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

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

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

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

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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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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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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.

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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.

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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.

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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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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).

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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.

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. 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.

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. 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.

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. 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.

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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.

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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.

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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.

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

TRD-202504591
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.

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

TRD-202504593
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 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.

TRD-202504595
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
Earliest possible date of adoption: January 25, 2026
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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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.

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

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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

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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.
Executive Director
Texas State Board of Pharmacy
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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.

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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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Cynthia Hernandez
General Counsel
Department of State Health Services
Earliest possible date of adoption: January 25, 2026
For further information, please call: (512) 719-3521

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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.

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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.

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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.

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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.

Filed with the Office of the Secretary of State on December 15, 2025.

TRD-202504638
Cynthia Hernandez
General Counsel
Department of State Health Services
Earliest possible date of adoption: January 25, 2026
For further information, please call: (512) 719-3521

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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.

Filed with the Office of the Secretary of State on December 15, 2025.

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Cynthia Hernandez
General Counsel
Department of State Health Services
Earliest possible date of adoption: January 25, 2026
For further information, please call: (512) 719-3521

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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
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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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~~].

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
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For further information, please call: (512) 490-7130

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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.

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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.

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

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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.

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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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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.

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

TRD-202504603

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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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.

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

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Jana Jones
General Counsel
Texas Juvenile Justice Department
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For further information, please call: (512) 490-7130

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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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Jana Jones
General Counsel
Texas Juvenile Justice Department
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For further information, please call: (512) 490-7130

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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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For further information, please call: (512) 490-7130

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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.

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Jana Jones
General Counsel
Texas Juvenile Justice Department
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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.

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General Counsel
Texas Workforce Commission
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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.

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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.

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Laura Moriaty
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Texas Department of Motor Vehicles
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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
Earliest possible date of adoption: January 25, 2026
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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Laura Moriaty
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Texas Department of Motor Vehicles
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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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Laura Moriaty
General Counsel
Texas Department of Motor Vehicles
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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
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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.

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

TRD-202504563
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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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.

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Texas Department of Motor Vehicles
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For further information, please call: (512) 465-4160