities, systems, plants, and enterprises as shall be consonant with all of the purposes for which the proposed District is created. According to the petition, a preliminary investigation has been made to determine the cost of the project, and it is estimated by the Petitioner that the cost of said project will be approximately $19,630,000 for water, wastewater, drainage and roads.

INFORMATION SECTION

To view the complete issued notice, view the notice on our website at www.tceq.texas.gov/agency/cc/pub_notice.html or call the Office of the Chief Clerk at (512) 239-3300 to obtain a copy of the complete notice. When searching the website, type in the issued date range shown at the top of this document to obtain search results. The TCEQ may grant a contested case hearing on the petition if a written hearing request is filed within 30 days after the newspaper publication of the notice. To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) the name of the Petitioner and the TCEQ Internal Control Number; (3) the statement "I/we request a contested case hearing"; (4) a brief description of how you would be affected by the petition in a way not common to the general public; and (5) the location of your property relative to the proposed District's boundaries. You may also submit your proposed adjustments to the petition. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below. The Executive Director may approve the petition unless a written request for a contested case hearing is filed within 30 days after the newspaper publication of this notice. If a hearing request is filed, the Executive Director will not approve the petition and will forward the petition and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting. If a contested case hearing is held, it will be a legal proceeding similar to a civil trial in state district court. Written hearing requests should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Districts Review Team, at (512) 239-4691. Si desea información en español, puede llamar al (512) 239-0200. General information regarding TCEQ can be found at our website at www.tceq.texas.gov.

TRD-202504690
Laurie Gharis
Chief Clerk
Texas Commission on Environmental Quality
Filed: December 17, 2025

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Notice of District Petition - D-11212025-034

Notice issued December 16, 2025

TCEQ Internal Control No. D-11212025-034: IDV QOZB 2021, LLC, a Texas limited liability company and IDV QOZB 2023, LLC, a Texas limited liability company (Petitioners) filed a petition for creation of Waller County Municipal Utility District No. 69 (District) with the Texas Commission on Environmental Quality (TCEQ). The petition was filed pursuant to Article XVI, §59 of the Constitution of the State of Texas; Chapters 49 and 54 of the Texas Water Code; 30 Texas Administrative Code Chapter 293; and the procedural rules of the TCEQ. The petition states that: (1) the Petitioners hold title to a majority in value of the land to be included in the proposed District; (2) there is one lienholder, BancFirst, on the property to be included in the proposed District and information provided indicates that the lienholder consents to the creation of the proposed District; (3) the proposed District will contain approximately 453.102 acres located within Waller County, Texas; and (4) some of the land within the proposed District is partially within the extraterritorial jurisdiction of the City of Brookshire. By Resolution No. 1501, passed and approved on May 22, 2025, the City of Brookshire, Texas, gave its consent to the creation of the proposed District, pursuant to Texas Water Code §54.016. The petition further states that the proposed District will: (1) purchase, construct, acquire, maintain, own, operate, repair, improve and extend a waterworks and wastewater system for residential, industrial, and commercial purposes; (2) construct, acquire, improve, extend, maintain, and operate works, improvements, facilities, plants, equipment, and appliances helpful or necessary to provide more adequate drainage for the proposed District; (3) control, abate, and amend local storm waters or other harmful excesses of waters; and (4) purchase, construct, acquire, improve, maintain, and operate such additional facilities, systems, plants, enterprises, road facilities, and park and recreational facilities as shall be consistent with all of the purposes for which the proposed District is created. According to the petition, a preliminary investigation has been made to determine the cost of the project, and it is estimated by the Petitioners that the cost of said project will be approximately $95,000,000 ($75,500,000 for water, wastewater, and drainage plus $8,000,000 for recreation plus $11,500,000 for roads).

INFORMATION SECTION

To view the complete issued notice, view the notice on our website at www.tceq.texas.gov/agency/cc/pub_notice.html or call the Office of the Chief Clerk at (512) 239-3300 to obtain a copy of the complete notice. When searching the website, type in the issued date range shown at the top of this document to obtain search results. The TCEQ may grant a contested case hearing on the petition if a written hearing request is filed within 30 days after the newspaper publication of the notice. To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) the name of the Petitioner and the TCEQ Internal Control Number; (3) the statement "I/we request a contested case hearing"; (4) a brief description of how you would be affected by the petition in a way not common to the general public; and (5) the location of your property relative to the proposed District's boundaries. You may also submit your proposed adjustments to the petition. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below. The Executive Director may approve the petition unless a written request for a contested case hearing is filed within 30 days after the newspaper publication of this notice. If a hearing request is filed, the Executive Director will not approve the petition and will forward the petition and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting. If a contested case hearing is held, it will be a legal proceeding similar to a civil trial in state district court. Written hearing requests should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Districts Review Team, at (512) 239-4691. Si desea información en español, puede llamar al (512) 239-0200. General information regarding TCEQ can be found at our website at www.tceq.texas.gov.

TRD-202504691
Laurie Gharis
Chief Clerk
Texas Commission on Environmental Quality
Filed: December 17, 2025

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Notice of Opportunity to Comment on Agreed Orders of Administrative Enforcement Actions

The Texas Commission on Environmental Quality (TCEQ or commission) staff is providing an opportunity for written public comment on the listed Agreed Orders (AOs) in accordance with Texas Water Code (TWC), §7.075. TWC, §7.075, requires that before the commission

may approve the AOs, the commission shall allow the public an opportunity to submit written comments on the proposed AOs. TWC, §7.075, requires that notice of the opportunity to comment must be published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **January 28, 2026**. TWC, §7.075, also requires that the commission promptly consider any written comments received and that the commission may withdraw or withhold approval of an AO if a comment discloses facts or considerations that indicate that consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the statutes and rules within the commission's jurisdiction or the commission's orders and permits issued in accordance with the commission's regulatory authority. Additional notice of changes to a proposed AO is not required to be published if those changes are made in response to written comments.

A physical copy of each proposed AO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building A, 3rd Floor, Austin, Texas 78753, (512) 239-3400 and at the applicable regional office listed as follows. Additionally, copies of the proposed AO can be found online by using either the Chief Clerk's eFiling System at https://www.tceq.texas.gov/goto/efilings or the TCEQ Commissioners' Integrated Database at https://www.tceq.texas.gov/goto/cid, and searching either of those databases with the proposed AO's identifying information, such as its docket number. Written comments about an AO should be sent to the attorney designated for the AO at the commission's central office at P.O. Box 13087, MC 175, Austin, Texas 78711-3087 and must be **received by 5:00 p.m. on January 28, 2026**. The designated attorneys are available to discuss the AOs and/or the comment procedure at the listed phone numbers; however, TWC, §7.075, provides that comments on an AO shall be submitted to the commission in **writing**.

(1) COMPANY: E & J Fernandes Inc dba Johnny's Country Corner; DOCKET NUMBER: 2023-0141-PST-E; TCEQ ID NUMBER: RN102715182; LOCATION: 3540 United States Highway 79 South in Henderson, Rusk County; TYPE OF FACILITY: an underground storage tank system and a convenience store with retail sales of gasoline; PENALTY: $9,375; STAFF ATTORNEY: Marilyn Norrod, Litigation, MC 175, (512) 239-5916; REGIONAL OFFICE: Tyler Regional Office, 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

(2) COMPANY: Frontier Fuel, L.P. dba Amarillo Cardlock; DOCKET NUMBER: 2023-1614-PST-E; TCEQ ID NUMBER: RN104275060; LOCATION: 1911 J Avenue in Amarillo, Potter County; TYPE OF FACILITY: an underground storage tank; PENALTY: $7,500; STAFF ATTORNEY: David Keagle, Litigation, MC 175, (512) 239-3923; REGIONAL OFFICE: Amarillo Regional Office, 3918 Canyon Drive, Amarillo, Texas 79109-4933, (806) 353-9251.

(3) COMPANY: Jose Alfonso Castillo; DOCKET NUMBER: 2022-1113-WOC-E; TCEQ ID NUMBER: RN111459566; LOCATION: 101 East Dimmit Street in Crystal City, Zavala County; TYPE OF FACILITY: a wastewater treatment facility with an associated wastewater collection system; PENALTY: $2,737; STAFF ATTORNEY: Benjamin Pence, Litigation, MC 175, (512) 239-2157; REGIONAL OFFICE: Laredo Regional Office, 707 East Calton Road, Suite 304, Laredo, Texas 78041-3887, (956) 791-6611.

(4) COMPANY: Kyle C. Rigsby; DOCKET NUMBER: 2023-0362-LII-E; TCEQ ID NUMBER: RN110148053; LOCATION: 315 Tiger Lane in Gunter, Grayson County; TYPE OF FACILITY: a landscape irrigation business; PENALTY: $ 5,450; STAFF ATTORNEY: Jun Zhang, Litigation, MC 175, (512) 239-6517; REGIONAL OFFICE: Dallas-Fort Worth Regional Office, 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(5) COMPANY: Michael Lewis Barker dba Buddy's Kwik Stop; DOCKET NUMBER: 2024-0048-PST-E; TCEQ ID NUMBER: RN101433050; LOCATION: 1000 North Neches Street in Coleman, Coleman County; TYPE OF FACILITY: an underground storage tank system and a convenience store with retail sales of gasoline; PENALTY: $72,337; STAFF ATTORNEY: Taylor Pack Ellis, Litigation, MC 175, (512) 239-6860; REGIONAL OFFICE: Abilene Regional Office, 1977 Industrial Boulevard, Abilene, Texas 79602-7833, (325) 698-9674.

(6) COMPANY: Paghna Khuon dba Sweet Stop; DOCKET NUMBER: 2024-0237-PST-E; TCEQ ID NUMBER: RN102241510; LOCATION: 1100 West Grand Avenue in Marshall, Harrison County; TYPE OF FACILITY: an underground storage tank system and a convenience store with retail sales of gasoline; PENALTY: $10,688; STAFF ATTORNEY: Jennifer Peltier, Litigation, MC 175, (512) 239-0544; REGIONAL OFFICE: Tyler Regional Office, 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

(7) COMPANY: SL Corner Store Inc dba Silverlake Plaza Food Mart; DOCKET NUMBER: 2024-0840-PST-E; TCEQ ID NUMBER: RN102492055; LOCATION: 2501 County Road 89, Suite A, in Pearland, Brazoria County; TYPE OF FACILITY: an underground storage tank system and a convenience store with retail sales of gasoline; PENALTY: $ 3,040; STAFF ATTORNEY: Mihir Kulkarni, Litigation, MC 175, (512) 239-6224; REGIONAL OFFICE: Houston Regional Office, 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(8) COMPANY: Solu LLC; DOCKET NUMBER: 2023-0345-PST-E; TCEQ ID NUMBER: RN 102856028; LOCATION: 1802 East Highway 82 in Gainesville, Cooke County; TYPE OF FACILITY: an underground storage tank system and convenience store with retail sales of gasoline; PENALTY: $ 9,736; STAFF ATTORNEY: Jun Zhang, Litigation, MC 175, (512) 239-6517; REGIONAL OFFICE: Dallas-Fort Worth Regional Office, 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(9) COMPANY: Southwest Texas Commercial Properties LLC dba Star Stop 430527; DOCKET NUMBER: 2023-1047-PST-E; TCEQ ID NUMBER: RN102391844; LOCATION: 1014 Main Street in Junction, Kimble County; TYPE OF FACILITY: an underground storage tank; PENALTY: $5,825; STAFF ATTORNEY: William Hogan, Litigation, MC 175, (512) 239-5918; REGIONAL OFFICE: San Angelo Regional Office, 622 South Oakes, Suite K, San Angelo, Texas 76903-7035, (325) 655-9479.

(10) COMPANY: TEXAS CHILDREN'S HOSPITAL dba Texas Children's Maternity Center; DOCKET NUMBER: 2023-0388-PST-E; TCEQ ID NUMBER: RN105405690; LOCATION: 6651 Main Street in Houston, Harris County,; TYPE OF FACILITY: an underground storage tank; PENALTY: $11,600; STAFF ATTORNEY: Jennifer Peltier, Litigation, MC 175, (512) 239-0544; REGIONAL OFFICE: Houston Regional Office, 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(11) COMPANY: Victoria Rodriguez; DOCKET NUMBER: 2023-0995-LII-E; TCEQ ID NUMBER: RN108521873; LOCATION: 2721 Ingram Circle in Mesquite, Dallas County; TYPE OF FACILITY: a business; PENALTY: $2,625; STAFF ATTORNEY: Jun Zhang, Litigation, MC 175, (512) 239-6517; REGIONAL OFFICE: Dallas-Fort Worth Regional Office, 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(12) COMPANY: WAKA WATER SUPPLY CORPORATION; DOCKET NUMBER: 2023-0604-PWS-E; TCEQ ID NUMBER: RN101452886; LOCATION: the corner of Rogers Avenue and Greever Street in Waka, Ochiltree County; TYPE OF FACILITY: a public water system; PENALTY: $3,050; STAFF ATTORNEY: Taylor Pack Ellis, Litigation, MC 175, (512) 239-6860; REGIONAL OFFICE: Amarillo Regional Office, 3918 Canyon Drive, Amarillo, Texas 79109-4933, (806) 353-9251.

TRD-202504653
Gitanjali Yadav
Deputy Director, Litigation Division
Texas Commission on Environmental Quality
Filed: December 16, 2025

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Notice of Opportunity to Comment on Default Orders of Administrative Enforcement Actions

The Texas Commission on Environmental Quality (TCEQ or commission) staff is providing an opportunity for written public comment on the listed Default Orders (DOs). The commission staff proposes a DO when the staff has sent the Executive Director's Preliminary Report and Petition (EDPRP) to an entity outlining the alleged violations; the proposed penalty; the proposed technical requirements necessary to bring the entity back into compliance; and the entity fails to request a hearing on the matter within 20 days of its receipt of the EDPRP or requests a hearing and fails to participate at the hearing. Similar to the procedure followed with respect to Agreed Orders entered into by the executive director of the commission, in accordance with Texas Water Code (TWC), §7.075, this notice of the proposed order and the opportunity to comment is published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **January 28, 2026**. The commission will consider any written comments received, and the commission may withdraw or withhold approval of a DO if a comment discloses facts or considerations that indicate that consent to the proposed DO is inappropriate, improper, inadequate, or inconsistent with the requirements of the statutes and rules within the commission's jurisdiction, or the commission's orders and permits issued in accordance with the commission's regulatory authority. Additional notice of changes to a proposed DO is not required to be published if those changes are made in response to written comments.

A copy of each proposed DO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building A, 3rd Floor, Austin, Texas 78753, (512) 239-3400 and at the applicable regional office listed as follows. Additionally, copies of the DO can be found online by using either the Chief Clerk's eFiling System at https://www.tceq.texas.gov/goto/efilings or the TCEQ Commissioners' Integrated Database at https://www.tceq.texas.gov/goto/cid, and searching either of those databases with the proposed DO's identifying information, such as its docket number. Written comments about the DO should be sent to the attorney designated for the DO at the commission's central office at P.O. Box 13087, MC 175, Austin, Texas 78711-3087 and must be **received by 5:00 p.m. on January 28, 2026**. The commission's attorneys are available to discuss the DOs and/or the comment procedure at the listed phone numbers; however, TWC, §7.075, provides that comments on the DO shall be submitted to the commission in **writing**.

(1) COMPANY: Laura Thompson and Sylvester Thompson; DOCKET NUMBER: 2023-1540-MLM-E; TCEQ ID NUMBER: RN111704243; LOCATION: 4924 Harbin Road in Alvin, Galveston County; TYPE OF FACILITY: unauthorized municipal solid waste disposal site; PENALTY: $7,975; STAFF ATTORNEY: Casey Kurnath, Litigation, MC 175, (512) 239-5932; REGIONAL OFFICE: Houston Regional Office, 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(2) COMPANY: Wesley Fuller; DOCKET NUMBER: 2022-0243-MSW-E; TCEQ ID NUMBER: RN110407335; LOCATION: 5502 United States Highway 96 in Jasper, Jasper County; TYPE OF FACILITY: an unauthorized municipal solid waste disposal site; PENALTY: $ 3,937; STAFF ATTORNEY: Benjamin Pence, Litigation, MC 175, (512) 239-2157; REGIONAL OFFICE: Beaumont Regional Office, 3870 Eastex Freeway, Beaumont, Texas 77703-1830, (409) 898-3838.

TRD-202504654
Gitanjali Yadav
Deputy Director, Litigation Division
Texas Commission on Environmental Quality
Filed: December 16, 2025

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Notice of Public Meeting for TPDES Permit for Municipal Wastewater New Permit No. WQ0016658001

APPLICATION. Salado Creek Land Partners LLC and South Central Water Company, P.O. Box 570177, Houston, Texas 77257, has applied to the Texas Commission on Environmental Quality (TCEQ) for new Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0016658001, to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 700,000 gallons per day. TCEQ received this application on October 28, 2024.

The facility will be located approximately 6,900 feet west of the intersection of Dos Hermanas Road and Williamson Road, in Bell County, Texas 76571. The treated effluent will be discharged directly to Salado Creek in Segment No. 1243 of the Brazos River Basin. The designated uses for Segment No. 1243 are primary contact recreation, public water supply, aquifer protection, and high aquatic life use. In accordance with 30 Texas Administrative Code §307.5 and TCEQ's *Procedures to Implement the Texas Surface Water Quality Standards* (June 2010), an antidegradation review of the receiving waters was performed. A Tier 1 antidegradation review has preliminarily determined that existing water quality uses will not be impaired by this permit action. Numerical and narrative criteria to protect existing uses will be maintained. A Tier 2 review has preliminarily determined that no significant degradation of water quality is expected in Salado Creek, which has been identified as having high aquatic life uses. Existing uses will be maintained and protected. The preliminary determination can be reexamined and may be modified if new information is received. This link to an electronic map of the site or facility's general location is provided as a public courtesy and is not part of the application or notice. For the exact location, refer to the application. https://gisweb.tceq.texas.gov/LocationMapper/?marker=-97.62472,30.871388&level=18

The TCEQ Executive Director has completed the technical review of the application and prepared a draft permit. The draft permit, if approved, would establish the conditions under which the facility must operate. The Executive Director has made a preliminary decision that this permit, if issued, meets all statutory and regulatory requirements.

ALTERNATIVE LANGUAGE NOTICE. Alternative language notice in Spanish is available at https://www.tceq.texas.gov/permitting/wastewater/plain-language-summaries-and-public- notices. El aviso de idioma alternativo en español está disponible en https://www.tceq.texas.gov/permitting/wastewater/plain-language-summaries-and-public- notices.

PUBLIC COMMENT / PUBLIC MEETING. A public meeting will be held and will consist of two parts, an Informal Discussion Period and

a Formal Comment Period. A public meeting is not a contested case hearing under the Administrative Procedure Act. During the Informal Discussion Period, the public will be encouraged to ask questions of the applicant and TCEQ staff concerning the permit application. The comments and questions submitted orally during the Informal Discussion Period will not be considered before a decision is reached on the permit application and no formal response will be made. Responses will be provided orally during the Informal Discussion Period. During the Formal Comment Period on the permit application, members of the public may state their formal comments orally into the official record. A written response to all timely, relevant and material, or significant comments will be prepared by the Executive Director. All formal comments will be considered before a decision is reached on the permit application. A copy of the written response will be sent to each person who submits a formal comment or who requested to be on the mailing list for this permit application and provides a mailing address. Only relevant and material issues raised during the Formal Comment Period can be considered if a contested case hearing is granted on this permit application.

The Public Meeting is to be held:

Tuesday, January 27, 2026 at 7:00 p.m.

Salado ISD Administration Office

Meadows Conference Room

601 N. Main Street

Salado, Texas 76571

INFORMATION. Members of the public are encouraged to submit written comments anytime during the meeting or by mail before the close of the public comment period to the Office of the Chief Clerk, TCEQ, Mail Code MC-105, P.O. Box 13087, Austin, Texas 78711-3087 or electronically at www.tceq.texas.gov/goto/comment. If you need more information about the permit application or the permitting process, please call the TCEQ Public Education Program, Toll Free, at (800) 687-4040. *Si desea información en español, puede llamar (800) 687-4040.* General information about the TCEQ can be found at our website at https://www.tceq.texas.gov.

The permit application, Executive Director's preliminary decision, and draft permit are available for viewing and copying at Lena Armstrong Public Library, 301 East 1st Avenue, Belton, Texas. The application, including any updates, and associated notices are available electronically at the following webpage: https://www.tceq.texas.gov/permitting/wastewater/pending-permits/tpdes- applications.

Further information may also be obtained from Salado Creek Land Partners LLC and South Central Water Company, at the address stated above or by calling Mr. Ron Lusk, Unity Water Solutions, LLC, at (214) 673-3434.

Persons with disabilities who need special accommodations at the meeting should call the Office of the Chief Clerk at (512) 239-3300 or (800) RELAY-TX (TDD) at least five business days prior to the meeting.

Issuance Date: December 12, 2025

TRD-202504692
Laurie Gharis
Chief Clerk
Texas Commission on Environmental Quality
Filed: December 17, 2025

♦ ♦ ♦

Notice of Water Quality Application - Minor Amendment WQ0003197000

The following notice was issued on December 11, 2025:

The following notice does not require publication in a newspaper. Written comments or requests for a public meeting may be submitted to the Office of the Chief Clerk, Mail Code 105, P.O. Box 13087, Austin Texas 78711-3087 WITHIN (30) DAYS FROM THE DATE THIS NOTICE IS MAILED.

INFORMATION SECTION

Consideration of the application by 4P Pastures, LLC & Horizon Dairy, LLC for a minor amendment of Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0003197000, for a Concentrated Animal Feeding Operation (CAFO), to authorize the applicant to reduce the acreage of land management unit (LMU) #2A from 31 to 27 acres and #3A from 12 to 9 acres, which will decrease the total land application area from 612 to 605 acres. Other proposed changes include the addition of a freestall barn, milking parlor #1, a freshwater reservoir, and Wells #8 and #9. The facility maps have also been updated to show the removal of proposed concrete settling basins #2 and #3; and the plugging of Well #3. The facility is located at 1684 Private Road 1401, Dublin in Erath County, Texas 76446.

TRD-202504689
Laurie Gharis
Chief Clerk
Texas Commission on Environmental Quality
Filed: December 17, 2025

♦ ♦ ♦

Notice of Water Quality Application - Minor Amendment WQ0016060001

The following notice was issued on December 9, 2025:

The following notice does not require publication in a newspaper. Written comments or requests for a public meeting may be submitted to the Office of the Chief Clerk, Mail Code 105, P.O. Box 13087, Austin Texas 78711-3087 WITHIN (30) DAYS FROM THE DATE THIS NOTICE IS MAILED.

INFORMATION SECTION

South Central Water Company has applied for a minor amendment to the Texas Pollutant Discharge Elimination System Permit No. WQ0016060001 to authorize a reduction in daily average flow in the Final phase from 0.60 million gallons per day (MGD) to 0.499 MGD. The existing permit authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 600,000 gallons per day. The facility will be located approximately 4,300 feet north of the intersection of Farm-to-Market Road 1863 and Stahl Lane, in Comal County, Texas 78163.

TRD-202504688
Laurie Gharis
Chief Clerk
Texas Commission on Environmental Quality
Filed: December 17, 2025

♦ ♦ ♦

Texas Ethics Commission

List of Delinquent Filers

LIST OF LATE FILERS

Below is a list from the Texas Ethics Commission naming the filers who failed to pay the penalty fine for failure to file the report, or filing a late report, in reference to the specified filing deadline. If you have any questions, you may contact Dave Guilianelli at (512) 463-5800.

Deadline: Personal Financial Statement due April 30, 2025

#00088646 - Chris Merideth, 924 Bayonne Bridge Ct., Oklahoma City, Oklahoma 73034

#00084110 - Sara Jones Oates, P.O. Box 161926, Austin, Texas 78716

#00082796 - Clint A Mitchell, 8345 Lake Powell Dr., Nederland, Texas 77627

#00084109 - Stephanie Robinson, P.O. Box 6464, McKinney, Texas 75071

#00087690 - James Rothfelder, 1731 Kuehler Ave., New Braunfels, Texas 78130

#00086902- Sarah C. Lamb, 5630 Willis Ave., Dallas, Texas 75206

#00089613 - Daniel Buford, 26220 Laurens Ct., Montgomery, Texas 77316

#00066066 - Charles L. Perry, P.O. Box 94806, Lubbock, Texas 79493

#00065992 - Lisa K. Jarrett, 326 Linda Drive, San Antonio, Texas 78216

#00081746 - Brian E. Warren, 3515 Purdue St., Houston, Texas 77005

#00080325 - Valoree H. Swanson, 23020 Ammick Ct., Spring, Texas 77389

#00086473 - Brandon Todd Dillon, 1 State Hwy 150, Room 21, Coldspring, Texas 77331

#00080055 - Julie Countiss, P.O. Box 66434, Houston, Texas 77266

#00050518 - Jerry F. House, P.O. Box 217, Leona, Texas 75850

#00089464 - Katherine L. Yoder, MBA, 7508 Shoal Creek Blvd., Austin, Texas 78757

#00021133 - Harold V. Dutton, 4001 Jewett, Houston, Texas 77026

#00088280 - Charlene Ward Johnson, P.O. Box 925775, Houston, Texas 77292

#00022595 - Donald G. Lewis, 2001 Mill Run Road, Athens, Texas 75751

#00081697 - Sandre M. Streete, P.O. Box 221, DeSoto, Texas 75123

#00086652 - Keenan Fletcher, 801 East Houston Street, Llano, Texas 78643

#00033203 - Kim Ogg, 2450 Louisiana #773, Houston, Texas 77006

#00069663 - Tanner M. Neidhardt, P.O. Box 1478, Dripping Springs, Texas 78620

#00066434 - Bill J. Helwig, 3202 Oak Mountain Trail, San Angelo, Texas 76904

#00089717 - Mark Mayo, 96 Sam Houston Parkway, Luling, Texas 78648

#00089426 - Suzanne de Leon, 323 Crestview, San Antonio, Texas 78201

#00083417 - Traci G. LaChance, P.O. Box 102, Danbury, Texas 77534

#00083237 - Sylvia L. Guzman, 16 Sammy Snead, PMB-1913, Hilltop Lakes, Texas 77871

#00085489 - Maribel Diaz, 1405 Encantado Circle, Palmview, Texas 78572

#00084188 - Tamara G. Rhodes, 6703 Stoneham Dr., Amarillo, Texas 79109

#00088783 - Hillary Rodriquez, 15318 Park Estates Lane, Houston, Texas 77062

#00085829 - Nathan J. Milliron, 4820 Caroline Street Unit 401, Houston, Texas 77004

#00084927 - Sandra Longoria, 419 Peacock Dr., San Benito, Texas 78586

#00083699 - Zina Garrison, 5280 Caroline St. #2008, Houston, Texas 77004

#00086671 - Courtney Harvey, 6305 Diamondleaf Bend, Austin, Texas 78724

#00082214 - Kimberly N. Haynes, 2201 Lookout Knoll Dr., Leander, Texas 78641

#00085603 - Rex W. Gore, 4825 Eagle Feather Dr., Austin, Texas 78735

#00065819 - Brandon Dudley, 1302 Preston #301, Houston, Texas 77002

#00080925 - Pablo Arenaz, 3008 Swift Dr., Laredo, Texas 78041

#00089405 - James W. Crawford, Hanna Hall #220, Houston, Texas 77004

#00084202 - Audrey G. Young, P.O. Box 2683, Trinity, Texas 75862

#00083895 - Te'iva J. Bell, 9800 Northwest Fwy 600, Houston, Texas 77092

#00082077 - Jamie D. Grant, 2016 Hill Country Ct., Arlington, Texas 76012

#00085690 - Charles Tatton, P.O. Box 105, Tivoli, Texas 77990

#00083840 - Jason Ray Denny, 2941 Sussex Gardens Lane, Austin, Texas 78748

#00081810 - Meagan E. Hassan, 1520 Rutland St., Houston, Texas 77008

#00084138 - Jeralynn C. Manor, P.O. Box 542, Houston, Texas 77001

#00083089 - Anthony C. Scoma, 11324 Cherisse Dr., Austin, Texas 78739

#00082582 - Gary W. Cheatwood, 3705 FM 1487, Bogata, Texas 75417

#00084809 - Brandon M. Allen, 823 Congress Ave. #1330, Austin, Texas 78701

#00089037 - Dakota Marks, 520 Gibsonville Rd. #2, Huntington, Texas 75949

#00083745 - Jeffrey W. Allison, 1705 Du Barry Ln, Houston, Texas 77018

#00087939 - Julie Ann Guerra-Ramirez, 2006 Emerald Lake Drive, Harlington, Texas 78550

#00063416 - Donna Gordon Kaspar, P.O. Box 1153, Crockett, Texas 75835

#00080580 - Jarvis Johnson, 1051 Cottage Oak, Houston, Texas 77091

#00042411 - Jose Menendez, 7715 Windmill Hill, San Antonio, Texas 78229

#00089475 - James Muns, MD, 20 Center Ct., Heath, Texas 75032

#00089329 - John C. Asel, 319 Pueblo Pintado, Helotes, Texas 78023

#00089404 - Christopher Newport, 2013 DeMilo, Houston, Texas 77016

#00086784 - William E. Brown, 214 Fernwood Pl, Woodstock, Georgia 30188

#00085469 - Monica D. Rawlins, P.O. Box 18422, Sugar Land, Texas 77496

#00082870 - Roberto D. Martinez, 2809 Santa Lydia, Mission, Texas 78572

#00088445 - Garrett C. Marquis, 6803 Robin Rd., Dallas, Texas 75209

#00087534 - Mario Lizcano, 1007 W Daffodil Ave, Pharr, Texas 78577

#00067801 - Kyle J. Kacal, P.O. Box 6628, Bryan, Texas 77805

#00086698 - Lesia L. Crumpton-Young, Hannah Hall, Ste. 220, Houston, Texas 77004

#00088959 - Robert Lee, 130 South Shore, Amarillo, Texas 79118

#00058203 - Andy M. Chatham, 9804 Spirehaven Ln, Dallas, Texas 75202

#00021014 - Mike Wilkinson, P.O. Box 8105, Baytown, Texas 77522

#00088804 - Abigail Maddux, 8950 Grand Ave. 4104, N. Richland Hills, Texas 76180

#00061993 - Rhonda G. Hurley, 2515 S. Congress Avenue, Austin, Texas 78704

#00089685 - Mark Limon, 5310 Hurd Ct., Harligen, Texas 78550

Deadline: Personal Financial Statement due June 30, 2025

#00070466 - Diego M. Bernal, 7211 Dubies Drive, San Antonio, Texas 78216

#00088754 - Thomas Jones Jr., 4011 Charleston St., Houston, Texas 77021

#00082035 - Julie Johnson, 3441 Golfing Green Dr., Farmers Branch, Texas 75234

#00087105 - Brian J. Smith, 309 Lake Cliff Trail, Austin, Texas 78746

#00085176 - Asia Rodgers, 5909 Birchbrook Drive, Dallas, Texas 75206

#00085636 - Raquel Olivier, 1825 Market Center Blvd. Ste 340, Dallas, Texas 75207

#00081730 - Ana-Maria Ramos, P.O. Box 852227, Richardson, Texas 75085

TRD-202504630
James Tinley
Executive Director
Texas Ethics Commission
Filed: December 12, 2025

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List of Delinquent Filers

LIST OF LATE FILERS

Below is a list from the Texas Ethics Commission naming the filers who failed to pay the penalty fine for failure to file the report, or filing a late report, in reference to the specified filing deadline. If you have any questions, you may contact Dave Guilianelli at (512) 463-5800.

Deadline: Personal Financial Statement due May 1, 2023

#00086656- Amanda Miles, 1820 Winding Trail Lane, Alvin, Texas 77511

Deadline: Personal Financial Statement due April 30, 2024

#00086656- Amanda Miles, 1820 Winding Trail Lane, Alvin, Texas 77511

Deadline: 30 day pre-election Report due October 7, 2024 for Committees

#00064087- Dorian Hopperstad, Brownsville Firefighters For Responsible Government, 731 East Elizabeth Street, Brownsville, Texas 78520

Deadline: 8 day pre-election Report due October 28, 2024 for Candidates

#00086196- Amin Salahuddin, 595 Round Rock West Drive, Ste. 406, Round Rock, Texas 78681

Deadline: 8 day pre-election Report due October 28, 2024 for Committees

#00064087- Dorian Hopperstad, Brownsville Firefighters For Responsible Government, 731 East Elizabeth Street, Brownsville, Texas 78520

Deadline: Personal Financial Statement due April 30, 2025

#00065992- Lisa K. Jarrett, 326 Linda Drive, San Antonio, Texas 78216

Deadline: Lobby Activities Report due May 12, 2025

#00056280- Craig Preston Chick, 3112 Windsor Road #516, Austin, Texas 78703

Deadline: Semiannual Report due July 15, 2025 for Candidates

#00089429- Ben L. Ivey III, 127 N. Campbell St., El Paso, Texas 79901

TRD-202504673
James Tinley
Executive Director
Texas Ethics Commission
Filed: December 16, 2025

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General Land Office

Notice and Opportunity to Comment on Requests for Consistency Agreement/Concurrence Under the Texas Coastal Management Program

On January 10, 1997, the State of Texas received federal approval of the Coastal Management Program (CMP) (62 *Federal Register* pp. 1439 - 1440). Under federal law, federal agency activities and actions affecting the Texas coastal zone must be consistent with the CMP goals and policies identified in 31 TAC Chapter 26. Requests for federal consistency review were deemed administratively complete for the following project(s) during the period of December 8, 2025 to December 12, 2025. As required by federal law, the public is given an opportunity to comment on the consistency of proposed activities in the coastal zone undertaken or authorized by federal agencies. Pursuant to 31 TAC §§30.20(f), 30.30(h), and 30.40(e), the public comment period extends 30 days from the date published on the Texas General Land Office web site. The notice was published on the web site on Friday, December 19, 2025. The public comment period for this project will close at 5:00 p.m. on Sunday, January 18, 2026.

Federal License and Permit Activities:

Applicant: Intercontinental Terminals Company, LLC

Location: The project would affect waters of the United States and navigable waters of the United States associated with Buffalo Bayou and is located in Buffalo Bayou, approximately 1-mile west of the Beltway 8 bridge crossing Buffalo Bayou, in Houston, Harris County, Texas.

Latitude and Longitude: 29.740341, -95.164426

Project Description: The applicant's stated primary purpose of the requested authorization is to dredge approximately 40 acres of a barge dock to allow for larger vessels and safer docking and construct two new barge docks, and one new ship dock, as well as the deepening of three existing docks to accommodate larger vessels. The proposed project will consist of the following activities:

1. The modification of the previously authorized Barge Dock 5, also known as Barge Dock 7, (western dock) and associated new work dredging to -12.5 feet mean low lower water (MLLW).

2. The modification of the proposed Barge Dock 5 (75 feet by 30 feet) (eastern dock) and associated new work dredging to -18.5 feet MLLW.

3. The modification of the previously permitted Ship Dock 6 (37 feet by 60 feet) and full-faced fender system and associated new work dredging to -47 feet MLLW.

4. The deepening of Barge Dock 4 from the currently authorized depth of -18.5 feet MLLW to -47 feet MLLW.

5. The deepening of Ship Docks 1 and 2 from the currently authorized depth of -43.5 feet MLLW to -47 feet MLLW.

6. The construction of approximately 1,020 feet of combi-wall bulkhead wall along the proposed Barge Dock 5.

7. The addition of silt blade dredging methods to maintain the authorized dredge depths.

These activities will result in the dredging and excavation of approximately 300,000 cubic yards (CY) of material of obtain depths of -47 feet MLLW within approximately 42.0 acres and -18.5 feet MLLW within 6.23 acres. Approximately 0.5 acres of material above the MLLW line will be excavated to provide the area necessary to safely maneuver and berth incoming and outgoing vessels. Approximately 315,000 CY of material located below the MLLW line will be dredged within an approximate 12-acre dredge footprint to obtain depths of -47 feet MLLW within Ship Docks 1-4, and 6. Approximately 128,000 CY of material located below the MLLW line will be dredged to obtain depths of -18.5 feet MLLW within Barge Docks 5 and 7. A mechanical of hydraulic dredge would be used to remove the material located beneath the MLLW line.

Additionally, site development consisting of the mechanical excavation, modification of site elevations, and mechanical trenching preparation for the installation of the modified bulkhead wall will be required within the portions of the project area located above the MHW line. The proposed 1,020 feet of modified bulkhead will be positioned so that no portion will be installed below the MHW line. All piles supporting the new bulkhead wall will be pneumatically driven into place and spaced accordingly to ensure structural integrity. The proposed project will also require the discharge of clean fill material behind the proposed bulkhead wall alignment. None of the proposed clean fill material will be placed below the MHW line.

The proposed modified Barge Dock 5 will be positioned perpendicular to the Houston Ship Channel along the proposed bulkhead wall and will consist of a full faced fendering system. The proposed ship and barge docks will exhibit a minimum 225-foot setback from the limits of the Houston Ship Channel. The proposed modified Barge Dock 5 will be supported by concrete piles pneumatically driven to depths to ensure structural integrity.

The applicant has provided the following explanation why compensatory mitigation should not be required: The applicant has not proposed to mitigate for the proposed impacts because there will be no permanent loss of waters of the U.S. and dredge material will be placed in designated placement areas.

Type of Application: U.S. Army Corps of Engineers permit application # SWG-2007-00909. This application will be reviewed pursuant to Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act. Note: The consistency review for this project may be conducted by Texas Commission on Environmental Quality as part of its certification under §401 of the Clean Water Act.

CMP Project No: 25-1045-F1

Applicant: Trinity Bay Conservation District

Location: The project would affect waters of the United States and navigable waters of the United States associated with Mayhaw Bayou and is located approximately 1,531 linear feet northwest of the intersection of Le Blanc Road and Highway 124, in Winnie, Chambers County, Texas.

Latitude and Longitude: 29.8154079, -94.3797281

Project Description: The applicant's stated primary purpose of the requested authorization is to achieve erosion control and reduce flooding of the community of Winnie through the improvements to existing drainage infrastructure. The applicant requests authorization to excavate 612 cubic yards (CY) of material from below the ordinary high-water mark of Mayhaw Ditch followed by the discharge of 258 CY of fill material in the form of articulated mats into a 0.16-acre, 900-linear-foot area of the ditch to increase flow rate and reduce flooding of nearby community areas. The applicant has provided the following explanation why compensatory mitigation should not be required: A functional assessment was conducted per the USACE Galveston District's Stream Condition Assessment. The project qualifies to be assessed based on the Level 2 Stream Assessment. The reaches of the project are located within 900 feet of the previously authorized permit. The project compared pre- and post-construction levels, and it was determined that the project is self-mitigating.

Type of Application: U.S. Army Corps of Engineers permit application # SWG-2012-00810. This application will be reviewed pursuant to Section 404 of the Clean Water Act. Note: The consistency review for this project may be conducted by Texas Commission on Environmental Quality as part of its certification under §401 of the Clean Water Act.

CMP Project No: 25-1046-F1

Applicant: Texas Department of Transportation - Pharr District

Location: The project would affect waters of the United States and navigable waters of the United States associated with South Bay and is located within the right-of-way (ROW) to established Texas State Highway 4, between Brownsville and Starbase, Cameron County, Texas; at.

Latitude and Longitude: 25.94799, -97.287068

Project Description: The applicant's stated primary purpose of the requested authorization is to

improve transportation efficiency and safety along Texas State Highway 4 - improve mobility, improve safety, and increase operational

efficiency along State Highway 4 between Oklahoma Boulevard in Brownsville and LBJ Boulevard in Starbase, Texas. The applicant requests authorization to permanently impact approximately 24.090 acres of emergent wetlands, 0.789 acres of scrub-shrub wetlands, 3.216 acres to tidal mud flats, 1.846 acres of estuarine wetlands, 3.216 acres to tidal sand flats, and 0.004 acres of open water. Temporary impacts include 22.728 acres of emergent wetland, 0.272 acres of scrub-shrub wetland, 10.055 acres to tidal mud flats, and 0.217 acres to open waters. The Project proposes widening approximately 13 miles of Texas State Highway 4 (SH 4) from the existing 2-lane roadway to a 4-lane divided roadway with two, 12-foot travel lanes and an 8- foot paved shoulder in each direction, with a 12-foot flush paved median separating opposing traffic. At the western end of the project, the 2-lane roadway would transition into a 3-lane roadway for a length of approximately 1,500 feet, with two, 12-foot lanes in the westbound direction and one, 12-24-foot lane in the eastbound direction, separated by a 12-14-foot median, before transitioning into the 4-lane roadway. Existing culverts would be extended to accommodate the widened typical section and turn lanes would be added at some intersections. The Project would be fully located within the existing SH 4 ROW. An 8-foot bike path with a 4- to 6-foot grass separation from the outside travel lane would be constructed on the south side of SH 4 for approximately 3.75 miles from Quicksilver Avenue (the southern end of the Rio West development) to LBJ Boulevard (the northern end of Boca Chica Village).

The applicant offered the following compensatory mitigation plan to offset unavoidable functional loss to the aquatic environment: TXDOT has proposed to purchase wind-tidal flat credits, mangrove forest credits, and emergent wetland credits from the currently under review Rockhands Mitigation Bank (SWG-2025-00405) to offset the 3.216 acres of wind-tidal flat impacts, 0.789 acres of scrub-shrub wetland impacts, and 24.090 acres of emergent wetland impacts. TXDOT is in the process of completing the Uniform Mitigation Assessment Method forms for the aquatic resources that would be impacted by the project and will provide these to the Corps upon completion to determine the amount of mitigation credits needed to offset the proposed project impacts.

Type of Application: U.S. Army Corps of Engineers permit application # SWG-2025-00370. This application will be reviewed pursuant to Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act. Note: The consistency review for this project may be conducted by Texas Commission on Environmental Quality as part of its certification under §401 of the Clean Water Act.

CMP Project No: 25-1050-F1

Further information on the applications listed above, including a copy of the consistency certifications or consistency determinations for inspection, may be obtained from the Texas General Land Office Public Information Officer at 1700 N. Congress Avenue, Austin, Texas 78701, or via email at pialegal@glo.texas.gov. Comments should be sent to the Texas General Land Office Coastal Management Program Coordinator at the above address or via email at federal.consistency@glo.texas.gov.

TRD-202504682
Jennifer Jones
Chief Clerk and Deputy Land Commissioner
General Land Office
Filed: December 17, 2025

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Texas Health and Human Services Commission

Public Notice - Methodology for Determining Caseload Reduction Credit for the Temporary Assistance for Needy Families (TANF) Program for Federal Fiscal Year 2026

The Texas Health and Human Services Commission (HHSC) announces its intent to seek comments from the public on its estimate and methodology for determining the Temporary Assistance for Needy Families (TANF) Program caseload reduction credit for Federal Fiscal Year (FFY) 2026. HHSC will base the methodology on caseload reduction occurring from FFY 2015 to FFY 2025. This methodology and the resulting estimated caseload reduction credit will be submitted for approval to the United States Department of Health and Human Services, Administration for Children and Families.

Section 407(b)(3) of the Social Security Act provides for a TANF caseload reduction credit, which gives a state credit for reducing its TANF caseload between a base year and a comparison year. To receive the credit, a state must complete and submit a report that, among other things, describes the methodology and the supporting data that the state used to calculate its caseload reduction estimates. See 45 C.F.R. §261.41(b)(5). Prior to submitting the report, the state must provide the public with an opportunity to comment on the estimate and methodology. *See* 45 C.F.R. §261.41(b)(6).

As the state agency that administers the TANF program in Texas, HHSC believes it is eligible for a caseload reduction credit and has developed the requisite estimate and methodology. HHSC hereby notifies the public of the opportunity to submit comments.

HHSC will post the methodology and the estimated caseload reduction credit on the HHSC website for FFY 2026 at https://hhs.texas.gov/about-hhs/records-statistics/data-statistics/temporary-assistance-needy-families-tanf-statistics by December 26, 2025. The public comment period begins December 26, 2025 and ends January 9, 2026.

Written Comments. Written comments may be sent by U.S. mail, fax, or email.

U.S. Mail

Texas Health and Human Services Commission

Attention: Marcus Cole

701 W. 51st Street

MC 2106

Austin, Texas 78751

Phone number for package delivery: (512) 915-0519

Fax

Attention: Access and Eligibility Services - Program Policy, Marcus Cole

Fax Number: (512) 438-2355

Email

marcus.cole@hhs.texas.gov

TRD-202504566
Karen Ray
Chief Counsel
Texas Health and Human Services Commission
Filed: December 11, 2025

♦ ♦ ♦

Public Notice - Texas State Plan for Medical Assistance Amendment

The Texas Health and Human Services Commission (HHSC) announces its intent to submit amendments to the Texas State Plan for

Medical Assistance, under Title XIX of the Social Security Act. The proposed amendments will be effective March 1, 2026.

The purpose of the amendments is to update the fee schedules in the current state plan by adjusting fees, rates, or charges for the following services:

Ambulance Services.

The proposed amendments are estimated to result in an increase to annual aggregate expenditure of $577,459 for federal fiscal year (FFY) 2026, consisting of $345,551 in federal funds and $231,908 in state general revenue. For FFY 2027, the estimated result is an increase to annual aggregate expenditure of $1,170,393 consisting of $700,012 in federal funds and $470,381 in state general revenue. For FFY 2028, the estimated result is an increase to annual aggregate expenditure of $1,186,077 consisting of $709,393 in federal funds and $476,684 in state general revenue.

Further detail on specific reimbursement rates and percentage changes will be made available on the HHSC Provider Finance website before the proposed effective date at: https://pfd.hhs.texas.gov/rate-packets.

Rate Hearings.

A Rate hearing will be conducted either online or both in person and online to address the Ambulance Services Updates. Once available, information about the proposed rate changes and the hearing will be published in a subsequent issue of the *Texas Register* at http://www.sos.state.tx.us/texreg/index.shtml and posted to the HHSC events website at https://www.hhs.texas.gov/about/meetings-events.

Copy of Proposed Amendment.

Interested parties may obtain additional information and/or a free copy of the proposed amendment by contacting Jayasree Sankaran, State Plan Policy Advisor, by mail at the Health and Human Services Commission, P.O. Box 13247, Mail Code H-600, Austin, Texas 78711; by telephone at (512) 487-3349; by facsimile at (512) 730-7472; or by e-mail at Medicaid_Chip_SPA_Inquiries@hhsc.state.tx.us. Once submitted to the Centers for Medicare and Medicaid Services for approval, copies of the proposed amendment will be available for review at the HHSC Access and Eligibility Services for local benefit offices.

Written Comments.

Written comments about the proposed amendment and/or requests to review comments may be sent by U.S. mail, overnight mail, special delivery mail, hand delivery, fax, or email:

U.S. Mail

Texas Health and Human Services Commission

Attention: Provider Finance Department

Mail Code H-400

P.O. Box 149030

Austin, Texas 78714-9030

Overnight mail, special delivery mail, or hand delivery

Texas Health and Human Services Commission

Attention: Provider Finance Department

North Austin Complex

Mail Code H-400

4601 W. Guadalupe St.

Austin, Texas 78751

Phone number for package delivery: (737) 867-7817

Fax

Attention: Provider Finance at (512) 730-7475

Email

PFDAcuteCare@hhs.texas.gov

Preferred Communication.

For quickest response, please use e-mail or phone, if possible, for communication with HHSC related to this state plan amendment.

Persons with disabilities who wish to attend the hearing and require auxiliary aids or services should contact Provider Finance at (737) 867-7817 at least 72 hours before the hearing so appropriate arrangements can be made.

TRD-202504648
Karen Ray
Chief Counsel
Texas Health and Human Services Commission
Filed: December 15, 2025

♦ ♦ ♦

State Hospital Long Range Planning Report

PUBLIC HEARING NOTICE:

February 2, 2026

9:00 a.m.

Meeting Site:

Texas Health and Human Services Commission (HHSC)

John H. Winters Building

Public Hearing Room 125W, First Floor

701 West 51st Street

Austin, Texas 78751

This meeting will be webcast. Members of the public may attend the meeting in person at the address above or access a live stream of the meeting at https://texashhsmeetings.org/HHSWebcast. Select the tab for the Winters Public Hearing Room Live on the date and time for this meeting. Please e-mail Webcasting@hhsc.state.tx.us if you have any problems with the webcasting function.

Agenda

1. Welcome and call to order

2. State Hospital Long-Range Planning Report. The state hospital long-range planning report is required to include:

A. projected future bed requirements for state hospitals;

B. the methodology used to develop the projection of future bed requirements;

C. projected maintenance costs for institutional facilities;

D. recommended strategies to maximize the use of institutional facilities; and

E. how each state hospital will:

1. serve and support the communities and consumers in its service area; and

2. fulfill statewide needs for specialized services.

3. Adjourn

Public Comment: HHSC welcomes public comments pertaining to the drafted long-range planning report for State Hospital Members of the public who would like to provide public comment may choose from the following options:

1. Oral comments provided virtually: Members of the public must pre-register to provide oral comments virtually during the meeting by completing a Public Comment Registration form at https://texashhsmeetings.org/LRPSH_PCReg_FEB2026 no later than 5:00 p.m. Friday, January 14, 2026. Please mark the correct box on the Public Comment Registration form and provide your name, either the organization you are representing or that you are speaking as a private citizen, and your direct phone number. If you have completed the Public Comment Registration form, you will receive an email the day before the meeting with instructions for providing virtual public comment. Public comment is limited to three minutes. Each speaker providing oral public comments virtually must ensure their face is visible and their voice audible to the other participants while they are speaking. Each speaker must state their name and on whose behalf they are speaking (if anyone). If you pre-register to speak and wish to provide a handout before the meeting, please submit an electronic copy in accessible PDF format that will be distributed to the appropriate HHSC staff. Handouts are limited to two pages (paper size: 8.5" by 11", one side only). Handouts must be emailed to Ask_SH_Leadership@hhs.texas.gov immediately after pre-registering, but no later than 5:00 p.m. Friday, January 14, 2026, and include the name of the person who will be commenting. Do not include health or other confidential information in your comments or handouts. Staff will not read handouts aloud during the meeting, but handouts will be provided to the appropriate HHSC staff.

2. Written comments: A member of the public who wishes to provide written public comments must email the comments to Ask_SH_Leadership@hhs.texas.gov no later than 5:00 p.m. Friday, January 14, 2026. Please include your name and the organization you are representing or that you are speaking as a private citizen. Written comments are limited to two pages (paper size: 8.5" by 11", one side only). Do not include health or other confidential information in your comments. Staff will not read written comments aloud during the meeting, but comments will be provided to the appropriate HHSC staff.

3. Oral comments provided in-person at the meeting location: Members of the public may provide oral public comment during the meeting in person at the meeting location either by pre-registering using the form above or without pre-registering by completing a form at the entrance to the meeting room. Do not include health or other confidential information in your comments.

Additional Information for Written Comments

Written comments, requests to review comments or both may be sent by U.S. mail, overnight mail, special delivery mail, hand delivery, fax or email.

U.S. Mail

Texas Health and Human Services Commission

Health and Specialty Care System / Texas State Hospitals

Attention: Yakir Harosh, Mail Code 2023

Austin State Hospital, Building 552

4110 Guadalupe Street, Austin, Texas 78751

Overnight Mail, Special Delivery Mail or Hand Delivery

Texas Health and Human Services Commission

Health and Specialty Care System / Texas State Hospitals

Attention: Yakir Harosh, Mail Code 2023

Austin State Hospital, Building 552

4110 Guadalupe Street, Austin, Texas 78751

Note: These procedures may be revised at the discretion of HHSC

Contact: Questions regarding agenda items, content, or public hearing arrangements and requests to add additional people to the meeting invitation should be directed to Yakir Harosh, State Hospital Project Manager, Health and Human Services Commission, at Ask_SH_Leadership@hhs.texas.gov.

This public forum is open to the public. No reservations are required, and there is no cost to attend this public forum.

People with disabilities who wish to attend the public hearing and require auxiliary aids or services should contact Yakir Harosh at yakir.harosh@hhs.texas.gov *at least 72 hours before the public hearing so appropriate arrangements can be made.*

TRD-202504565
Karen Ray
Chief Counsel
Texas Health and Human Services Commission
Filed: December 11, 2025

♦ ♦ ♦

Texas Higher Education Coordinating Board

Notice of Intent to Engage in Negotiated Rulemaking – Uniform Admission Policy

The Texas Higher Education Coordinating Board (THECB) intends to engage in negotiated rulemaking to develop new rules in Texas Administrative Code, Title 19, Part 1, Chapter 20, Subchapter C, relating to Uniform Admission Policy. The THECB is required to engage in negotiated rulemaking under Texas Education Code (TEC), §51.803(a)(2)(B) and §51.805(a)(2)(B), to address changes set forth by Senate Bill 1241, 89th Texas Legislature, Regular Session, to Texas Administrative Code, Chapter 20, Subchapter C.

The subject of the negotiated rulemaking is to consider use of SAT and ACT. The known issues surrounding this negotiated rulemaking include: clarification of TEC, §51.803 and §51.805.

The following is a list of the stakeholders who are significantly affected by this rule and will be represented on the negotiated rulemaking committee for the Uniform Admission Policy:

1. Public Universities/Health-Related Institutions; and

2. Texas Higher Education Coordinating Board.

The THECB proposes to appoint the following 10 individuals to the negotiated rulemaking committee for the Uniform Admission Policy to represent affected parties and the agency:

Public Universities/Health-Related Institutions

Donna Stokes, Associate Dean for Undergraduate Affairs and Student Success, University of Houston (University of Houston System)

Public Universities/Health-Related Institutions

Robin Straley, Sr. Director College Readiness, Texas Tech University (Texas Tech University System)

Public Universities/Health-Related Institutions

Arthur Watson, Assistant Provost, Student Success & Transition Academic Programs, Texas A&M University (Texas A&M University System)

Public Universities/Health-Related Institutions

Rosie Dickinson, Director for Undergraduate Admissions, Texas A&M International University (Texas A&M System)

Public Universities/Health-Related Institutions

Needha Boutte-Queen, Ph.D., Acting Senior Associate Provost and Senior Associate Vice President for Academic Affairs, Texas Southern University

Public Universities/Health-Related Institutions

Kara Hadley-Shakya, Associate Vice President for Enrollment Management and Chief Admissions Officer, The University of Texas Arlington (The University of Texas System)

Public Universities/Health-Related Institutions

Miguel Wasielewski, Ph.D., Senior Vice Provost for Strategic Enrollment Management, The University of Texas at Austin (The University of Texas System)

Public Universities/Health-Related Institutions

Alba N. Cook, Assistant Vice President of Admissions and Recruitment, The University of Texas at El Paso (The University of Texas System)

Public Universities/Health-Related Institutions

Beverly Woodson Day, Asst. VP for Enrollment Management and Director of Admission, Texas State University (Texas State University System)

Texas Higher Education Coordinating Board

Suzanne Morales-Vale, Ph.D., Senior Director, College Readiness and Student Success

If there are persons who are significantly affected by these proposed rules and are not represented by the persons named above, those persons may apply to the agency for membership on the negotiated rulemaking committee or nominate another person to represent their interests. Application for membership must be made in writing and include the following information:

1. Name and contact information of the person submitting the application;

2. Description of how the person is significantly affected by the rule and how their interests are different than those represented by the persons named above;

3. Name and contact information of the person being nominated for membership; and

4. Description of the qualifications of the nominee to represent the person's interests.

The THECB requests comments on the Notice of Intent to Engage in Negotiated Rulemaking and on the membership of the negotiated rulemaking committee for the Uniform Admission Policy. Comments and applications for membership on the committee must be submitted by January 4, 2026, to Carrisa Stiles, Convener, Texas Higher Education Coordinating Board, P.O. Box 12788, Austin, Texas 78711, or via email at Convener@highered.texas.gov.

TRD-202504650

Douglas Brock
General Counsel
Texas Higher Education Coordinating Board
Filed: December 16, 2025

♦ ♦ ♦

Texas Department of Housing and Community Affairs

2026 HOME Program General Set-Aside Notice of Funding Availability

The Texas Department of Housing and Community Affairs (TDHCA or the Department) announces a NOFA of approximately $39,412,290.56 in HOME funds for single family housing programs under the general set-aside utilizing a reservation system. These funds will be made available to HOME Reservation System Participants after a Reservation System Participation (RSP) Agreement has been ratified. Funds will be released subject to the Regional Allocation Formula (RAF) beginning Tuesday, January 13, 2026, at 10:00 a.m. Austin local time.

The availability and use of these funds are subject to the HOME rules including, but not limited to the following Texas Administrative Code (TAC) rules in effect at the time of application review or contract execution (as applicable): Title 10, Part 1, Chapter 1, Administration; Chapter 2, Enforcement; Chapter 20, the Single Family Programs Umbrella Rule; Chapter 21, the Minimum Energy Efficiency Requirements for Single Family Construction Activities; Chapter 23, the Single Family HOME Program, (State HOME Rules); and Tex. Gov't Code §2306. Other federal and state regulations include but are not limited to: 24 CFR Part 58 for environmental requirements, 2 CFR Part 200 for Uniform Administrative Requirements, 24 CFR §135.38 for Section 3 requirements, 24 CFR Part 5, Subpart A for fair housing, (Federal HOME Rules), and for units of government, the Uniform Grant and Contract Management requirements as outlined in Chapter 783 in the Texas Local Government (TxGMS). Applicants must familiarize themselves with all of the applicable state and federal rules that govern the HOME Program.

Eligible Activities

Homeowner Reconstruction Assistance (HRA). HRA provides funds for the reconstruction or new construction of a single family residence owned and occupied by eligible low-income Households. Specific program guidelines can be found at 10 TAC Chapter 23, Single Family HOME Program, Subchapter C, Homeowner Reconstruction Assistance Program, §§23.30 - 23.32.

Tenant-Based Rental Assistance (TBRA). TBRA provides rental subsidies to eligible low-income Households. Assistance may include rental, security, and utility deposits. Specific program guidelines can be found at 10 TAC Chapter 23, Single Family HOME Program, Subchapter F, Tenant-Based Rental Assistance Program, §§23.50 - 23.52.

Eligible Applicants include Units of General Local Government, Nonprofit Organizations, Public Housing Authorities, Local Mental Health Authorities, and Councils of Government. Funds may not be used in a Participating Jurisdiction (PJ).

Additional Information

The NOFA is available on the Department's website at https://www.tdhca.texas.gov/notices-funding-availability-nofas.

All Application materials are available on the Department's website at https://www.tdhca.texas.gov/home-application-materials.

For questions regarding this NOFA, please contact the Single Family and Homeless Programs Division via email at HOME@tdhca.texas.gov.

TRD-202504596
Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
Filed: December 12, 2025

♦ ♦ ♦

Legislative Budget Board

Budget Execution Proposal

Pursuant to Texas Government Code, Section 317.002, this budget execution order is proposed for the following action items of appropriation made by Senate Bill No. 1, General Appropriations Act, Acts of the 89th Legislature, Regular Session, 2025.

We propose that all appropriation authority provided to Texas Southern University during the 2026-2027 state fiscal biennium relating to contracts or contract extensions signed after the effective date of this order is suspended effective immediately. Furthermore, we propose that all appropriation authority to Texas Southern University is limited to existing operational commitments, including salaries and benefits, existing debt service, scholarships, utilities, and general operational costs. No new contracts or contract extensions may be signed until the Legislature has reviewed the final report of the State Auditor and the concluded investigation by the Texas Rangers, and any needed correctional issues are resolved. Nothing in this order, however, is intended to preclude the ongoing education services of the institution. Accordingly, this order does not apply to existing operational commitments, such as contracts necessary to: support and maintain educational and general activities; perform routine operations regarding utilities, facilities, and equipment; or respond to emergencies.

Signed by Dan Patrick

Lieutenant Governor

Joint Chair, Legislative Budget Board

Signed by Dustin Burrows

Speaker of the House

Joint Chair, Legislative Budget Board

Signed by Joan Huffman

Chair, Senate Finance Committee

Signed by Greg Bonnen

Chair, House Appropriations Committee

TRD-202504649
Stewart Shallow
General Counsel
Legislative Budget Board
Filed: December 15, 2025

♦ ♦ ♦

Texas Association of Regional Councils

Request for Proposals: Regional Digital Opportunity Planning and Technical Assistance

The Texas Association of Regional Councils (TARC) is requesting proposals from qualified consultants to provide subject matter expertise and technical assistance related to regional broadband planning and the expansion of digital opportunity across Texas. The selected consultant will support TARC and its member Councils of Governments (COGs) in addressing barriers to broadband adoption, enhancing digital literacy, improving access to public resources, and supporting statewide and regional digital inclusion efforts.

The scope of work includes facilitating a minimum of two intensive workshops for Regional Digital Access Specialists and COG staff; leveraging existing assessments and prior planning efforts; providing ongoing technical assistance and guidance throughout the planning process; and assisting in the development of Regional Broadband and Digital Opportunity Implementation Plans. The consultant will also prepare an analysis report to support future planning and implementation activities. Proposers should demonstrate expertise in broadband and digital equity policy, including familiarity with relevant state and federal funding programs and initiatives.

Proposals must be received no later than **January 10, 2026**. The anticipated project start date is February or March 2026, with a contract term of three years. Proposals must be submitted electronically to tarc@txregionalcouncil.org with "Regional Digital Opportunity Planning" in the subject line. Late submissions will not be considered. The Request for Proposals is available at https://txregionalcouncil.org/regional-programs/trbp/

Questions regarding this request for proposals (RFP) are to be submitted to tarc@txregionalcouncil.org with Regional Digital Opportunity Planning in the subject line. Questions regarding this RFP will only be accepted by email.

TRD-202504592
John Austin Stokes
Executive Director
Texas Association of Regional Councils
Filed: December 12, 2025

♦ ♦ ♦

Texas Water Development Board

Request for Applications for Fiscal Year 2026 Agricultural Water Conservation Grants

The Texas Water Development Board requests applications for Fiscal Year 2026 Agricultural Water Conservation Grants. The Texas Water Development Board plans to award up to $1,500,000 in grants from the Agricultural Water Conservation Fund. The rules governing the Agricultural Water Conservation Program may be found in 31 Texas Administrative Code Chapter 367.

Due Date (Closing): 2:00 p.m., Central Standard Time, Wednesday, March 18, 2026

Anticipated Award Date: July 2026

For more information on the Request for Applications and Application Instructions, visit https://www.twdb.texas.gov/about/contract_admin/request/index.asp

TRD-202504671
Ashley Harden
General Counsel
Texas Water Development Board
Filed: December 16, 2025

♦ ♦ ♦

Texas Workforce Commission

RESOLUTION OF THE TEXAS WORKFORCE COMMISSION SETTING THE UNEMPLOYMENT OBLIGATION ASSESSMENT RATE AND ADJUSTING THE DEFICIT TAX RATE FOR CALENDAR YEAR 2026

WHEREAS, pursuant to Texas Labor Code, Section 203.105, employers are required to pay an unemployment obligation assessment to pay bond obligations and or to collect interest due on federal loans to Texas used to pay unemployment benefits; and

WHEREAS, the rate of the unemployment obligation assessment must be based on the formula prescribed in Commission rule 815.132 (40 Tex. Admin. Code, §815.132); and

WHEREAS, pursuant to Texas Labor Code, Section 204.063, employers are required to pay a deficit assessment to raise the funds available in the compensation fund above the floor; and

WHEREAS, pursuant to Texas Labor Code, Section 204.067, the Commission, at its own discretion, may adjust the deficit assessment rates.

NOW, THEREFORE, the Commission hereby **RESOLVES:**

The obligation assessment rate for calendar year 2026, is set to .01 percent.

The deficit tax rate for calendar year 2026, will be adjusted to zero percent.

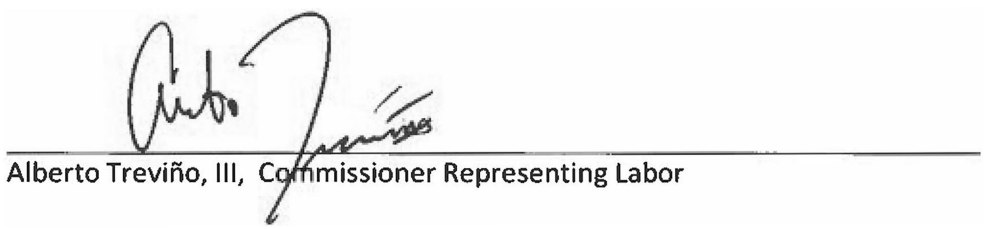
FURTHER, the Commission hereby **CERTIFIES:**

The 2026 rates as set forth herein are set in accordance with the requirements of Chapter 203 and Chapter 204 of the Texas Labor Code.

The action of the Commission reflected in this Resolution complies with the requirements of Chapter 203 and Chapter 204 of Texas Labor Code.

Signed this 9th day of December 2025, upon the affirmative vote of a majority of the Commission present and voting.

Joe Esparza, Chairman and Commissioner Representing Employers



Alberto Treviño, III, Commissioner Representing Labor

Brent Connett, Commissioner Representing the Public

TRD-202504663
Les Trobman
General Counsel
Texas Workforce Commission
Filed: December 16, 2025

♦ ♦ ♦


TEXAS

How to Use the Texas Register

Information Available: The sections of the *Texas Register* represent various facets of state government. Documents contained within them include:

Governor - Appointments, executive orders, and proclamations.

Attorney General - summaries of requests for opinions, opinions, and open records decisions.

Texas Ethics Commission - summaries of requests for opinions and opinions.

Emergency Rules - sections adopted by state agencies on an emergency basis.

Proposed Rules - sections proposed for adoption.

Withdrawn Rules - sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the Texas Register six months after the proposal publication date.

Adopted Rules - sections adopted following public comment period.

Texas Department of Insurance Exempt Filings - notices of actions taken by the Texas Department of Insurance pursuant to Chapter 5, Subchapter L of the Insurance Code.

Review of Agency Rules - notices of state agency rules review.

Tables and Graphics - graphic material from the proposed, emergency and adopted sections.

Transferred Rules - notice that the Legislature has transferred rules within the *Texas Administrative Code* from one state agency to another, or directed the Secretary of State to remove the rules of an abolished agency.

In Addition - miscellaneous information required to be published by statute or provided as a public service.

Specific explanation on the contents of each section can be found on the beginning page of the section. The division also publishes cumulative quarterly and annual indexes to aid in researching material published.

How to Cite: Material published in the *Texas Register* is referenced by citing the volume in which the document appears, the words "TexReg" and the beginning page number on which that document was published. For example, a document published on page 2402 of Volume 50 (2025) is cited as follows: 50 TexReg 2402.

In order that readers may cite material more easily, page numbers are now written as citations. Example: on page 2 in the lower-left hand corner of the page, would be written "50 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 50 TexReg 3."

How to Research: The public is invited to research rules and information of interest between 8 a.m. and 5 p.m. weekdays at the *Texas Register* office, James Earl Rudder Building, 1019 Brazos, Austin. Material can be found using *Texas Register* indexes, the *Texas Administrative Code* section numbers, or TRD number.

Both the *Texas Register* and the *Texas Administrative Code* are available online at: https://www.sos.texas.gov. The *Texas Register* is available in an .html version as well as a .pdf version through the internet. For website information, call the Texas Register at (512) 463-5561.

Texas Administrative Code

The *Texas Administrative Code (TAC*) is the compilation of all final state agency rules published in the *Texas Register*. Following its effective date, a rule is entered into the *Texas Administrative Code*. Emergency rules, which may be adopted by an agency on an interim basis, are not codified within the *TAC*.

The *TAC* volumes are arranged into Titles and Parts (using Arabic numerals). The Titles are broad subject categories into which the agencies are grouped as a matter of convenience. Each Part represents an individual state agency.

The complete *TAC* is available through the Secretary of State's website at http://www.sos.state.tx.us/tac.

The Titles of the *TAC*, and their respective Title numbers are:

1. Administration
4. Agriculture
7. Banking and Securities
10. Community Development
13. Cultural Resources
16. Economic Regulation
19. Education
22. Examining Boards
25. Health Services
28. Insurance
30. Environmental Quality
31. Natural Resources and Conservation
34. Public Finance
37. Public Safety and Corrections
40. Social Services and Assistance
43. Transportation

How to Cite: Under the *TAC* scheme, each section is designated by a *TAC* number. For example in the citation 1 TAC §91.1: 1 indicates the title under which the agency appears in the *Texas Administrative Code*; *TAC* stands for the *Texas Administrative Code*; §91.1 is the section number of the rule (91 indicates that the section is under Chapter 91 of Title 1; 1 represents the individual section within the chapter).

How to Update: To find out if a rule has changed since the publication of the current supplement to the *Texas Administrative Code*, please look at the *Index of Rules*.

The *Index of Rules* is published cumulatively in the blue-cover quarterly indexes to the *Texas Register*.

If a rule has changed during the time period covered by the table, the rule's *TAC* number will be printed with the *Texas Register* page number and a notation indicating the type of filing (emergency, proposed, withdrawn, or adopted) as shown in the following example.

TITLE 1. ADMINISTRATION
Part 4. Office of the Secretary of State
Chapter 91. Texas Register
1 TAC §91.1…….....950 *(P)*

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