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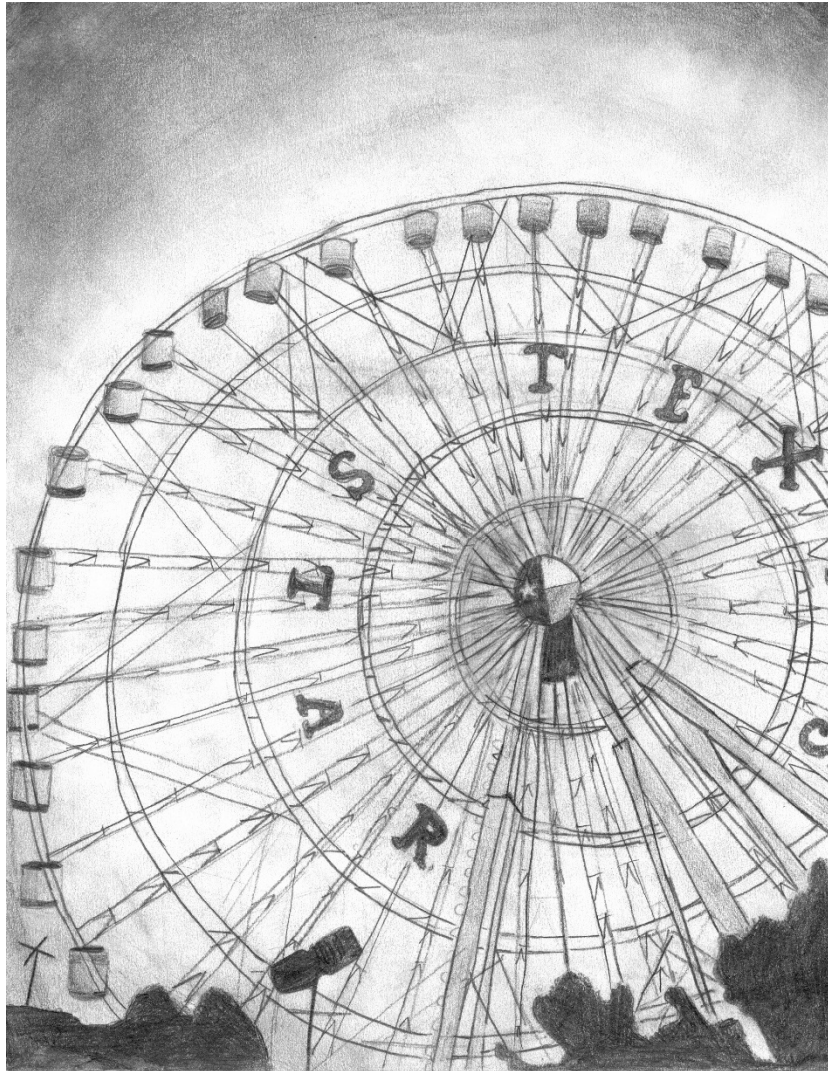
# TEXAS REGISTER

*Volume 43 Number 40*

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*Pages 6503 - 6696*

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School children's artwork is used to decorate the front cover and blank filler pages of the *Texas Register*. Teachers throughout the state submit the drawings for students in grades K-12. The drawings dress up the otherwise gray pages of the *Texas Register* and introduce students to this obscure but important facet of state government.

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# TEXAS REGISTER

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# Open Meetings

Statewide agencies and regional agencies that extend into four or more counties post meeting notices with the Secretary of State.

Meeting agendas are available on the *Texas Register's* Internet site:  
<http://www.sos.state.tx.us/open/index.shtml>

Members of the public also may view these notices during regular office hours from a computer terminal in the lobby of the James Earl Rudder Building, 1019 Brazos (corner of 11th Street and Brazos) Austin, Texas. To request a copy by telephone, please call 512-463-5561. Or request a copy by email: [register@sos.texas.gov](mailto:register@sos.texas.gov)

For items ***not*** available here, contact the agency directly. Items not found here:

- minutes of meetings
- agendas for local government bodies and regional agencies that extend into fewer than four counties
- legislative meetings not subject to the open meetings law

The Office of the Attorney General offers information about the open meetings law, including Frequently Asked Questions, the *Open Meetings Act Handbook*, and Open Meetings Opinions.

<http://texasattorneygeneral.gov/og/open-government>

The Attorney General's Open Government Hotline is 512-478-OPEN (478-6736) or toll-free at (877) OPEN TEX (673-6839).

Additional information about state government may be found here:  
<http://www.texas.gov>

...

**Meeting Accessibility.** Under the Americans with Disabilities Act, an individual with a disability must have equal opportunity for effective communication and participation in public meetings. Upon request, agencies must provide auxiliary aids and services, such as interpreters for the deaf and hearing impaired, readers, large print or Braille documents. In determining type of auxiliary aid or service, agencies must give primary consideration to the individual's request. Those requesting auxiliary aids or services should notify the contact person listed on the meeting notice several days before the meeting by mail, telephone, or RELAY Texas. TTY: 7-1-1.

# THE GOVERNOR

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

## Appointments

### Appointments for September 18, 2018

Appointed to the Texas State Board of Social Worker Examiners, for a term to expire February 1, 2023, Megan M. Graham of Lubbock, Texas (replacing Denise V. Pratt of Baytown whose term expired).

Appointed to the Texas State Board of Social Worker Examiners, for a term to expire February 1, 2023, Martha R. Mosier of College Station, Texas (Ms. Mosier is being reappointed).

Appointed to the Texas State Board of Social Worker Examiners, for a term to expire February 1, 2023, Audrey J. Ramsbacher of San Antonio, Texas (replacing Carol M. "Missy" Rainey of Keller whose term expired).

### Appointments for September 19, 2018

Appointed to the Texas State Board of Examiners of Psychologists, for a term to expire October 31, 2023, Herman B. Adler of Houston, Texas (replacing Jo Ann Campbell of Abilene whose term expired).

Appointed to the Texas State Board of Examiners of Psychologists, for a term to expire October 31, 2023, Ryan T. Bridges of Houston, Texas (replacing John Robert Huffman of Southlake whose term expired).

Appointed to the Texas State Board of Examiners of Psychologists, for a term to expire October 31, 2023, Andoni Zagouris of Kingsland, Texas (replacing Donna Lord Black of Fulshear whose term expired).

### Appointments for September 20, 2018

Appointed to the Midwestern State University Board of Regents, for a term to expire February 25, 2024, Guy A. "Tony" Fidelie, Jr. of Wichita Falls, Texas (replacing Fenton L. "Lynwood" Givens, Ph.D. of Plano whose term expired).

Appointed to the Midwestern State University Board of Regents, for a term to expire February 25, 2024, Okechukwu "Oku" Okeke of Wichita Falls, Texas (replacing Charles "Jeff" Gregg of Seymour whose term expired).

Greg Abbott, Governor

TRD-201804142



*Devin McQueen*  
*10th Grade*



*Devin McQueen*



# THE ATTORNEY GENERAL

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

An index to the full text of these documents is available from  
the Attorney General's Internet site <http://www.oag.state.tx.us>.

Telephone: 512-936-1730. For information about pending requests for opinions, telephone 512-463-2110.

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

Requests for Opinions

## RQ-0250-KP

### Requestor:

The Honorable René O. Oliveira  
Chair, Committee on Business & Industry  
Texas House of Representatives  
Post Office Box 2910  
Austin, Texas 78768-2910

Re: Whether chapter 1704 of the Occupations Code prohibits a jail or detention facility from using a third party contractor to provide persons in the custody of law enforcement with information on available bail bond services (RQ-0250-KP)

**Briefs requested by October 17, 2018**

## RQ-0251-KP

### Requestor:

The Honorable Matthew C. Poston  
Liberty County Attorney  
1923 Sam Houston Street, Suite 202  
Liberty, Texas 77575

Re: Authority of county law enforcement to enforce county weight regulations on county roads (RQ-0251-KP)

**Briefs requested by October 22, 2018**

## RQ-0252-KP

### Requestor:

The Honorable Natalie Cobb Koehler  
Bosque County Attorney  
Post Office Box 215  
Meridian, Texas 76665

Re: Whether Bosque County may prohibit employees or elected officials from carrying weapons while conducting county business in the courthouse due to liability (RQ-0252-KP)

**Briefs requested by October 22, 2018**

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

TRD-201804143  
Amanda Crawford  
General Counsel  
Office of the Attorney General  
Filed: September 24, 2018



Opinions

## Opinion No. KP-0213

The Honorable Sharen Wilson  
Tarrant County Criminal District Attorney  
401 West Belknap  
Fort Worth, Texas 76196

Re: Obligations of a criminal district attorney under Code of Criminal Procedure article 39.14 to disclose to a defendant information obtained by the criminal district attorney during the performance of certain civil duties (RQ-0215-KP)

### SUMMARY

A court would likely conclude, as one appellate court already has, that the knowledge of an assistant criminal district attorney is imputed to the prosecutor as "the State" for purposes of article 39.14 of the Code of Criminal Procedure regardless of internal division affiliation.

To the extent information provided to an assistant criminal district attorney acting in a civil capacity constitutes an item described by subarticle 39.14(a) but is protected by the attorney-client privilege, the plain language of subarticle (a) would exempt its disclosure to the defendant. However, a court would likely conclude that any exculpatory information meeting the requirements of subarticle 39.14(h) obtained by such an attorney must be disclosed to the defendant, notwithstanding any attorney-client or other evidentiary privilege.

To the extent that information obtained by an assistant criminal district attorney acting in a civil capacity is confidential under section 261.201 of the Family Code, any duty of disclosure in subarticle 39.14(a) of the Code of Criminal Procedure would not be triggered except pursuant to court order obtained under subsection 261.201(b) or (c). A court would likely conclude that any exculpatory information obtained by an assistant criminal district attorney that meets the requirements of subarticle 39.14(h) but that is made confidential by section 261.201

shall be disclosed only pursuant to court order obtained under subsection 261.201(b) or (c).

**Opinion No. KP-0214**

The Honorable Wiley B. McAfee

District Attorney

33rd and 424th Judicial Districts

1701 East Polk Street

Burnet, Texas 78611

Re: Whether subchapter D, chapter 615, of the Government Code requires municipalities to allow survivors of a part-time public safety employee to purchase health insurance benefits when the employee was not eligible for health insurance benefits at the time of the employee's death (RQ-0216-KP)

**SUMMARY**

If a surviving spouse meets the eligibility requirements under subsection 615.072(a) of the Government Code, a court would likely conclude the spouse is entitled to purchase health insurance benefits from the municipality that employed a part-time safety employee pursuant to subsection 615.073(b), regardless of whether the employee was eligible for the benefits prior to death.

**Opinion No. KP-0215**

The Honorable Charles Schwertner

Chair, Committee on Health & Human Services

Texas State Senate

Post Office Box 12068

Austin, Texas 78711-2068

Re: Whether a municipality is authorized to adopt a residential homestead property tax exemption that establishes a floor for the exemption in an amount greater than \$5,000, and, if not, whether an appraisal district may disregard or modify the exemption (RQ-0242-KP)

**SUMMARY**

Subsection 11.13(n) of the Tax Code provides that if a municipality adopts a tax exemption percentage that produces an exemption of less than \$5,000 when applied to a particular residence homestead, the individual is entitled to an exemption of \$5,000 of the appraised value. Because article VIII, section 1-b(e) of the Texas Constitution and the Legislature establish a legislatively-defined floor for the exemption in an amount of \$5,000, a court would likely conclude that a home-rule municipality lacks authority to increase the floor above \$5,000. Municipalities desiring to increase the homestead exemption must do so by raising the tax exemption percentage, up to twenty percent, as authorized in the Constitution.

The Legislature charged the chief appraiser with determining an individual's right to a property tax exemption, and the Commission of Licensing and Regulation prohibits appraisers from engaging in an official act that violates the law. If a taxing unit adopts an unlawful exemption, the appraiser maintains both a legal and ethical duty to determine that the exemption is inapplicable to the extent it violates the law.

*For further information, please access the website at [www.texasattorneygeneral.gov](http://www.texasattorneygeneral.gov) or call the Opinion Committee at (512) 463-2110.*

TRD-201804167

Amanda Crawford

General Counsel

Office of the Attorney General

Filed: September 26, 2018



# PROPOSED RULES

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

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

## TITLE 13. CULTURAL RESOURCES

### PART 2. TEXAS HISTORICAL COMMISSION

#### CHAPTER 30. TEXAS HERITAGE TRAILS PROGRAM

##### 13 TAC §§30.1 - 30.7

The Texas Historical Commission (THC) proposes new Chapter 30, §§30.1 - 30.7, relating to the Texas Heritage Trails Program ("the program").

The THC's Texas Heritage Trails Program was created under THC's authority to promote heritage tourism in the state under §442.005 of the Texas Government Code.

New §30.1 provides the purpose for the program and chapter.

New §30.2 provides definitions of words and terms used in Chapter 30.

New §30.3 provides for the requirements related to a nonprofit entity's participation in the program and to represent one or more of the Texas Heritage Trail Regions.

New §30.4 provides requirements for the regional organizations' management including requirements related to the structure of the administration.

New §30.5 provides the requirements for program operations of the regional organizations and outlines the requirements, roles, and responsibilities between the parties.

New §30.6 provides the requirements for reporting, maintenance of records, and planning by the regional organizations.

New §30.7 requires that the THC establish guidelines and requirements for the use of agency and program branding and intellectual property.

**FISCAL NOTE.** Mark Wolfe, Executive Director, has determined that for the first five-year period the new rules are in effect, there will be no fiscal implications for state or local governments as a result of enforcing or administering these rules as proposed.

**PUBLIC BENEFIT/COST NOTE.** Mr. Wolfe has determined for each year of the first five-year period the new rules are in effect the public benefit anticipated as a result of the new rules will be an increased clarity of the administration of the Texas Heritage Trails Program. The proposed rules do not impose a cost on regulated persons or entities; therefore, it is not subject to Texas Government Code, §2001.0045.

**ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS FOR SMALL BUSINESSES, MICROBUSI-**

**NESSES, AND RURAL COMMUNITIES.** Mr. Wolfe has determined that there will be no effect on rural communities, small business, or microbusinesses; therefore, no regulatory flexibility analysis, specified in Texas Government Code, §2006.002, is required. There is no anticipated economic cost to persons who are required to comply with the proposed rules.

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

**TAKINGS IMPACT ASSESSMENT.** THC has determined that no private real property interests are affected by this proposal and the proposal does not restrict or limit an owner's right to his or her property that would otherwise exist in the absence of government action and, therefore, does not constitute a taking under Texas Government Code, §2007.043.

**REQUEST FOR PUBLIC COMMENT.** Comments on the proposed new rules may be submitted to Mark Wolfe, Executive Director, Texas Historical Commission, P.O. Box 12276, Austin, Texas 78711-2276. Comments will be accepted for 30 days after publication in the *Texas Register*.

**STATUTORY AUTHORITY.** New §§30.1 - 30.7 of Chapter 30 (Title 13, Part II of the Texas Administrative Code) relating to the Texas Heritage Trails Program ("the program") are proposed under §442.005(q) of the Texas Government Code, which provides the THC with the authority to promulgate rules for the effective administration of its programs under the chapter, and under §442.005(s) and (t) of the Texas Government Code which provides THC with the authority to promote the appreciation of historic sites through a program designed to develop tourism in the state and to specifically promote heritage tourism.

**CROSS REFERENCE TO STATUTE.** The proposed new rules implement §442.005(s) and (t) of the Texas Government Code. No other statutes, articles, or codes are affected by these new rules.

##### §30.1. Object.

(a) The Texas Historical Commission, hereafter referred to as the Commission, is authorized pursuant to §442.005(s) and §442.005(t), Texas Government Code, to promote the appreciation of historic sites, structures, or objects in the state through a program designed to develop tourism in the state and shall promote heritage tourism by assisting persons, including local governments, orga-

nizations, and individuals, in the preservation, enhancement, and promotion of heritage and cultural attractions.

(b) The Program must include efforts to:

(1) raise the standards of heritage and cultural attractions around the state;

(2) foster heritage preservation and education;

(3) encourage regional cooperation and promotion of heritage and cultural attractions; and

(4) foster effective local tourism leadership and organizational skills.

(c) The Commission established the Texas Heritage Trails Program (THTP) to achieve these goals and the intent of these rules is to provide a system by which the Commission may approve, fund, and monitor nonprofit organizations, for the purpose of participating in the program.

### §30.2. Definitions.

When used in this chapter, the following words or terms have the following meanings unless the context clearly indicates otherwise:

(1) Board of Directors--The governing body of the heritage trail region.

(2) Contract--Written agreement between the Commission and each of the regional organizations.

(3) Executive Director--Region personnel responsible to the board of directors to perform the services and deliver the work of the region to the Commission.

(4) Fiscal Agent--Entity other than the region responsible for administration and distribution of funds provided under the Contract.

(5) Funds--State funds appropriated for the THTP and authorized for distribution to the Region.

(6) Regional organization--A Texas non-profit organization selected by the Commission to operate as the regional organization for one or more of the ten Texas Heritage Trail Regions.

(7) Texas Heritage Trail Regions--The ten regional trails established by the Commission: Texas Brazos Trail Region, Texas Forest Trail Region, Texas Forts Trail Region, Texas Hill Country Trail Region, Texas Independence Trail Region, Texas Lakes Trail Region, Texas Mountain Trail Region Texas Pecos Trail Region, Texas Plains Trail Region, and Texas Tropical Trail Region

(8) Staff--Program staff members of the Commission's THTP and other employees of the Commission

### §30.3. Texas Heritage Trail Region Participation.

(a) The Commission established the Texas Heritage Trails Program and, with the Texas Department of Transportation's cooperation, adopted the state's ten Texas Travel Trails to divide Texas into ten Heritage Trail Regions (Texas Brazos Trail Region, Texas Forest Trail Region, Texas Forts Trail Region, Texas Hill Country Trail Region, Texas Independence Trail Region, Texas Lakes Trail Region, Texas Mountain Trail Region Texas Pecos Trail Region, Texas Plains Trail Region, and Texas Tropical Trail Region).

(b) The THTP is a program of the Commission and permission to participate in the program is granted to regional organizations by action of the Commission and may be revoked by the Commission in its sole discretion at any time.

(c) The Commission may approve a regional organization to represent and operate under the name of their respective region as determined by the Commission. No more than one nonprofit entity shall be approved for any one region; however, the Commission may approve a nonprofit entity to represent more than one region. The entity must retain its Texas and Internal Revenue Service nonprofit status in good standing for the duration of program participation.

(d) The Commission shall establish and maintain heritage tourism principles, vision, mission, values, goals, and strategies for the purposes of this chapter that regional organizations participating in the program shall follow.

### §30.4. Texas Heritage Trail Region Management.

(a) Each regional organization shall be led by a Board of Directors which shall appoint a Chair or President to represent the board in matters related to the participation in the program. All board members and officers shall reside or work within the geographic boundaries of the region or otherwise demonstrate an interest and ability to represent the communities and citizens within the region boundaries.

(b) Unless otherwise approved by the Commission, each regional organization shall provide a full-time, paid executive director with professional qualifications relevant to fulfilling the organization's heritage tourism mission activities, and terms of this chapter. For the purposes of this chapter, full-time employment means that the executive director works at least forty (40) hours per week.

(c) Each regional organization shall keep the Commission apprised of any executive director vacancy and shall move forward in an efficient manner to fill any vacancy of the position. Vacancy of the executive director position for greater than six (6) consecutive months may be considered cause for termination of regional organization's participation in the program by the Commission. A regional organization may request permission from the Commission to operate without a full-time, paid executive director due to financial or other extraordinary considerations. The Commission may grant such request, in its sole discretion, if it determines that the regional organization demonstrates the necessity for operating without a full-time, paid executive director and demonstrates the ability for the regional organization to fulfill its mission and the remainder of its obligations to the Commission and program in a manner that adequately serves the traveling public and regional constituents.

(d) The responsibility for selection, salary, employment and employee-related legal matters remains with the regional organization. Such executive director, and all other staff of regional organization, shall not be considered employees, agents or contractors of the Commission for any purpose.

(e) Each regional organization shall provide the Commission with a copy of the organization's bylaws, articles of incorporation, and/or other mission statements and organizing or operational principles, including revisions and updates to these documents that occur during participation. Any revisions or updates to these documents shall be provided to the Commission no later than sixty (60) days after adoption by the regional organization.

(f) Each regional organization shall insure that its bylaws and other organizing principles retain primary focus on the THTP and the development and promotion of heritage tourism within the region and Texas.

### §30.5. Texas Heritage Trail Program Operations.

(a) The Commission may provide financial assistance to support the operations of the regional organizations to the extent funds are appropriated for the program by the Legislature. The Commission may

establish match requirements and procedures to obtain financial assistance, provided such requirements and procedures are uniform to all participating regional organizations. The amount of financial support provided to a specific regional organization in any fiscal year may vary from region to region or from year to year. State funds received by a regional organization from the Commission may only be used for the purposes set forth under this rule and in the contract.

(b) Membership and sponsorship.

(1) A regional organization may, at its discretion, create membership or sponsorship initiatives to benefit the regional organization or the THTP. Regional organizations shall keep the Commission apprised of these programs and any requirements, fees, or benefits imposed upon or provided to members or sponsors.

(2) Membership fees or other revenue generated directly by a regional organization may be retained by the regional organization for its own use to further its objectives and purpose as a participant in the THTP.

(3) Regional organizations shall provide basic heritage tourism-related services and consultation to communities, organizations, or persons within its respective region as allowed by funding or scheduling, and regardless of membership or sponsorship status.

(c) The Commission shall establish methods of communications and outreach with and among the regional organizations that includes periodic updates, conference calls, and schedules of meetings. The Commission shall establish attendance requirements to ensure appropriate participation of executive directors and board representatives.

(d) The Commission may establish schedules and methods for regional visits, orientations and trainings.

(e) The Commission may, in its sole discretion, participate in or otherwise facilitate opportunities for regional organizations to take part in relevant consumer travel shows or travel industry events, subject to available funds. The Commission may develop requirements for event participation by the regional organizations.

(f) The Commission may, in its sole discretion, implement print and digital advertising campaigns for the THTP. The Commission shall consult with participating regional organizations regarding the implementation of new advertising campaigns, but the Commission shall have the final authority over the campaigns to be pursued and the resources to be associated with such campaigns.

(g) A regional organization may implement marketing and advertising campaigns independent of the Commission that relate directly to that regional organization's purpose, status, duties, and/or activities performed as a participant in the THTP. A regional organization must not use the name of Commission, the State of Texas, or any other state agency, nor any other non-consenting regional organization in any media release, public announcement, or public disclosure relating to the program, including in any promotional or marketing materials, customer lists, or business presentations, without the advance written approval of Commission.

(h) Publications and Materials.

(1) Use of THTP Materials is limited to a regional organization's participation in the THTP, as determined by Commission.

(2) The Commission will be solely responsible for the development, revisions, printing, reprinting, distribution, storage, and fulfillment of the Texas Heritage Travel Guide ("Travel Guide") as allowed by program funding. Regional organizations may request copies of the Travel Guide and other agency heritage tourism guides or products for their use or distribution, as inventories allow.

(3) The Commission, at its sole discretion, may solicit and accept sponsorship or advertising in heritage tourism guides or products to offset the costs of production, printing, and distribution. The Commission may consult with regional organizations on revisions or future versions of guides and materials. Regional organizations may suggest revisions or updates related to their respective regions in future versions of the guides and materials in accordance with the terms of the contract.

(4) A regional organization may produce and distribute publications or materials independent of the Commission that serve the mission of the regional organization and the THTP, in accordance with the contract between the regional organization and the Commission.

(i) The Commission shall establish guidelines and requirements for the use of agency-provided websites and digital applications by the regional organizations.

(1) The websites and digital applications shall be operated in accordance with the guidelines and requirements.

(2) Content shall conform to the requirements of the contract, content management system, customary professional standards, and any other guidelines developed and distributed by the Commission for the THTP.

(3) The focus of the websites and digital applications shall be on providing curated, non-commercial information for the heritage tourism market. The Commission shall have decision-making authority and editorial control over the information included on any of the websites and digital applications, and the manner and form in which it is included.

§30.6. Reporting, Records, and Planning.

(a) Regional organizations shall operate under a comprehensive and detailed Scope of Work and Budget, which will be incorporated by reference into the contract. The Scope of Work and Budget provide a blueprint for activities, reinforces accountability, and measures the success of the regional organization. The focus of the work, conducted in accordance with the Scope of Work, shall be the development, promotion, and other support for heritage tourism and historic sites.

(b) Regional organizations shall submit the Scope of Work and Budget for Commission review and approval prior to the beginning of the fiscal year covered by the Scope of Work and Budget. Documents submitted for review and approval shall be submitted according to a schedule and format approved by the Commission.

(c) Regional organizations shall submit periodic reports on its activities as outlined in the Heritage Trail Region's Scope of Work. Reports shall be due according to a schedule and format approved by the Commission.

(d) Each regional organization shall submit an annual report on its activities to THC, that includes narratives relating to the impact of the work to the mission of the regional organization. Each annual report shall cover the activities of the prior state fiscal year and is due to the Commission no later than November 30th of each year unless otherwise specified by the THC prior to September 30th of each year.

(e) Upon termination of a regional organization's participation in the THTP, the regional organization shall submit a report equivalent to the annual report covering the unreported period, if any, prior to termination.

(f) Either within the annual report or as a separate document submitted on the same schedule as the annual report, regional organizations shall provide THC with a financial accounting of its revenue and major expenditures during the state fiscal year.

(g) Regional organizations shall maintain financial and operational records in accordance with best practices for nonprofit organizations. The Commission, or an authorized representative of the state, may request documentation from, or inspection of, a regional organization's records in accordance with state law requirements.

§30.7. Branding and Use of Intellectual Property.

The Commission shall establish guidelines and requirements for the use of agency and THTP branding, marks, and intellectual property by the regional 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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Mark Wolfe

Executive Director

Texas Historical Commission

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For further information, please call: (512) 463-6092



## TITLE 16. ECONOMIC REGULATION

### PART 4. TEXAS DEPARTMENT OF LICENSING AND REGULATION

#### CHAPTER 65. BOILERS

The Texas Department of Licensing and Regulation (Department) proposes amendments to existing rules at 16 Texas Administrative Code (TAC), Chapter 65, Subchapter A, §65.2; Subchapter C, §65.13 and §65.15; Subchapter I, §65.63 and §65.64; Subchapter J, §65.71; and Subchapter R, §§65.608, 65.609, and 65.612, regarding the Boilers program.

#### JUSTIFICATION AND EXPLANATION OF THE RULES

The proposed rules update the boiler safety program rules to include specific conditions under which extensions of the interval between internal inspections of boilers may be approved. Four new definitions are added that are relevant to the expanded extension rule, §65.64. The proposed rules also remove the requirement for owners and operators to submit manufacturer's data reports for boilers, which are readily available to the Department online if needed.

Further, amendments are made to reflect a change in an American Society of Mechanical Engineers (ASME) national standard, the Section 1 rule on power boilers. Other amendments clarify existing rule requirements, update terminology, and increase consistency with boiler law and with prior rule changes. The proposed rule amendments are necessary to clarify the rules; instill industry best practices; and reflect the changes made by the ASME, and will provide flexibility, consistency, and certainty to boiler owners, operators, and authorized inspection agencies.

The proposed rules were discussed by the Board of Boiler Rules (Board) at its meeting on July 13, 2018. The Board recommended that the proposed rules be published in the *Texas Register* for public comment.

#### SECTION-BY-SECTION SUMMARY

The proposed amendments to §65.2 add definitions for "continuous water treatment," "operation," "out of service," and "standby," clarify the authorized inspector definition, and amend the "repair" definition to match boiler law. The section is also renumbered accordingly.

The proposed amendments to §65.13 remove the obligation to submit a manufacturer's data report to the department when installing a boiler.

The proposed amendments to §65.15 simplify language used in this section.

The proposed amendment to §65.63 corrects a reference.

The proposed amendments to §65.64 clarify the requirements for extension of the interval between internal inspections, and simplify the language used in the section.

The proposed amendments to §65.71 update terminology by removing the language "portable or stationary" when describing nonstandard boilers.

The proposed amendment to §65.608 updates the rule to specify that unfired steam boilers having more than 500 square feet of bare tube water heating surface must have two or more safety valves, in accordance with the revised ASME standard.

The proposed amendment to §65.609 updates the rule to specify that process steam generators having more than 500 square feet of bare tube water heating surface must have two or more safety valves, in accordance with the revised ASME standard.

The proposed amendments to §65.612 restructure the section for clarity.

#### FISCAL IMPACT ON STATE AND LOCAL GOVERNMENT

Brian E. Francis, Executive Director, has determined that for the first five-year period the proposed rules are in effect there will be no direct costs to the state or local governments as a result of enforcing or administering the proposed rules.

Mr. Francis has determined that for each year of the first five years the proposed rules are in effect, there is no estimated increase or loss in revenue to the state or local government as a result of enforcing or administering the proposed rules.

Mr. Francis has determined that for each year of the first five years the proposed rules are in effect, there are no foreseeable implications relating to costs or revenues to local government as a result of enforcing or administering the proposed rules.

#### LOCAL EMPLOYMENT IMPACT STATEMENT

Mr. Francis has determined that the proposed rules will not affect any local economy, so the agency is not required to prepare a local employment impact statement under Government Code §2001.022.

#### PUBLIC BENEFITS

Mr. Francis has also determined that for each year of the first five-year period the proposed rules are in effect, the public will benefit from increased consistency within the extension approval process, which will contribute to the efficient, effective operation of the boiler safety program to protect the public.

#### PROBABLE ECONOMIC COSTS TO PERSONS REQUIRED TO COMPLY WITH PROPOSAL

Mr. Francis has determined that for each year of the first five-year period the proposed rules are in effect, there are no antic-

ipated economic costs to persons who are required to comply with the proposed rules.

#### FISCAL IMPACT ON SMALL BUSINESSES, MICRO-BUSINESSES, AND RURAL COMMUNITIES

There will be no adverse effect on small businesses, micro-businesses, or rural communities as a result of the proposed rules.

Since the agency has determined that the proposed rules will have no adverse economic effect on small businesses, micro-businesses or rural communities, preparation of an Economic Impact Statement and Regulatory Flexibility Analysis, as detailed under Texas Government Code §2006.002, are not required.

#### ONE-FOR-ONE REQUIREMENT FOR RULES WITH A FISCAL IMPACT

Under Government Code §2001.0045, a state agency may not adopt a proposed rule if the fiscal note states that the rule imposes a cost on regulated persons, including another state agency, a special district, or a local government, unless the state agency: (a) repeals a rule that imposes a total cost on regulated persons that is equal to or greater than the total cost imposed on regulated persons by the proposed rule; or (b) amends a rule to decrease the total cost imposed on regulated persons by an amount that is equal to or greater than the cost imposed on the persons by the rule. There are exceptions for certain types of rules under §2001.0045(c).

The proposed rules do not have a fiscal note that imposes a cost on regulated persons, including another state agency, a special district, or a local government. Therefore, the agency is not required to take any further action under Government Code §2001.0045(c).

#### GOVERNMENT GROWTH IMPACT STATEMENT

Pursuant to Government Code §2001.0221, the agency provides the following Government Growth Impact Statement for the proposed rules. For each year of the first five years the proposed rules will be in effect, the agency has determined the following:

- (1) The proposed rule does not create or eliminate a government program.
- (2) Implementation of the proposed rule does not require the creation of new employee positions or the elimination of existing employee positions.
- (3) Implementation of the proposed rule does not require an increase or decrease in future legislative appropriations to the agency.
- (4) The proposed rule does not require an increase or decrease in fees paid to the agency.
- (5) The proposed rule does not create a new regulation.
- (6) The proposed rule does not limit or repeal an existing regulation, but does expand 16 TAC §65.64, Extensions, and adds four new definitions. The amendments add specificity to the conditions under which extensions may be granted or denied, to provide flexibility, consistency, and certainty to owners, operators, and authorized inspection agencies. The expansion of the conditions for granting extensions does not add regulatory burdens and is expected to ease compliance and result in the same availability of extensions to the regulated community.

(7) The proposed rule decreases to zero the number of individuals subject to the requirement to provide a Manufacturer's Data Report to the department upon installation of a boiler.

(8) The proposed rule does not positively or adversely affect this state's economy.

#### TAKINGS IMPACT ASSESSMENT

The Department has determined that no private real property interests are affected by this proposal and this proposal does not restrict, limit, or impose a burden on an owner's rights to his or her private real property that would otherwise exist in the absence of government action. As a result, this proposal does not constitute a taking or require a takings impact assessment under Government Code §2007.043.

#### PUBLIC COMMENTS

Comments on the proposal may be submitted by mail to Pauline Easley, Legal Assistant, Texas Department of Licensing and Regulation, P.O. Box 12157, Austin, Texas 78711; or by facsimile to (512) 475-3032, or electronically to [erule.comments@tdlr.texas.gov](mailto:erule.comments@tdlr.texas.gov). The deadline for comments is 30 days after publication in the *Texas Register*.

### SUBCHAPTER A. GENERAL PROVISIONS

#### 16 TAC §65.2

##### STATUTORY AUTHORITY

The amendments are proposed under Texas Occupations Code, Chapter 51, and Health and Safety Code, Chapter 755, which authorize the Commission, the Department's governing body, to adopt rules as necessary to implement these chapters and any other law establishing a program regulated by the Department.

The statutory provisions affected by the proposal are those set forth in Texas Occupations Code, Chapter 51, and Health and Safety Code, Chapter 755. No other statutes, articles, or codes are affected by the proposal.

##### *§65.2. Definitions.*

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

(1) - (6) (No change.)

(7) Authorized inspection agency--An inspector employed by an authorized inspection agency who holds ~~[holding]~~ a commission issued by the executive director.

(8) - (19) (No change.)

(20) Continuous water treatment--A verifiable program that controls and limits corrosion and deposits in a boiler.

(21) [(20)] Department--Texas Department of Licensing and Regulation.

(22) [(21)] Deputy Inspector--An inspector appointed by the executive director.

(23) [(22)] Disconnected Boiler--A boiler in which all fuel, water, steam and electricity are removed from any connection on the boiler. These connections shall provide an isolated gap and the source shall be safely isolated to prevent potential leaks or electrical hazards.

(24) [(23)] Electric Boiler--A boiler in which the source of heat is electricity, such as an electrode type boiler and an immersion resistance element type boiler.

(25) [(24)] Electrode Type Boiler--An electric boiler in which heat is generated by the passage of electric current using water as the conductor.

(26) [(25)] Executive Director--The executive director of the department.

(27) [(26)] External Inspection--An inspection of the exterior of a boiler and its appurtenances that is made, if possible, while the boiler is in operation.

(28) [(27)] Heat Recovery Steam Generator (HRSG)--A boiler which produces steam where its principle source of thermal energy is a hot gas stream having high ramp rates, such as the exhaust of a gas turbine.

(29) [(28)] Heating Boiler--A steam heating boiler, hot water heating boiler, hot water supply boiler, or potable water heater that is directly fired with oil, gas, solar energy, electricity, coal, or other solid or liquid fuel.

(30) [(29)] High-Temperature Water Boiler--A water boiler designed for operation at pressures exceeding 160 pounds per square inch gage (1100 kilopascals) or temperatures exceeding 250 degrees Fahrenheit (121 degrees Celsius).

(31) [(30)] Hot Water Heating Boiler--A boiler designed for operation at a pressure not exceeding 160 pounds per square inch gage (1100 kilopascals) or temperatures not exceeding 250 degrees Fahrenheit (121 degrees Celsius) at or near the boiler outlet.

(32) [(31)] Hot Water Supply Boiler--A boiler designed for operation at pressures not exceeding 160 pounds per square inch gage (1100 kilopascals) or temperatures not exceeding 250 degrees Fahrenheit (121 degrees Celsius) at or near the boiler outlet if the boiler's heat input exceeds 200,000 British thermal units per hour (58.6 kilowatts); water temperature exceeds 210 degrees Fahrenheit (99 degrees Celsius); or nominal water-containing capacity exceeds 120 gallons (454 Liters).

(33) [(32)] Immersion Resistance Element Type Boiler--An electric boiler in which heat is generated by the passage of an electric current through a resistance heating element immersed in water.

(34) [(33)] Inspection Agency--An authorized inspection agency providing inspection services.

(35) [(34)] Inspector--The chief inspector, a deputy inspector, or an authorized inspector.

(36) [(35)] Install--To place, position or fit into position and then to connect, change or modify in such a manner as to bring the boiler into service.

(37) [(36)] Installation--The act of installing a boiler or associated equipment.

(38) [(37)] Internal inspection--A complete and thorough inspection of the interior waterside and fireside areas of a boiler as construction allows.

(39) [(38)] Maximum Allowable Working Pressure (MAWP)--The greatest pressure at which a boiler is designed to operate.

(40) [(39)] Metric (SI)--An international system of measurement.

(41) [(40)] Metrication--The process of converting between US customary units and metric (SI) units.

(42) [(41)] Modular Boiler--A steam or hot water heating assembly consisting of a group of individual boilers called modules, intended to be installed as a unit, with a single inlet and single outlet. Modules may be under one jacket or may be individually jacketed.

(43) [(42)] Multiple Pressure Steam Generator--A boiler consisting of several sections of heat exchange surface designed for different pressure levels.

(44) [(43)] National Board--The National Board of Boiler and Pressure Vessel Inspectors.

(45) [(44)] National Board Inspection Code--The manual for boiler and pressure vessel inspectors published by the National Board.

(46) [(45)] Nominal--The accepted ASME standard used to designate a size or capacity of an item.

(47) [(46)] Non-Code Boiler--A complete boiler not constructed to the appropriate ASME Code.

(48) [(47)] Nonstandard Boiler--A boiler that does not qualify as a standard boiler.

(49) [(48)] Nuclear Boiler--A nuclear power plant system, including its pressure vessels, piping systems, pumps, valves, and storage tanks that produces and controls an output of thermal energy from nuclear fuel and the associated systems essential to the function of the power system.

(50) Operation--A boiler is in operation when the energy source is being applied to the boiler.

(51) Out of Service--A boiler is out of service when it is not in operation and its water level is at less than normal operating level.

(52) [(49)] Owner or Operator--Any person, firm, or corporation owning or operating boilers within the State of Texas.

(53) [(50)] Person--An individual, corporation, partnership, association or other legal entity.

(54) [(51)] Pool Heater--A hot water supply boiler or a potable water heater designed to provide hot water to a pool.

(55) [(52)] Portable Boiler--A boiler primarily intended for use at a temporary location.

(56) [(53)] Potable Water Heater--A boiler designed for operation at pressures not exceeding 160 pounds per square inch gage (1100 kilopascals) and water temperatures not exceeding 210 degrees Fahrenheit (99 degrees Celsius) if the boiler's heat input exceeds 200,000 British thermal units per hour (58.6 kilowatts) or nominal water-containing capacity exceeds 120 gallons (454 liters).

(57) [(54)] Power Boiler--A high-temperature water boiler or a boiler in which steam is generated at a pressure exceeding 15 pounds per square inch gage (103 kilopascals) for a purpose external to the boiler.

(58) [(55)] Preliminary order--A written order issued by the chief inspector or any commissioned boiler inspector to require repairs or alterations to render a boiler safe for use or to require that operation of the boiler be discontinued. The Boiler Inspection report which requires repairs to be made or the boiler operation to be ceased which is signed by the chief inspector or a commissioned boiler inspector is a Preliminary Order.

(59) [(56)] Process Steam Generator--An evaporator, heat exchanger, or vessel in which steam is generated by the use of heat resulting from the operation of a processing system that contains a num-



ber of pressure vessels, such as used in the manufacture of chemical and petroleum products.

(60) [(57)] Reinstalled Boiler--A boiler removed from its original setting and reinstalled at the same location or at a new location without change of ownership.

(61) [(58)] Repair--The work necessary to return a boiler [restore pressure-retaining items] to a safe and satisfactory operating condition without changing the original design.

(62) [(59)] Rules--The rules promulgated and enforced by the commission in accordance with Texas Health and Safety Code, §755.032 and Texas Occupations Code, Chapter 51.

(63) [(60)] Safety Appliance--A safety device such as a safety valve or a pressure relief valve for a boiler provided to diminish the danger of accidents.

(64) [(61)] Secondhand Boiler--A boiler in which the location and ownership have changed.

(65) [(62)] Serious Accident--An explosion resulting in any degree of distortion to the wall of the boiler or related equipment or damage to the building where the boiler is located. Or, emergency medical services are dispatched to the location of a boiler accident in which one or more persons require on-site medical services, transport to a medical facility or the accident results in a fatality.

(66) [(63)] Special Inspection--An inspection by the chief inspector or deputy inspector other than those in Texas Health and Safety Code, §§755.025 - 755.027.

(67) [(64)] Stacked Boiler--A design in which one boiler is placed onto a rack above another boiler, as designed by the boiler manufacturer with a rack nameplate, and as approved by the department.

(68) [(65)] Standard Boiler--A boiler that bears the stamp of a nationally recognized engineering professional society, or the stamp of any jurisdiction that has adopted a standard of construction equivalent to the standard required by the executive director.

(69) Standby--A boiler is in standby condition when it is not in operation and its water level is at least at the normal operating level.

(70) [(66)] Steam Heating Boiler--A boiler designed for operation at pressures not exceeding 15 pounds per square inch gage (103 kilopascals).

(71) [(67)] System Pressure--The pressure of the boiler system, which is governed by the highest safety valve or pressure relief valve set pressure as allowed by ASME Code and this chapter.

(72) [(68)] Texas Commission--Authorization to inspect boilers and enforce Texas Health and Safety Code, Chapter 755, and 16 Texas Administrative Code, Chapter 65, on behalf of the department.

(A) ASME Only Commission--Only authorizes an inspector to conduct ASME new construction activities.

(B) In-Service Only Commission--Only authorizes an inspector to conduct boiler in-service activities.

(C) ASME and In-Service Commission--Authorizes an inspector to conduct both activities in subparagraphs (A) and (B).

(73) [(69)] Unfired Steam Boiler--An unfired pressure vessel in which steam is generated. The term does not include: vessels known as evaporators or heat exchangers; or vessels in which steam is generated by using the heat that results from the operation of a processing system that contains a number of pressure vessels, as used in the manufacture of chemical and petroleum products.

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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Brian E. Frances

Executive Director

Texas Department of Licensing and Regulation

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For further information, please call: (512) 463-8179



## SUBCHAPTER C. BOILER REGISTRATION AND CERTIFICATE OF OPERATION-- REQUIREMENTS

### 16 TAC §65.13, §65.15

The amendments are proposed under Texas Occupations Code, Chapter 51, and Health and Safety Code, Chapter 755, which authorize the Commission, the Department's governing body, to adopt rules as necessary to implement these chapters and any other law establishing a program regulated by the Department.

The statutory provisions affected by the proposal are those set forth in Texas Occupations Code, Chapter 51, and Health and Safety Code, Chapter 755. No other statutes, articles, or codes are affected by the proposal.

#### §65.13. Boiler Installation.

(a) The owner or operator of a boiler in this state must submit a boiler installation report [the following] to the department within thirty (30) days after completion of a boiler installation.

[(1) A boiler installation report; and]

[(2) A manufacturer's data report for the boiler.]

(b) - (c) (No change.)

#### §65.15. Boiler Certification Requirements.

(a) To be eligible for a certificate of operation, the following requirements must be met [each boiler must meet the following]:

(1) compliance with new boiler installation [comply with] §65.200;

(2) completion and submission of the [have an] applicable inspection report [completed];

(3) [if necessary, complete] required repairs completed; and

(4) payment of [pay the] fees [required] under §65.300.

(b) - (c) (No change.)

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

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## SUBCHAPTER I. INSPECTION OF BOILERS

### 16 TAC §65.63, §65.64

The amendments are proposed under Texas Occupations Code, Chapter 51, and Health and Safety Code, Chapter 755, which authorize the Commission, the Department's governing body, to adopt rules as necessary to implement these chapters and any other law establishing a program regulated by the Department.

The statutory provisions affected by the proposal are those set forth in Texas Occupations Code, Chapter 51, and Health and Safety Code, Chapter 755. No other statutes, articles, or codes are affected by the proposal.

#### §65.63. *Inspection of Portable Boilers.*

The internal and external inspection of Portable Boilers shall occur as follows:

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

(4) Boilers designated as a Nonstandard Boiler in accordance with §65.45 [~~§65.43~~], shall be inspected annually.

#### §65.64. *Extension of Interval between Internal Inspections.*

(a) To extend the interval between internal inspections [~~For the interval between internal inspection to be extended~~] as provided for in Texas Health and Safety Code, §755.026, the following procedure must be followed.

(1) Before the expiration date of the current certificate of operation, the owner or operator shall submit in a manner prescribed by the department a request for extension for each boiler, including the following:

(A) the desired length of extension for a time period no more than one (1) year following the expiration date of the current certificate of operation;

(B) the date of the last internal inspection; and

(C) a statement certifying that records are available demonstrating compliance with Texas Health and Safety Code, §755.026, and this section.

~~[(1) Not less than thirty (30) days and not more than sixty (60) days prior to the expiration date of the current certificate of operation, the owner or operator shall submit in a manner prescribed by the department a request for each boiler, stating the desired length of extension, which will be no more than one (1) year from the expiration date of the current certificate of operation, the date of the last internal inspection, and a statement certifying that records are available showing compliance with Texas Health and Safety Code, §755.026, and pay the required fees.]~~

(2) The department shall notify the owner or operator and the inspection agency having jurisdiction of the maximum extension period that may be approved.

(3) Before [~~Prior to~~] the expiration of the current certificate of operation, the inspection agency shall review all records and make an external inspection. The inspection agency shall submit the inspection

report in accordance with Texas Health and Safety Code, §755.027. [~~make an external inspection, and submit the external inspection report to the department.~~]

(4) Upon completion of the requirements in paragraphs (1) - (3) and payment of all required fees, a new certificate of operation may be issued for the extended period of operation.

(5) Violations noted during the external inspection may be cause for denial of the extension request.

(6) If the department denies an extension request, the boiler shall be internally inspected before [~~prior to~~] the expiration of the certificate of operation [~~unless authorized in writing to continue operation until an internal inspection can be conducted~~].

(7) Boilers for which the certificate of operation has expired must pass internal and external inspections before a new certificate of operation may be issued.

(b) The interval between internal inspections may be extended if, at all times since the last internal inspection, continuous water treatment has been maintained and:

(1) the boiler was in operation;

(2) the boiler was in standby;

(3) the boiler was out of service for periods not exceeding ten (10) consecutive days; or

(4) the boiler was out of service for any periods exceeding ten (10) consecutive days and the owner or operator had:

(A) notified the department and the authorized inspection agency in a manner prescribed by the department and in accordance with paragraph (5) that the period of time out of service was expected to exceed ten (10) consecutive days; and

(B) requested from the department and obtained written confirmation from the department that eligibility for extension of the interval between internal inspections would be maintained despite the period of time that the boiler was out of service.

(5) The notification required in (b)(4)(A):

(A) may be made by the authorized inspection agency.

(B) shall be made on the earlier of:

(i) the date on which the owner or operator becomes aware that the period of time out of service will exceed ten (10) consecutive days; or

(ii) the date on which the boiler has been out of service for ten (10) consecutive days.

(c) A request for extension of the interval between internal inspections may be denied for failure to comply with any applicable provision of the Texas Health and Safety Code, Chapter 755, or this chapter.

(d) [~~(b)~~] An additional extension for up to one hundred twenty (120) days may be allowed as provided for in Texas Health and Safety Code, §755.026, when it is established an emergency exists.

(1) Before [~~Prior to~~] the expiration date of the current certificate of operation, the owner or operator shall submit to the department, in the manner prescribed by the department, a request stating an emergency exists with an explanation of the emergency and the date of the last internal inspection. The request shall be submitted along with the inspection agency's external inspection report, confirming compliance with Texas Health and Safety Code, §755.026.

(2) The department shall notify the owner or operator and the inspection agency having jurisdiction of the maximum extension period that may be approved.

(3) Upon completion of paragraphs (1) and (2) and payment of all required fees, a new certificate of operation may be issued for the extended period of operation.

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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Brian E. Frances  
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Texas Department of Licensing and Regulation  
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For further information, please call: (512) 463-8179



## SUBCHAPTER J. TEXAS BOILER NUMBERS

### 16 TAC §65.71

The amendments are proposed under Texas Occupations Code, Chapter 51, and Health and Safety Code, Chapter 755, which authorize the Commission, the Department's governing body, to adopt rules as necessary to implement these chapters and any other law establishing a program regulated by the Department.

The statutory provisions affected by the proposal are those set forth in Texas Occupations Code, Chapter 51, and Health and Safety Code, Chapter 755. No other statutes, articles, or codes are affected by the proposal.

§65.71. *Texas Boiler Number--Placement on Boiler.*

(a) - (e) (No change.)

(f) Nonstandard [~~Portable or stationary nonstandard~~] boilers shall be identified by the Texas boiler number as described in subsection (b), with an exception that the Texas boiler number decal shall not be applied. The letters "TEXAS SPECIAL" or "TX SPCL" shall identify [~~portable or stationary~~] nonstandard boilers and shall be stamped directly above the Texas boiler number.

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 R. TECHNICAL REQUIREMENTS

### 16 TAC §§65.608, 65.609, 65.612

The amendments are proposed under Texas Occupations Code, Chapter 51, and Health and Safety Code, Chapter 755, which authorize the Commission, the Department's governing body, to adopt rules as necessary to implement these chapters and any other law establishing a program regulated by the Department.

The statutory provisions affected by the proposal are those set forth in Texas Occupations Code, Chapter 51, and Health and Safety Code, Chapter 755. No other statutes, articles, or codes are affected by the proposals.

§65.608. *Unfired Steam Boilers.*

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

(c) Safety valves and pressure relief valves.

(1) - (2) (No change.)

(3) Each ASME Code, Section I, unfired steam boiler shall have one safety valve and if it has more than 500 square feet (47 square meters) of bare tube water heating surface, it shall have two or more safety valves.

(A) The valve or valves shall be connected to the boiler, independent of any other steam connection, and attached as close as practicable to the boiler without unnecessary intervening pipe or fittings.

(B) Valves, except a changeover valve as defined in §65.2(14), shall not be placed between the required safety valve or pressure relief valve or valves and the boiler nor on the discharge pipe between the safety valve or pressure relief valve and the atmosphere.

(C) The safety valve capacity of each unfired steam boiler must allow the safety valve or valves to discharge all the steam that can be generated by the boiler without allowing the pressure to rise more than 6.0% above the highest pressure to which any valve is set, and to no more than 6.0% above the MAWP.

(4) - (6) (No change.)

(d) - (h) (No change.)

§65.609. *Process Steam Generators.*

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

(d) Safety valves and pressure relief valves.

(1) - (2) (No change.)

(3) Each ASME Code, Section I, process steam generator, shall have one safety valve and if it has more than 500 square feet (47 square meters) of bare tube water heating surface, it shall have two or more safety valves. ASME Code, Section I, safety valves shall be applicably stamped.

(A) The valve or valves shall be connected to the steam collection or liberation drum of the process steam generator, independent of any other steam connection, and attached as close as practicable to the steam collection or liberation drum without unnecessary intervening pipe or fittings.

(B) No valves, except as defined in §65.2(14), of any description shall be placed between the required safety valve or pressure relief valve or valves and the steam collection or liberation drum, nor on the discharge pipe between the safety valve or pressure relief valve and the atmosphere.

(C) The safety valve capacity of each process steam generator, shall allow the safety valve or valves to discharge all the

steam that can be generated by the process steam generator without allowing the pressure to rise more than 6.0% above the highest pressure to which any valve is set, and to no more than 6.0% above the MAWP.

(4) - (6) (No change.)

(e) - (i) (No change.)

§65.612. *Repair and Alterations.*

(a) - (d) (No change.)

(e) Plugging of boiler tubes (excluding tubes in headers of economizers, evaporators, superheaters, or reheaters).

(1) Tube plugs shall be made of a material which is compatible with the material of the boiler tube being plugged and shall be welded into place, or manufactured to be expanded into the tube sheet or drum.

(2) Plugging boiler tubes on Fire Tube Boilers fabricated in accordance with ASME Section I or IV. Best practice is not to plug a boiler tube in a Fire Tube Boiler. If a Fire Tube Boiler tube is plugged, the following criteria shall apply.

~~[(A) Best practice is not to plug a boiler tube in a Fire Tube Boiler. If a Fire Tube Boiler tube is plugged, the following criteria shall apply.]~~

(A) ~~[(B)]~~ Plugging boiler tubes that are adjacent to another plugged boiler tube is prohibited.

(B) ~~[(C)]~~ No more than 10% of the total number of boiler tubes shall be plugged.

(C) ~~[(D)]~~ All non-expanded boiler tube plugs shall be welded into place.

(D) ~~[(E)]~~ All plugged boiler tubes shall be replaced prior to the next required Certificate Inspection.

(3) (No change.)

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

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## CHAPTER 86. VEHICLE TOWING AND BOOTING

The Texas Department of Licensing and Regulation (Department) proposes amendments to an existing rule at 16 Texas Administrative Code (TAC), Chapter 86, §86.705; and proposes the repeal of existing §86.213, regarding the Vehicle Towing and Booting program.

### JUSTIFICATION AND EXPLANATION OF THE RULES

The proposed rules implement changes from Senate Bill 1501 and Senate Bill 2065, 85th Legislature, Regular Session (2017), for the Vehicle Towing and Booting program. Collectively, these

bills eliminate the towing operator training license and establish standards of conduct for tow operators engaging in the non-consent relocation of vehicles from one area on a parking facility to another area on the same parking facility. The Department previously proposed these rules (43 TexReg 2688), but withdrew them (43 TexReg 4549), due to a technical oversight. The proposed rules are necessary to implement Senate Bill 1501 and Senate Bill 2065.

### SECTION-BY-SECTION SUMMARY

The proposed amendments to §86.705 create rules to establish standards of conduct necessary for a towing operator to engage in a non-consent relocation of vehicles from one area on a parking facility to another area on the same parking facility. It also establishes signage requirements necessary to provide vehicle operators with proper notice of the relocation date and time. Additionally, the signage helps minimize confusion over why a vehicle is relocated and provides details of where vehicles are relocated.

The proposed repeal of current §86.213 removes the towing operator training license from rules consistent with SB 1501.

### FISCAL IMPACT ON STATE AND LOCAL GOVERNMENT

Brian E. Francis, Executive Director, has determined that for each year of the first five years the proposed rules are in effect, there are no estimated additional costs or reductions in costs to state or local government as a result of enforcing or administering the proposed rules.

Mr. Francis has determined that for each year of the first five years after the proposed repeal of current §86.213, the state will have a \$650 per year revenue loss from the average of 26 people who obtained this type of license each year. There are currently 12 people with an active tow training license. Mr. Francis has also determined the deregulation of the tow training license will not result in increased revenue because the application fees are eliminated.

Mr. Francis has determined that for each year of the first five years after the proposed amendments to §86.705, the relocation of vehicles will not result in tow operators or companies paying more or less fees to the state. The relocation of vehicles does not have a fee attached to it, nor do the proposed rules eliminate any existing fees. Therefore, there is no increase or decrease in revenue to state or local government because of the proposed rules.

### LOCAL EMPLOYMENT IMPACT STATEMENT

Mr. Francis has determined that the proposed rules will not affect the local economy because local governments are not involved in the relocation of vehicles from one area of a parking facility to another area on the same parking facility. Local governments are also not involved in the issuance of tow training licenses.

Because Mr. Francis has determined that there is no local employment impact, the agency is not required to prepare a local employment impact statement under Government Code §2001.022.

### PUBLIC BENEFITS

Mr. Francis has determined that for each year of the first five-year period following the proposed repeal of current §86.213, the public benefit for the elimination of the tow training license is to streamline the licensing process and to ensure that tow operators are fully licensed at the earliest possible date.

Mr. Francis has also determined that for each year of the first five-year period the proposed amendments to §86.705 are in effect, the public benefit is to provide adequate notice for consumers in instances where a parking facility must conduct a non-consent relocation of vehicles from one area of a parking facility to another area on the same parking facility. The rules also provide full transparency regarding the conduct that tow operators are expected to adhere to when engaging in these types of tows.

Additionally, the ability to relocate vehicles within a parking facility allows vehicle operators to avoid towing and storage costs otherwise imposed when a vehicle is towed from a parking facility and stored at a vehicle storage facility, as well as eliminates the time that an owner must spend retrieving a vehicle after a tow. Any costs incurred for the relocation of vehicles from one area of a parking facility to another area is paid by the parking facility owner.

#### PROBABLE ECONOMIC COSTS TO PERSONS REQUIRED TO COMPLY WITH PROPOSAL

Mr. Francis has determined that for each year of the first five-year period following the proposed repeal of current §86.213, there are no economic costs for persons required to comply with the proposal. Tow operators will simply obtain full licensure instead of opting to apply for a tow training license.

Mr. Francis has also determined that for each year of the first five-year period following the proposed amendments to §86.705 are in effect, there could be marginal costs imposed upon tow operators engaging in non-consent relocations of vehicles from one area of a parking facility to another area of the same parking facility. The costs relate to signage that is required at parking facilities in order to provide notice of the date, time, and areas of relocation where vehicles are moved. The costs associated with creating these signs is marginal and will likely be a one-time cost given that signs may be reused and there are a variety of materials to choose from.

Tow operators may also opt to request that parking facility owners pay for the required signs prior to engaging in an agreement with a parking facility to relocate vehicles from one area of a parking facility to another area. In these instances, there is no resulting cost to tow operators for the required signage.

#### FISCAL IMPACT ON SMALL BUSINESSES, MICRO-BUSINESSES, AND RURAL COMMUNITIES

There may be a minimal, but not adverse, effect on small businesses or micro-businesses, but not on rural communities because of the proposed rules.

The proposed amendments to §86.705 will have marginal costs for signage imposed on tow operators or parking facility owners; many of whom are micro or small businesses. The Department is unable to estimate the number of small businesses subject to the proposed rule since it is unpredictable how often vehicle relocations may occur or what circumstances may necessitate these types of tows.

However, the signage requirements are generic and should pose a one-time, minimal cost for either entity. The proposed rules allow tow operators or parking facility owners to choose from a variety of materials out of which to construct their signs. This provides flexibility in material choice with price likely being a primary consideration for business owners.

Additionally, although the cost of relocating vehicles from one area of a parking facility to another is paid by a parking facil-

ity owner, these types of non-consent tows would likely affect a small number of vehicles at any given time.

Any costs of relocation would also be offset by the elimination of overage costs incurred by a parking facility when it is unable to complete facility projects because of the presence of vehicles in the affected area.

Since the agency has determined that the proposed rule may have minimal, but not adverse, economic effect on small businesses or micro-businesses, but not on rural communities, preparation of an Economic Impact Statement and a Regulatory Flexibility Analysis, as detailed under Texas Government Code §2006.002, is not required.

#### ONE-FOR-ONE REQUIREMENT FOR RULES WITH A FISCAL IMPACT

Under Government Code §2001.0045, a state agency may not adopt a proposed rule if the fiscal note states that the rule imposes a cost on regulated persons, including another state agency, a special district, or a local government, unless the state agency: (a) repeals a rule that imposes a total cost on regulated persons that is equal to or greater than the total cost imposed on regulated persons by the proposed rule; or (b) amends a rule to decrease the total cost imposed on regulated persons by an amount that is equal to or greater than the cost imposed on the persons by the proposed rule. There are exceptions for certain types of rules under §2001.0045(c).

The proposed rules do not have a fiscal note that imposes a cost on regulated persons, including another state agency, a special district, or a local government. Therefore, the agency is not required to take any further action under Government Code §2001.0045.

#### GOVERNMENT GROWTH IMPACT STATEMENT

Pursuant to Government Code §2001.0221, the agency provides the following Government Growth Impact Statement for the proposed rules. For each year of the first five years the rules will be in effect, the agency has determined the following:

(1) The proposed rules do not create or eliminate a government program because the towing industry is already regulated by the State.

(2) Implementation of the proposed rules does not require either the creation of new employee positions or the elimination of existing employee positions. The reduction in workload created by repealing §86.213 is minimal given the small number of licensees in any given year. The average number of licensees is 26. There are currently 12 tow training licensees as of April 19, 2018. Any increased workload resulting from enforcement of the proposed amendments to §86.705 will be handled by existing employees.

(3) Implementation of the proposed rule does not require an increase or decrease in future legislative appropriations to the agency because neither the repeal of §86.213 or the amendments to §86.705 involve legislative appropriations.

(4) The proposed repeal of §86.213 does require a decrease in fees paid to the agency. The repeal of the tow training license will amount to a loss of \$650 per year from license fees. There are an average of 26 people who obtain the license each year.

The proposed amendments to §86.705 do not require a decrease in fees paid to the agency because the relocation of vehicles does not involve any fees on the state level.

(5) The proposed rules in §86.705 do create new regulations related to the relocation of vehicles from one area of a parking facility to another area of the same parking facility. These regulations ensure that consumers are aware of the time, date, and areas of relocation 72 hours prior to vehicles being moved. The creation of these rules is legislatively mandated by Senate Bill 1501 and Senate Bill 2065, 85th Legislature, Regular Session (2017).

(6) The proposed repeal of §86.213 does eliminate an existing regulation related to the existence of a tow training license.

The proposed amendments to §86.705 do create existing regulations related to non-consent vehicle relocations. The creation of these regulations is mandated by Senate Bill 1501 and Senate Bill 2065, 85th Legislature, Regular Session (2017).

(7) The proposed repeal of §86.213 does decrease the number of individuals subject to the rule's applicability because the state will no longer issue tow training license.

The proposed amendments to §86.705 do not increase or decrease the number of individuals subject to the rule's applicability because the amendments are additions to towing rules already imposed upon tow operators and companies.

(8) The proposed rules do not positively or adversely affect this state's economy. The proposed repeal of §86.213 and the amendments to §86.705 have a neutral impact.

#### TAKINGS IMPACT ASSESSMENT

The Department has determined that no private real property interests are affected by this proposal and this proposal does not restrict, limit, or impose a burden on an owner's rights to his or her private real property that would otherwise exist in the absence of government action. As a result, this proposal does not constitute a taking or require a takings impact assessment under Government Code §2007.043.

#### PUBLIC COMMENTS

Comments on the proposal may be submitted by mail to Ana Villarreal, Legal Assistant, Texas Department of Licensing and Regulation, P.O. Box 12157, Austin, Texas 78711; or by facsimile to (512) 475-3032, or electronically to [erule.comments@tdlr.texas.gov](mailto:erule.comments@tdlr.texas.gov). The deadline for comments is 30 days after publication in the *Texas Register*.

#### 16 TAC §86.213

The repeal is proposed under the Texas Occupations Code, Chapters 51 and 2308, which authorize the Commission, the Department's governing body, to adopt rules as necessary to implement these chapters and any other law establishing a program regulated by the Department.

The statutory provisions affected by the proposal are those set forth in Texas Occupations Code, Chapters 51 and 2308. No other statutes, articles, or codes are affected by the proposal.

*§86.213. Licensing Requirements--Towing Operator Training License.*

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

Filed with the Office of the Secretary of State on September 19, 2018.

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Brian E. Francis

Executive Director

Texas Department of Licensing and Regulation

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For further information, please call: (512) 463-3671



#### 16 TAC §86.705

##### STATUTORY AUTHORITY

The amendments are proposed under the Texas Occupations Code, Chapters 51 and 2308, which authorize the Commission, the Department's governing body, to adopt rules as necessary to implement these chapters and any other law establishing a program regulated by the Department.

The statutory provisions affected by the proposal are those set forth in Texas Occupations Code, Chapters 51 and 2308. No other statutes, articles, or codes are affected by the proposal.

*§86.705. Responsibilities of Towing Company--Standards of Conduct.*

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

(n) Relocation from one area of a parking facility to another area on the same parking facility may occur if:

(1) Except in case of an emergency involving threat of imminent danger to property, signs complying with this section are installed in the parking facility a minimum of 72 hours preceding relocation.

(2) Each sign required under this subsection may be temporary and must:

(A) be mounted on a pole, post, wall or freestanding board;

(B) be at least 18 inches wide and 24 inches tall; and

(C) be installed so that the bottom edge of the sign is no lower than 6 inches and no higher than 6 feet above ground level.

(3) Each sign required under this subsection must contain:

(A) a red international tow symbol on a white background;

(B) a statement designating the areas which are temporary no parking areas and stating that vehicles parked in the designated area will be relocated to another location on the same parking facility; and

(C) the location where vehicles will be relocated, if known, or a telephone number, including area code, that is answered 24 hours a day to identify the location of a relocated vehicle.

(4) Each required sign must face and be conspicuously visible to a driver that enters the area of the parking facility from which vehicles will be relocated.

(5) Each required sign must be located:

(A) on the right or left of each driveway or curb-cut through which a vehicle can enter the area subject to relocation, including an entry from an alley abutting the facility; or

(B) at intervals along the entrance to the area subject to relocation so that no entrance is farther than 25 feet from a sign if:

(i) curbs, access barriers, landscaping, or driveways do not establish definite vehicle entrances onto the area of a parking facility subject to relocation; and

(ii) the width of an entrance to an area of relocation exceeds 35 feet.

(o) Upon request, the parking facility owner or agent must provide the contact information for the tow company responsible for the relocation.

(p) A peace officer is authorized to direct the relocation of a vehicle from one location on a parking facility to another location on the parking facility to further public safety.

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 19. EDUCATION

### PART 2. TEXAS EDUCATION AGENCY

#### CHAPTER 113. TEXAS ESSENTIAL KNOWLEDGE AND SKILLS FOR SOCIAL STUDIES

The State Board of Education (SBOE) proposes amendments to §§113.10 - 113.20, 113.41 - 113.44, and 113.51; new §§113.30, 113.31, and 113.76 - 113.80; and the repeal of §113.40, concerning Texas Essential Knowledge and Skills (TEKS) for social studies. The proposed revisions and repeal would streamline the social studies standards for implementation in the 2019 - 2020 school year.

In accordance with statutory requirements that the SBOE by rule identify the essential knowledge and skills of each subject in the required curriculum, the SBOE follows a board-approved cycle to review and revise the essential knowledge and skills for each subject.

At the June 2017 work session, the Committee of the Full Board indicated its intention to complete a streamlining of the social studies TEKS, with the latitude to make minor revisions to the standards if the revisions would not impact currently adopted instructional materials. The SBOE began the streamlining of the social studies TEKS in 2018. Applications to serve on TEKS streamlining work groups for social studies were posted on the Texas Education Agency (TEA) website in July 2017. Also in July 2017, TEA distributed a survey to collect information from educators regarding the streamlining of the social studies TEKS.

Initial applications for social studies TEKS streamlining work groups were provided to SBOE members for approval in September, October, November, and December 2017 and in

January, March, April, and June 2018. TEA continued collecting applications throughout the TEKS streamlining process and provided to the SBOE at regular intervals any new applications received.

At the January-February 2018 SBOE meeting, the board asked staff to provide to the work groups a crosswalk that had been developed between the current social studies TEKS and civics questions on the U.S. naturalization test. The board directed the work groups to avoid recommending deletion of information represented in the crosswalk.

In February 2018, Work Group A, the first social studies TEKS streamlining work group, convened in Austin to review survey results and feedback on the scope of the TEKS collected from focus groups convened by education service centers (ESCs). Work Group B was convened in March 2018 to review historical figures in the social studies TEKS. Work Group C was convened in April 2018 to make recommendations for streamlining the history and geography strands. In late May and early June 2018, Work Group D was convened to make recommendations for streamlining the geography; economics; government; citizenship; culture; science, technology, and society; and social studies skills strands. In August 2018, Work Group E was convened to make final recommendations for all strands and to ensure vertical alignment across all grade levels and courses.

In 2011, Senate Bill 6, 82nd Texas Legislature, First Called Session, amended the required curriculum to include economics, with emphasis on the free enterprise system and its benefits, as part of the subjects that constitute social studies rather than as a separate subject area. As a result of this change, the TEKS for economics would be moved to 19 TAC Chapter 113 as part of the streamlined social studies TEKS. The text of proposed new §113.31 reflects the addition of economics courses into Chapter 113 and revisions recommended by work groups and approved by the SBOE to the Economics with Emphasis on the Free Enterprise System and Its Benefits high school course. Additionally, proposed new 19 TAC Chapter 113, Subchapter D, §§113.76, 113.77, 113.78, 113.79, and 113.80, reflect the move of other economics courses from Chapter 118, Subchapter B.

The SBOE approved the proposed revisions and repeal for first reading and filing authorization at its September 14, 2018 meeting.

The proposed revisions and repeal would have no new procedural and reporting requirements. The proposed revisions and repeal would have no new locally maintained paperwork requirements.

FISCAL NOTE. Monica Martinez, associate commissioner for standards and support services, has determined that for the first five-year period the proposed revisions and repeal are in effect there will be additional costs to state government as a result of enforcing or administering the proposed revisions and repeal. For fiscal year 2018, the estimated cost to the TEA to reimburse committee members for travel to review and streamline the social studies TEKS is \$105,000. There would also be implications for the TEA if the state creates professional development to help teachers and administrators understand the streamlined TEKS. Any professional development that is created would be based on whether the TEA receives an appropriation for professional development in the next biennium.

The proposed revisions may have fiscal implications for local government, specifically school districts and charter schools, to implement the streamlined TEKS. The costs may include the

need for professional development and revisions to district-developed databases, curriculum, and scope and sequence documents. Since curriculum and instruction decisions are made at the local district level, it is difficult to estimate the fiscal impact on any given district.

There is no effect on local economy for the first five years that the proposed revisions and repeal are in effect; therefore, no local employment impact statement is required under Texas Government Code, §2001.022. The proposed revisions and repeal do not impose a cost on regulated persons, another state agency, a special district, or a local government and, therefore, are not subject to Texas Government Code, §2001.0045.

**GOVERNMENT GROWTH IMPACT.** TEA staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. During the first five years the proposed rulemaking would be in effect, it would not create or eliminate a government program; would not require the creation of new employee positions or elimination of existing employee positions; would not require an increase or decrease in future legislative appropriations to the agency; would not require an increase or decrease in fees paid to the agency; would not create a new regulation; would not expand, limit, or repeal an existing regulation; would not increase or decrease the number of individuals subject to its applicability; and would not positively or adversely affect the state's economy.

**PUBLIC BENEFIT/COST NOTE.** Ms. Martinez has determined that for each year of the first five years the proposed revisions and repeal are in effect, the public benefit anticipated as a result of enforcing the revisions and repeal will be to better align the TEKS and streamline the standards to ensure they can be reasonably taught within the amount of time typically allotted for the subject or course. There is no anticipated economic cost to persons who are required to comply with the proposed revisions and repeal.

**ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS FOR SMALL BUSINESSES, MICROBUSINESSES, AND RURAL COMMUNITIES.** There is no direct adverse economic impact for small businesses, microbusinesses, and rural communities; therefore, no regulatory flexibility analysis, specified in Texas Government Code, §2006.002, is required.

**REQUEST FOR PUBLIC COMMENT.** A form for submitting public comments is available on the TEA website at [https://tea.texas.gov/About\\_TEA/Laws\\_and\\_Rules/SBOE\\_Rules\\_\(TAC\)/Proposed\\_State\\_Board\\_of\\_Education\\_Rules/](https://tea.texas.gov/About_TEA/Laws_and_Rules/SBOE_Rules_(TAC)/Proposed_State_Board_of_Education_Rules/). Comments on the proposal may also be submitted to Cristina De La Fuente-Valadez, Rulemaking, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701. A request for a public hearing on the proposed revisions and repeal submitted under the Administrative Procedure Act must be received by the commissioner of education not more than 14 calendar days after notice of the proposal has been published in the *Texas Register*.

## SUBCHAPTER A. ELEMENTARY

### 19 TAC §§113.10 - 113.16

**STATUTORY AUTHORITY.** The amendments are proposed under the Texas Education Code (TEC), §7.102(c)(4), which requires the State Board of Education (SBOE) to establish curriculum and graduation requirements; and TEC, §28.002, which identifies the subjects of the required curriculum and requires the

SBOE by rule to identify the essential knowledge and skills of each subject in the required curriculum that all students should be able to demonstrate and that will be used in evaluating instructional materials and addressed on the state assessment instruments.

**CROSS REFERENCE TO STATUTE.** The amendments implement the Texas Education Code, §7.102(c)(4) and §28.002.

§113.10. *Implementation of Texas Essential Knowledge and Skills for Social Studies, Elementary, Adopted 2018 [Beginning with School Year 2011-2012].*

The provisions of §§113.11-113.16 of this subchapter shall be implemented by school districts beginning with the 2019-2020 [2011-2012] school year.

§113.11. *Social Studies, Kindergarten, Adopted 2018 [Beginning with School Year 2011-2012].*

#### (a) Introduction.

(1) In Kindergarten, the study of the self, home, family, and classroom establishes the foundation for responsible citizenship in society. Students explore state and national heritage by examining the celebration of patriotic holidays and the contributions of individuals. The concept of chronology is introduced. Students apply geographic concepts of location and physical and human characteristics of place. Students identify basic human needs and ways people meet these needs. Students learn the purpose of rules and the role of authority figures in the home and school. Students learn customs, symbols, and celebrations that represent American beliefs and principles and contribute to our national identity. Students compare family customs and traditions and describe examples of technology in the home and school. Students acquire information from a variety of oral and visual sources. Students practice problem-solving, decision-making, and independent-thinking skills.

(2) To support the teaching of the essential knowledge and skills, the use of a variety of rich material is encouraged. Motivating resources are available from museums, historical sites, presidential libraries, and local and state preservation societies.

(3) The eight strands of the essential knowledge and skills for social studies are intended to be integrated for instructional purposes. Skills listed in the social studies skills strand in subsection (b) of this section should be incorporated into the teaching of all essential knowledge and skills for social studies. A greater depth of understanding of complex content material can be attained when integrated social studies content from the various disciplines and critical-thinking skills are taught together. Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(4) Students identify the role of the U.S. free enterprise system within the parameters of this course and understand that this system may also be referenced as capitalism or the free market system.

(5) Throughout social studies in Kindergarten-Grade 12, students build a foundation in history; geography; economics; government; citizenship; culture; science, technology, and society; and social studies skills. The content, as appropriate for the grade level or course, enables students to understand the importance of patriotism, function in a free enterprise society, and appreciate the basic democratic values of our state and nation as referenced in the Texas Education Code (TEC), §28.002(h).

(6) Students understand that a constitutional republic is a representative form of government whose representatives derive their authority from the consent of the governed, serve for an established tenure, and are sworn to uphold the constitution.



(7) Students must demonstrate learning performance related to any federal and state mandates regarding classroom instruction. Although Kindergarten is not required to participate in Celebrate Freedom Week, according to the TEC, §29.907, primary grades lay the foundation for subsequent learning. As a result, Kindergarten Texas essential knowledge and skills include standards related to this patriotic observance.

(8) Students identify and discuss how the actions of U.S. citizens and the local, state, and federal governments have either met or failed to meet the ideals espoused in the founding documents.

(b) Knowledge and skills.

(1) History. The student understands that holidays are celebrations of special events. The student is expected to:

(A) ~~identify~~ [explain the reasons for] national patriotic holidays such as Constitution Day, Presidents' Day, Veterans Day, and Independence Day; and

(B) identify customs associated with national patriotic holidays such as parades and fireworks on Independence Day.

(2) History. The student understands how historical figures [; patriots, and good citizens] helped shape the [community,] state [; and] nation. The student is expected to [;]

[(A)] identify contributions of historical figures, including Stephen F. Austin, George Washington, and Christopher Columbus, [and José Antonio Navarro,] who helped to shape the state and nation. [; and]

[(B)] identify contributions of patriots and good citizens who have shaped the community.}]

[(3)] History. The student understands the concept of chronology. The student is expected to:}]

[(A)] place events in chronological order; and}]

[(B)] use vocabulary related to time and chronology, including before, after, next, first, last, yesterday, today, and tomorrow.}]

(3) [(4)] Geography. The student understands the concept of location. The student is expected to:

(A) use spatial terms, including over, under, near, far, left, and right, to describe relative location;

(B) locate places on the school campus and describe their relative locations; and

(C) identify and explore geographic tools that aid in determining location, including maps and globes.

(4) [(5)] Geography. The student understands physical and human characteristics of place to better understand self, home, family, classroom, and the world around them. The student is expected to:

(A) identify the physical characteristics of place such as landforms, bodies of water, Earth's [natural] resources, and weather; and

(B) identify how geographic location influences [the] human characteristics of place such as [ways of earning a living,] shelter, clothing, food, and activities [are based upon geographic location].

(5) [(6)] Economics. The student understands the difference between [that basic] human needs and wants and how they are met [in many ways]. The student is expected to:

(A) identify basic human needs of food, clothing, and shelter;

and (B) explain the difference between needs and wants;

(C) explain how basic human needs and wants can be met [such as through self-producing, purchasing, and trading].

(6) [(7)] Economics. The student understands the value of jobs. The student is expected to:

(A) identify jobs in the home, school, and community; and

(B) explain why people have jobs.

(7) [(8)] Government. The student understands the purpose of rules. The student is expected to:

(A) identify purposes for having rules; and

(B) identify rules that provide order, security, and safety in the home and school.

(8) [(9)] Government. The student understands the role of authority figures. The student is expected to:

(A) identify authority figures in the home, school, and community; and

(B) explain how authority figures [make and] enforce rules.

(9) [(10)] Citizenship. The student understands important symbols, customs, and responsibilities that represent American beliefs and principles and contribute to our national identity. The student is expected to:

(A) identify the [flags of the] United States flag and the Texas state flag;

(B) recite the Pledge of Allegiance to the United States Flag and the Pledge to the Texas Flag; and

[(C)] identify Constitution Day as a celebration of American freedom; and]

[(D)] use voting as a method for group decision making.

(10) [(11)] Culture. The student understands similarities and differences among individuals [people]. The student is expected to [;]

[(A)] identify similarities and differences among individuals [people] such as kinship [; laws,] and religion. [; and]

[(B)] identify similarities and differences among people such as music, clothing, and food.}]

(11) [(12)] Culture. The student understands the importance of family [customs and] traditions. The student is expected to:

(A) describe and explain the importance of family [customs and] traditions; and

(B) compare [family customs and] traditions among families.

(12) [(13)] Science, technology, and society. The student understands ways technology is used in the home and school and how technology affects people's lives. The student is expected to:

(A) identify examples of technology used in the home and school;

(B) describe how technology helps accomplish specific tasks and meet people's needs; and

(C) describe how his or her life might be different without modern technology.

(13) [(14)] Social studies skills. The student applies critical-thinking skills to organize and use information acquired from a variety of valid sources, including [electronic] technology. The student is expected to:

(A) ~~gather~~ [obtain] information about a topic using a variety of valid oral and visual sources such as [conversations,] interviews, [and] music, pictures, symbols, and artifacts; and

~~[(B) obtain information about a topic using a variety of valid visual sources such as pictures, symbols, electronic media, print material, and artifacts; and]~~

(B) [(C)] sequence and categorize information.

(14) [(15)] Social studies skills. The student communicates in oral and visual forms. The student is expected to:

(A) place events in chronological order;

(B) use social studies terminology correctly related to time and chronology, including before, after, next, first, last, yesterday, today, and tomorrow;

(C) [(A)] express ideas orally based on knowledge and experiences; and

(D) [(B)] create and interpret visuals, including pictures and maps.

(15) [(16)] Social studies skills. The student uses problem-solving and decision-making skills, working independently and with others[; in a variety of settings]. The student is expected to[;]

[(A)] use [a] problem-solving and decision-making processes [process] to identify a problem, gather information, list and consider options, consider advantages and disadvantages, choose and implement a solution, and evaluate the effectiveness of the solution.[; and]

~~[(B) use a decision-making process to identify a situation that requires a decision, gather information, generate options, predict outcomes, take action to implement a decision, and reflect on the effectiveness of the decision.]~~

§113.12. *Social Studies, Grade 1, Adopted 2018 [Beginning with School Year 2011-2012].*

(a) Introduction.

(1) In Grade 1, students study their relationship to the classroom, school, and community to establish the foundation for responsible citizenship in society. Students develop concepts of time and chronology by distinguishing among past, present, and future events. Students identify anthems and mottoes of the United States and Texas. Students create simple maps to identify the location of places in the classroom, school, and community. Students explore the concepts of goods and services and the value of work. Students identify individuals who exhibit good citizenship. Students describe the importance of family customs and traditions and identify how technology has changed family life. Students sequence and categorize information. Students practice problem-solving, decision-making, and independent-thinking skills.

(2) To support the teaching of the essential knowledge and skills, the use of a variety of rich material is encouraged. Motivating resources are available from museums, historical sites, presidential libraries, and local and state preservation societies.

(3) The eight strands of the essential knowledge and skills for social studies are intended to be integrated for instructional purposes. Skills listed in the social studies skills strand in subsection (b) of this section should be incorporated into the teaching of all essential knowledge and skills for social studies. A greater depth of understanding of complex content material can be attained when integrated social studies content from the various disciplines and critical-thinking skills are taught together. Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(4) Students identify the role of the U.S. free enterprise system within the parameters of this course and understand that this system may also be referenced as capitalism or the free market system.

(5) Throughout social studies in Kindergarten-Grade 12, students build a foundation in history; geography; economics; government; citizenship; culture; science, technology, and society; and social studies skills. The content, as appropriate for the grade level or course, enables students to understand the importance of patriotism, function in a free enterprise society, and appreciate the basic democratic values of our state and nation as referenced in the Texas Education Code (TEC), §28.002(h).

(6) Students understand that a constitutional republic is a representative form of government whose representatives derive their authority from the consent of the governed, serve for an established tenure, and are sworn to uphold the constitution.

(7) Students must demonstrate learning performance related to any federal and state mandates regarding classroom instruction. Although Grade 1 is not required to participate in Celebrate Freedom Week, according to the TEC, §29.907, primary grades lay the foundation for subsequent learning. As a result, Grade 1 Texas essential knowledge and skills include standards related to this patriotic observance.

(8) Students identify and discuss how the actions of U.S. citizens and the local, state, and federal governments have either met or failed to meet the ideals espoused in the founding documents.

(b) Knowledge and skills.

(1) History. The student understands the origins of customs, holidays, and celebrations. The student is expected to:

(A) describe the origins of customs, holidays, and celebrations of the community, state, and nation such as Constitution Day [San Jacinto Day], Independence Day, and Veterans Day; and

(B) compare the observance of holidays and celebration[; past and present].

(2) History. The student understands how historical figures[; patriots, and good citizens] helped shape the [community,] state[;] and nation. The student is expected to:

(A) identify contributions of historical figures, including Sam Houston, George Washington, Abraham Lincoln, and Martin Luther King Jr., who have influenced the [community,] state[;] and nation; and

~~[(B) identify historical figures such as Alexander Graham Bell, Thomas Edison, Garrett Morgan, and Richard Allen, and other individuals who have exhibited individualism and inventiveness; and]~~

(B) [(C)] compare the [similarities and differences among the] lives [and activities] of historical figures [and other individuals] who have influenced the [community,] state[;] and nation.

~~[(3) History. The student understands the concepts of time and chronology. The student is expected to:]~~

~~[(A) distinguish among past, present, and future;]~~

~~[(B) describe and measure calendar time by days, weeks, months, and years; and]~~

~~[(C) create a calendar and simple timeline.]~~

~~(3) [(4) Geography. The student understands the relative location of places. The student is expected to:~~

~~[(A) describe the location of self and objects relative to other locations in the classroom and school using spatial terms; and]~~

~~[(B) [(A)] locate places using the four cardinal directions. [; and]~~

~~[(B) describe the location of self and objects relative to other locations in the classroom and school.]~~

~~(4) [(5) Geography. The student understands the purpose of geographic tools, including maps and globes. The student is expected to:~~

~~(A) create and use simple maps such as maps of the home, classroom, school, and community; and]~~

~~(B) locate and explore the community, Texas, and the United States on maps and globes.~~

~~(5) [(6) Geography. The student understands [various] physical and human characteristics of place to better understand their community and the world around them. The student is expected to:~~

~~(A) identify and describe the physical characteristics of place such as landforms, bodies of water, Earth's [natural] resources, and weather; and]~~

~~[(B) identify examples of and uses for natural resources in the community, state, and nation; and]~~

~~[(B) [(C)] identify and describe how geographic location influences the human characteristics of place such as shelter, clothing, food, and activities [are based upon geographic location].~~

~~(6) [(7) Economics. The student understands how families meet basic human needs. The student is expected to:~~

~~(A) describe ways that families meet basic human needs; and]~~

~~(B) describe similarities and differences in ways families meet basic human needs.~~

~~(7) [(8) Economics. The student understands the concepts of goods and services. The student is expected to:~~

~~(A) identify examples of goods and services in the home, school, and community;~~

~~and]~~

~~(B) identify ways people exchange goods and services;~~

~~(C) identify the role of markets in the exchange of goods and services.~~

~~(8) [(9) Economics. The student understands the condition of not being able to have all the goods and services one wants. The student is expected to:~~

~~(A) identify examples of people wanting more than they can have;~~

~~(B) explain why wanting more than they can have requires that people make choices; and]~~

~~(C) identify examples of choices families make when buying goods and services.~~

~~(9) [(10)] Economics. The student understands the value of work. The student is expected to:~~

~~(A) describe the tools [components] of various jobs and the characteristics of a job well performed; and]~~

~~(B) describe how various [specialized] jobs contribute to the production of goods and services.~~

~~(10) [(11)] Government. The student understands the purpose of rules and laws. The student is expected to:~~

~~(A) explain the purpose for rules and laws in the home, school, and community; and]~~

~~(B) identify rules and laws that establish order, provide security, and manage conflict.~~

~~(11) [(12)] Government. The student understands the role of authority figures and [;] public officials[; and citizens]. The student is expected to:~~

~~(A) identify the responsibilities of authority figures in the home, school, and community; and]~~

~~(B) identify and describe the roles of public officials in the community, state, and nation. [; and]~~

~~[(C) identify and describe the role of a good citizen in maintaining a constitutional republic.]~~

~~(12) [(13)] Citizenship. The student understands characteristics of good citizenship as exemplified by historical figures and other individuals. The student is expected to:~~

~~(A) identify characteristics of good citizenship, including truthfulness, justice, equality, respect for oneself and others, responsibility in daily life, and participation in government by educating oneself about the issues, respectfully holding public officials to their word, and voting; and]~~

~~(B) identify historical figures and other individuals who have exemplified good citizenship such as Benjamin Franklin[; Francis Scott Key;] and Eleanor Roosevelt. [who have exemplified good citizenship; and]~~

~~[(C) identify other individuals who exemplify good citizenship.]~~

~~(13) [(14)] Citizenship. The student understands important symbols, customs, and celebrations that represent American beliefs and principles and contribute to our national identity. The student is expected to:~~

~~(A) explain state and national patriotic symbols, including the United States and Texas flags, the Liberty Bell, the Statue of Liberty, and the Alamo;~~

~~(B) recite [and explain the meaning of] the Pledge of Allegiance to the United States Flag and the Pledge to the Texas Flag;~~

~~(C) identify anthems and mottoes of Texas and the United States;~~

~~(D) explain and practice voting as a way of making choices and decisions; and]~~

~~(E) explain how patriotic customs and celebrations reflect American individualism and freedom.[; and]~~

~~[(F) identify Constitution Day as a celebration of American freedom.]~~

(14) ~~[(15)]~~ Culture. The student understands the importance of family and community beliefs, ~~[customs,]~~ language, and traditions. The student is expected to:

(A) describe and explain the importance of ~~[various]~~ beliefs, ~~[customs,]~~ language, and traditions of families and communities; and

(B) explain the way folktales and legends ~~[such as Aesop's fables]~~ reflect beliefs, ~~[customs,]~~ language, and traditions of communities.

(15) ~~[(16)]~~ Science, technology, and society. The student understands how technology affects daily life, past and present. The student is expected to:

(A) describe how technology has affected ~~[changes]~~ the ways families live; and

(B) describe how technology has affected ~~[changes]~~ communication, transportation, and recreation. ~~[; and]~~

~~[(C) describe how technology changes the way people work.]~~

(16) Science, technology, and society. The student identifies individuals who created or invented new technology that affected daily life. The student is expected to identify scientists and inventors such as Alexander Graham Bell, Thomas Edison, and Garrett Morgan and their contributions.

(17) Social studies skills. The student applies critical-thinking skills to organize and use information acquired from a variety of valid sources, including ~~[electronic]~~ technology. The student is expected to:

(A) gather ~~[obtain]~~ information about a topic using a variety of valid oral and visual sources such as ~~[conversations,]~~ interviews, and music, pictures, symbols, and artifacts; and

~~[(B) obtain information about a topic using a variety of valid visual sources such as pictures, symbols, electronic media, maps, literature, and artifacts; and]~~

~~[(C)]~~ sequence and categorize information.

(18) Social studies skills. The student communicates in oral, visual, and written forms. The student is expected to:

(A) use a simple timeline to distinguish among past, present, and future;

(B) use a calendar to describe and measure time in days, weeks, months, and years;

(C) ~~[(A)]~~ express ideas orally based on knowledge and experiences; ~~[and]~~

(D) ~~[(B)]~~ create and interpret visual and written material; and ~~[;]~~

(E) use social studies terminology correctly.

(19) Social studies skills. The student uses problem-solving and decision-making skills, working independently and with others ~~[; in a variety of settings]~~. The student is expected to~~[;]~~

~~[(A)]~~ use ~~[a]~~ problem-solving and decision-making processes ~~[process]~~ to identify a problem, gather information, list and consider options, consider advantages and disadvantages, choose and

implement a solution, and evaluate the effectiveness of the solution. ~~[; and]~~

~~[(B) use a decision-making process to identify a situation that requires a decision; gather information; generate options; predict outcomes; take action to implement a decision; and reflect on the effectiveness of that decision.]~~

*§113.13. Social Studies, Grade 2, Adopted 2018 [Beginning with School Year 2011-2012].*

(a) Introduction.

(1) In Grade 2, students focus on a study of their local community by examining the impact of significant individuals and events on the history of the community as well as on the state and nation. Students begin to develop the concepts of time and chronology. The relationship between the physical environment and human activities is introduced as are the concepts of consumers and producers. Students identify functions of government as well as services provided by the local government. Students continue to acquire knowledge of customs, symbols, and celebrations that represent American beliefs and principles. Students identify the significance of works of art in the local community and explain how technological innovations have changed transportation and communication. Students communicate what they have learned in written, oral, and visual forms.

(2) To support the teaching of the essential knowledge and skills, the use of a variety of rich material such as nonfiction texts, primary sources, biographies, folklore, poetry, songs, and artworks is encouraged. Motivating resources are available from museums, historical sites, presidential libraries, online tours, and local and state preservation societies.

(3) The eight strands of the essential knowledge and skills for social studies are intended to be integrated for instructional purposes. Skills listed in the social studies skills strand in subsection (b) of this section should be incorporated into the teaching of all essential knowledge and skills for social studies. A greater depth of understanding of complex content material can be attained when integrated social studies content from the various disciplines and critical-thinking skills are taught together. Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(4) Students identify the role of the U.S. free enterprise system within the parameters of this course and understand that this system may also be referenced as capitalism or the free market system.

(5) Throughout social studies in Kindergarten-Grade 12, students build a foundation in history; geography; economics; government; citizenship; culture; science, technology, and society; and social studies skills. The content, as appropriate for the grade level or course, enables students to understand the importance of patriotism, function in a free enterprise society, and appreciate the basic democratic values of our state and nation as referenced in the Texas Education Code (TEC), §28.002(h).

(6) Students understand that a constitutional republic is a representative form of government whose representatives derive their authority from the consent of the governed, serve for an established tenure, and are sworn to uphold the constitution.

(7) Students must demonstrate learning performance related to any federal and state mandates regarding classroom instruction. Although Grade 2 is not required to participate in Celebrate Freedom Week, according to the TEC, §29.907, primary grades lay the foundation for subsequent learning. As a result, Grade 2 Texas essential knowledge and skills include standards related to this patriotic observance.

(8) Students identify and discuss how the actions of U.S. citizens and the local, state, and federal governments have either met or failed to meet the ideals espoused in the founding documents.

(b) Knowledge and skills.

(1) History. The student understands the historical significance of landmarks and celebrations in the community, state, and nation. The student is expected to:

(A) explain the significance of various community, state, and national celebrations such as Veterans Day, Memorial Day, Independence Day, and Thanksgiving; and

(B) identify and explain the significance of various community, state, and national landmarks such as monuments and government buildings.

{(2) History. The student understands the concepts of time and chronology. The student is expected to:}

{(A) describe the order of events by using designations of time periods such as historical and present times;}

{(B) apply vocabulary related to chronology, including past, present, and future; and}

{(C) create and interpret timelines for events in the past and present.}

{(3) History. The student understands how various sources provide information about the past and present. The student is expected to:}

{(A) identify several sources of information about a given period or event such as reference materials, biographies, newspapers, and electronic sources; and}

{(B) describe various evidence of the same time period using primary sources such as photographs, journals, and interviews.}

(2) [(4)] History. The student understands how historical figures, patriots, and good citizens helped shape the community, state, and nation. The student is expected to:

(A) identify contributions of historical figures, including Thurgood Marshall, Irma Rangel, [John Hancock,] and Theodore Roosevelt, who have influenced the [community,] state, and nation; and

{(B) identify historical figures such as Amelia Earhart, W. E. B. DuBois, Robert Fulton, and George Washington Carver who have exhibited individualism and inventiveness; and}

(B) [(C)] discuss [explain] how people and events have influenced local community history.

(3) [(5)] Geography. The student uses simple geographic tools, including [such as] maps and globes. The student is expected to:

(A) identify and use [interpret] information on maps and globes using basic map elements such as title, cardinal directions [orientation (north, south, east, west)], and legend [legend/map keys]; and

(B) create maps to show places and routes within the home, school, and community.

(4) [(6)] Geography. The student understands the location [locations and characteristics] of places [and regions] in their [the] community, state, country, and the world [and nation]. The student is expected to:

(A) identify major landforms and bodies of water, including each of the seven continents and each of the four oceans, on maps and globes; and

(B) locate places [of significance], including the local community, Texas, the United States, the state capital, the U.S. capital, and the bordering countries of [major cities in Texas, the coast of Texas,] Canada and [,] Mexico, and the United States on maps and globes. [; and]

{(C) examine information from various sources about places and regions.}

{(7) Geography. The student understands how physical characteristics of places and regions affect people's activities and settlement patterns. The student is expected to:}

{(A) describe how weather patterns and seasonal patterns affect activities and settlement patterns;}

{(B) describe how natural resources and natural hazards affect activities and settlement patterns;}

{(C) explain how people depend on the physical environment and natural resources to meet basic needs; and}

{(D) identify the characteristics of different communities, including urban, suburban, and rural, and how they affect activities and settlement patterns.}

(5) [(8)] Geography. The student understands how humans use and modify the physical environment. The student is expected to:

(A) identify ways in which people have modified the physical environment such as clearing land, building roads, using land for agriculture [clearing land for urban development and agricultural use], and drilling for oil;

(B) identify [positive and negative] consequences of human modification of the physical environment [such as the use of irrigation to improve crop yields]; and

(C) identify ways people can conserve and replenish Earth's [natural] resources.

(6) [(9)] Economics. The student understands the value of work. The student is expected to:

(A) explain how work provides income to purchase goods and services; and

(B) explain the choices people [in the U.S. free enterprise system] can make about earning, spending, and saving money [and where to live and work].

(7) [(10)] Economics. The student understands the roles of producers and consumers in the production of goods and services. The student is expected to:

(A) distinguish between producing and consuming;

(B) identify ways in which people are both producers and consumers; and

(C) discuss [examine] the development of a product from a natural resource to a finished product.

(8) [(11)] Government. The student understands the purpose of governments. The student is expected to:

(A) identify functions of governments such as establishing order, providing security, and managing conflict; and

(B) identify governmental services in the community such as police and fire protection, libraries, schools, and parks and explain their value to the community. [; and]

~~[(C) describe how governments tax citizens to pay for services.]~~

(9) [(12)] Government. The student understands the role of public officials. The student is expected to:

(A) name current public officials, including mayor, governor, and president;

(B) compare the roles of public officials, including mayor, governor, and president;

(C) identify ways that public officials are selected, including election and appointment to office; and

(D) identify how citizens participate in their own governance through staying informed of what public officials are doing, providing input to them, and volunteering to participate in government functions.

(10) [(13)] Citizenship. The student understands characteristics of good citizenship as exemplified by historical figures and other individuals. The student is expected to:

(A) identify characteristics of good citizenship, including truthfulness, justice, equality, respect for oneself and others, responsibility in daily life, and participation in government by educating oneself about the issues, respectfully holding public officials to their word, and voting;

(B) identify historical figures and other individuals who have exemplified good citizenship such as Paul Revere, Abigail Adams, [World War II Women Airforce Service Pilots (WASPs) and Navajo Code Talkers,] and Sojourner Truth [who have exemplified good citizenship]; and

~~[(C) identify other individuals who exemplify good citizenship; and]~~

~~[(D) identify ways to actively practice good citizenship, including involvement in community service.]~~

(11) [(14)] Citizenship. The student identifies customs, symbols, and celebrations that represent American beliefs and principles that contribute to our national identity. The student is expected to:

(A) recite the Pledge of Allegiance to the United States Flag and the Pledge to the Texas Flag;

(B) identify selected patriotic songs, including "The Star Spangled Banner" and "America the Beautiful"; and

(C) identify [selected] symbols such as state and national birds and flowers [and patriotic symbols such as the U.S. and Texas flags] and Uncle Sam. [; and]

~~[(D) identify how selected customs, symbols, and celebrations reflect an American love of individualism, inventiveness, and freedom.]~~

[(15) Culture. The student understands the significance of works of art in the local community. The student is expected to:]

~~[(A) identify selected stories, poems, statues, paintings, and other examples of the local cultural heritage; and]~~

~~[(B) explain the significance of selected stories, poems, statues, paintings, and other examples of the local cultural heritage.]~~

(12) [(16)] Culture. The student understands ethnic and/or cultural celebrations. The student is expected to:

(A) identify the significance of various ethnic and/or cultural celebrations; and

(B) compare ethnic and/or cultural celebrations.

(13) [(17)] Science, technology, and society. The student understands how science and technology have affected life, past and present. The student is expected to:

(A) describe how science and technology have affected [change] communication, transportation, and recreation; and

(B) explain how science and technology have affected [change] the ways in which people meet basic needs.

(14) Science, technology, and society. The student identifies individuals who exhibited individualism and inventiveness. The student is expected to identify individuals who have exhibited individualism and inventiveness such as Amelia Earhart and George Washington Carver.

(15) [(18)] Social studies skills. The student applies critical-thinking skills to organize and use information acquired from a variety of valid sources, including [electronic] technology. The student is expected to:

(A) gather [obtain] information about a topic using a variety of valid oral and visual sources such as [conversations,] interviews, [and] music, pictures, maps, and artifacts; and

(B) interpret oral, visual, and print material by sequencing, categorizing, identifying the main idea, predicting, comparing, and contrasting.

~~[(B) obtain information about a topic using a variety of valid visual sources such as pictures, maps, electronic sources, literature, reference sources, and artifacts;]~~

~~[(C) use various parts of a source, including the table of contents, glossary, and index, as well as keyword Internet searches to locate information;]~~

~~[(D) sequence and categorize information; and]~~

~~[(E) interpret oral, visual, and print material by identifying the main idea, predicting, and comparing and contrasting.]~~

(16) [(19)] Social studies skills. The student communicates in written, oral, and visual forms. The student is expected to:

(A) describe the order of events by using designations of time periods such as historical and present times;

(B) apply vocabulary related to chronology, including past, present, and future;

(C) create and interpret timelines for events in the past and present;

(D) use social studies terminology correctly;

(E) [(A)] express ideas orally based on knowledge and experiences; and

(F) [(B)] create written and visual material such as stories, [poems,] maps, and graphic organizers to express ideas.

(17) [(20)] Social studies skills. The student uses problem-solving and decision-making skills, working independently and with others [; in a variety of settings]. The student is expected to [;]

~~[(A)] use [a] problem-solving and decision-making processes [process] to identify a problem, gather information, list and consider options, consider advantages and disadvantages, choose and implement a solution, and evaluate the effectiveness of the solution. [; and]~~

~~[(B)] use a decision-making process to identify a situation that requires a decision, gather information, generate options, predict outcomes, take action to implement a decision, and reflect on the effectiveness of that decision.]~~

*§113.14. Social Studies, Grade 3, Adopted 2018 [Beginning with School Year 2011-2012].*

(a) Introduction.

(1) In Grade 3, students learn how diverse individuals have changed their communities and world. Students study the effects inspiring heroes have had on communities, past and present. Students learn about the lives of heroic men and women who made important choices, overcame obstacles, sacrificed for the betterment of others, and embarked on journeys that resulted in new ideas, new inventions, new technologies, and new communities. Students expand their knowledge through the identification and study of people who made a difference, influenced public policy and decision making, and participated in resolving issues that are important to all people. Throughout Grade 3, students develop an understanding of the economic, cultural, and scientific contributions made by individuals.

(2) To support the teaching of the essential knowledge and skills, the use of a variety of rich material such as biographies, founding documents, poetry, songs, and artworks is encouraged. Motivating resources are available from museums, historical sites, presidential libraries, and local and state preservation societies.

(3) The eight strands of the essential knowledge and skills for social studies are intended to be integrated for instructional purposes. Skills listed in the social studies skills strand in subsection (b) of this section should be incorporated into the teaching of all essential knowledge and skills for social studies. A greater depth of understanding of complex content material can be attained when integrated social studies content from the various disciplines and critical-thinking skills are taught together. Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(4) Students identify the role of the U.S. free enterprise system within the parameters of this course and understand that this system may also be referenced as capitalism or the free market system.

(5) Throughout social studies in Kindergarten-Grade 12, students build a foundation in history; geography; economics; government; citizenship; culture; science, technology, and society; and social studies skills. The content, as appropriate for the grade level or course, enables students to understand the importance of patriotism, function in a free enterprise society, and appreciate the basic democratic values of our state and nation as referenced in the Texas Education Code (TEC), §28.002(h).

(6) Students understand that a constitutional republic is a representative form of government whose representatives derive their authority from the consent of the governed, serve for an established tenure, and are sworn to uphold the constitution.

(7) State and federal laws mandate a variety of celebrations and observances, including Celebrate Freedom Week.

(A) Each social studies class shall include, during Celebrate Freedom Week as provided under the TEC, §29.907, or during another full school week as determined by the board of trustees of a school

district, appropriate instruction concerning the intent, meaning, and importance of the Declaration of Independence and the U.S. Constitution, including the Bill of Rights, in their historical contexts. The study of the Declaration of Independence must include the study of the relationship of the ideas expressed in that document to subsequent American history, including the relationship of its ideas to the rich diversity of our people as a nation of immigrants, the American Revolution, the formulation of the U.S. Constitution, and the abolitionist movement, which led to the Emancipation Proclamation and the women's suffrage movement.

(B) Each school district shall require that, during Celebrate Freedom Week or other week of instruction prescribed under subparagraph (A) of this paragraph, students in Grades 3-12 study and recite the following text from the Declaration of Independence: "We hold these Truths to be self-evident, that all Men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the Pursuit of Happiness--That to secure these Rights, Governments are instituted among Men, deriving their just Powers from the Consent of the Governed."

(8) Students identify and discuss how the actions of U.S. citizens and the local, state, and federal governments have either met or failed to meet the ideals espoused in the founding documents.

(b) Knowledge and skills.

(1) History. The student understands how individuals, events, and ideas have influenced the history of various communities. The student is expected to:

(A) describe how individuals, events, and ideas have changed communities, past and present;

(B) identify individuals, including Pierre-Charles L'Enfant, ~~[Benjamin Banneker,]~~ and Benjamin Franklin, who have helped to shape communities; and

(C) describe how individuals, including Daniel Boone ~~and~~ ~~[Christopher Columbus,]~~ the Founding Fathers ~~[; and Juan de Oñate,]~~ have contributed to the expansion of existing communities or to the creation of new communities.

(2) History. The student understands common characteristics of communities, past and present. The student is expected to:

(A) identify reasons people have formed communities, including a need for security and laws, religious freedom, ~~[law,]~~ and material well-being; and

(B) compare ~~[identify]~~ ways in which people in the local community and other communities meet their needs for government, education, communication, transportation, and recreation. ~~[; and]~~

~~[(C) compare ways in which various other communities meet their needs.]~~

~~[(3) History. The student understands the concepts of time and chronology. The student is expected to:]~~

~~[(A) use vocabulary related to chronology, including past, present, and future times;]~~

~~[(B) create and interpret timelines; and]~~

~~[(C) apply the terms year, decade, and century to describe historical times.]~~

(3) ~~[(4)]~~ Geography. The student understands how humans adapt to and/or modify ~~[variations in]~~ the physical environment. The student is expected to:

(A) describe similarities and differences [and explain variations] in the physical environment, including climate, landforms, natural resources, and natural hazards;

(B) identify and compare how people in different communities adapt to or modify the physical environment in which they live such as deserts, mountains, wetlands, and plains; and

~~[(C) describe the effects of physical processes such as volcanoes, hurricanes, and earthquakes in shaping the landscape;]~~

~~[(C) ~~[(D)]~~ describe the effects of human processes such as building new homes, conservation, and pollution in shaping the landscape. [; and]~~

~~[(E) identify and compare the human characteristics of various regions.]~~

(4) [(5)] Geography. The student understands the concepts of location, distance, and direction on maps and globes. The student is expected to:

(A) use cardinal and intermediate directions to locate places on maps and globes [such as the Rocky Mountains, the Mississippi River, and Austin, Texas,] in relation to the local community;

(B) use a scale to determine the distance between places on maps and globes; and

~~[(C) identify and use the compass rose, grid system, and symbols to locate places on maps and globes; and]~~

~~[(C) ~~[(D)]~~ identify, create, and interpret maps of places [and regions] that contain map elements, including a title, compass rose, legend, scale, and grid system.~~

(5) [(6)] Economics. The student understands the purposes of earning, spending, saving, and donating money. The student is expected to:

(A) identify ways of earning, spending, saving, and donating money; and

(B) create a simple budget that allocates money for spending and [;] saving[; and donating].

~~[(7) Economics. The student understands the concept of the free enterprise system. The student is expected to:]~~

~~[(A) define and identify examples of scarcity;]~~

~~[(B) explain the impact of scarcity on the production, distribution, and consumption of goods and services; and]~~

~~[(C) explain the concept of a free market as it relates to the U.S. free enterprise system.]~~

(6) [(8)] Economics. The student understands the concept of the free enterprise system and how businesses operate in the U.S. free enterprise system. The student is expected to:

~~[(A) identify examples of how a simple business operates;]~~

~~[(A) ~~[(B)]~~ explain how supply and demand affect the price of a good or service;~~

~~[(B) define and identify examples of scarcity;~~

~~[(C) explain how the cost of production and selling price affect profits; and]~~

~~[(D) explain how government regulations and taxes impact consumer costs; and]~~

~~[(D) ~~[(E)]~~ identify individuals, past and present, such as [including] Henry Ford and [other entrepreneurs in the community such as Mary Kay Ash, Wallace Amos, Milton Hershey, and] Sam Walton [;] who have started new businesses.~~

(7) [(9)] Government. The student understands the basic structure and functions of various levels of government. The student is expected to:

(A) describe the basic structure of government in the local community, state, and nation;

(B) identify local, state, and national government officials and explain how they are chosen; and

(C) identify services commonly provided by local, state, and national governments.[; and]

~~[(D) explain how local, state, and national government services are financed.]~~

(8) [(10)] Government. The student understands important ideas in historical documents at various levels of government. The student is expected to:

(A) identify the purposes of the Declaration of Independence and the U.S. Constitution, including the Bill of Rights; and

~~[(B) describe [and explain the importance of] the concept of "consent of the governed," [as it relates to the functions of local, state, and national government.]~~

(9) [(11)] Citizenship. The student understands characteristics of good citizenship as exemplified by historical and contemporary figures. The student is expected to:

~~[(A) identify characteristics of good citizenship, including truthfulness, justice, equality, respect for oneself and others, responsibility in daily life, and participation in government by educating oneself about the issues, respectfully holding public officials to their word, and voting;]~~

~~[(A) ~~[(B)]~~ identify [historical] figures such as [Helen Keller and] Clara Barton and [contemporary figures such as] Ruby Bridges [and military and first responders] who exemplify good citizenship; and]~~

~~[(B) ~~[(C)]~~ identify and discuss [explain the importance of] individual acts of civic responsibility, including obeying laws, serving the community, serving on a jury, and voting.~~

(10) [(12)] Citizenship. The student understands the impact of [individual and] group decisions on communities [in a constitutional republic]. The student is expected to[;]

~~[(A) give examples of community changes that result from individual or group decisions;]~~

~~[(B) identify examples of actions individuals and groups can take to improve the community; and]~~

~~[(C) identify examples of nonprofit and/or civic organizations such as the Red Cross and explain how they serve the common good.~~

(11) [(13)] Culture. The student understands ethnic and/or cultural celebrations of the local community and other communities. The student is expected to:

(A) explain the significance of various ethnic and/or cultural celebrations in the local community and other communities; and



(B) compare ethnic and/or cultural celebrations in the local community with other communities.

(12) [(44)] Culture. The student understands the role of heroes in shaping the culture of communities, the state, and the nation. The student is expected to:

(A) identify and describe [compare] the heroic deeds of state and national heroes and military and first responders such as [including] Hector P. Garcia, [and] James A. Lovell, and the Four Chaplains [other individuals such as Harriet Tubman, Juliette Gordon Low, Todd Beamer, Ellen Ochoa, John "Danny" Olivas, and other contemporary heroes]; and

(B) identify and describe [analyze] the heroic deeds of individuals such as Harriet Tubman, Todd Beamer, and other contemporary heroes; [including military and first responders such as the Four Chaplains].

(13) [(45)] Culture. The student understands the importance of writers and artists to the cultural heritage of communities. The student is expected to [:]

[(A)] discuss [identify] various [individual] writers and artists such as Kadir Nelson, Tomie dePaola, Carmen Lomas Garza, and Laura Ingalls Wilder [and Phillis Wheatley] and examples of their cultural heritage through their stories, poems, statues, and paintings, [and other examples of cultural heritage from various communities; and]

[(B)] explain the significance of various individual writers and artists such as Carmen Lomas Garza, Laura Ingalls Wilder, and Bill Martin Jr. and their stories, poems, statues, and paintings and other examples of cultural heritage to various communities.]

(14) [(46)] Science, technology, and society. The student understands how individuals have created or invented new technology and affected life in various communities, past and present. The student is expected to:

(A) identify individuals who have discovered scientific breakthroughs or created or invented new technology such as [scientists and inventors; including] Jonas Salk, [Maria Mitchell, and others who have discovered scientific breakthroughs or created or invented new technology such as] Cyrus McCormick, Bill Gates, [and] Louis Pasteur, and others; and

(B) describe [identify] the impact of scientific breakthroughs and new technology in computers, pasteurization, and medical vaccines on various communities.

(15) [(47)] Social studies skills. The student applies critical-thinking skills to organize and use information acquired from a variety of valid sources, including [electronic] technology. The student is expected to:

(A) gather [research] information, including historical and current events[,] and geographic data, about the community [and world,] using a variety of [valid print, oral, visual, and Internet] resources;

(B) interpret oral, visual, and print material by sequencing, categorizing, identifying the main idea, distinguishing between fact and opinion, identifying cause and effect, comparing, and contrasting; and

[(B)] sequence and categorize information;]

[(C)] interpret oral, visual, and print material by identifying the main idea, distinguishing between fact and opinion, identifying cause and effect, and comparing and contrasting;]

[(D)] use various parts of a source, including the table of contents, glossary, and index as well as keyword Internet searches, to locate information;]

(C) [(E)] interpret and create visuals, including graphs, charts, tables, timelines, illustrations, and maps. [; and]

[(F)] use appropriate mathematical skills to interpret social studies information such as maps and graphs.]

(16) [(48)] Social studies skills. The student communicates in written, oral, and visual forms. The student is expected to:

(A) use social studies terminology correctly;

(B) create and interpret timelines;

(C) apply the terms year, decade, and century to describe historical times;

(D) [(A)] express ideas orally based on knowledge and experiences; and

(E) [(B)] [use technology to] create written and visual material such as stories, [poems,] pictures, maps, and graphic organizers to express ideas.[; and]

[(C)] use standard grammar, spelling, sentence structure, and punctuation.]

(17) [(49)] Social studies skills. The student uses problem-solving and decision-making skills, working independently and with others [; in a variety of settings]. The student is expected to [:]

[(A)] use [a] problem-solving and decision-making processes [process] to identify a problem, gather information, list and consider options, consider advantages and disadvantages, choose and implement a solution, and evaluate the effectiveness of the solution.[; and]

[(B)] use a decision-making process to identify a situation that requires a decision, gather information, identify options, predict consequences, and take action to implement a decision.]

§113.15. *Social Studies, Grade 4, Adopted 2018 [Beginning with School Year 2011–2012].*

(a) Introduction.

(1) In Grade 4, students examine the history of Texas from the early beginnings to the present within the context of influences of North America. Historical content focuses on Texas history, including the Texas Revolution, establishment of the Republic of Texas, and subsequent annexation to the United States. Students discuss important issues, events, and individuals of the 19th, 20th, and 21st centuries. Students conduct a thorough study of regions in Texas and North America resulting from human activity and from physical features. The location, distribution, and patterns of economic activities and settlement in Texas further enhance the concept of regions. Students describe how early American Indians in Texas and North America met their basic economic needs. Students identify motivations for European exploration and colonization and reasons for the establishment of Spanish settlements and missions. Students explain how American Indians governed themselves and identify characteristics of Spanish colonial and Mexican governments in Texas. Students recite and explain the meaning of the Pledge to the Texas Flag. Students identify the contributions of people of various racial, ethnic, and religious groups to Texas and describe the impact of science and technology on life in the state. Students use critical-thinking skills to identify cause-and-effect relationships, compare and contrast, and make generalizations and predictions.

(2) To support the teaching of the essential knowledge and skills, the use of a variety of rich primary and secondary source mate-

rial such as documents, biographies, novels, speeches, letters, poetry, songs, and artworks is encouraged. Where appropriate, local topics should be included. Motivating resources are available from museums, historical sites, presidential libraries, and local and state preservation societies.

(3) The eight strands of the essential knowledge and skills for social studies are intended to be integrated for instructional purposes. Skills listed in the social studies skills strand in subsection (b) of this section should be incorporated into the teaching of all essential knowledge and skills for social studies. A greater depth of understanding of complex content material can be attained when integrated social studies content from the various disciplines and critical-thinking skills are taught together. Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(4) Students identify the role of the U.S. free enterprise system within the parameters of this course and understand that this system may also be referenced as capitalism or the free market system.

(5) Throughout social studies in Kindergarten-Grade 12, students build a foundation in history; geography; economics; government; citizenship; culture; science, technology, and society; and social studies skills. The content, as appropriate for the grade level or course, enables students to understand the importance of patriotism, function in a free enterprise society, and appreciate the basic democratic values of our state and nation as referenced in the Texas Education Code (TEC), §28.002(h).

(6) Students understand that a constitutional republic is a representative form of government whose representatives derive their authority from the consent of the governed, serve for an established tenure, and are sworn to uphold the constitution.

(7) State and federal laws mandate a variety of celebrations and observances, including Celebrate Freedom Week.

(A) Each social studies class shall include, during Celebrate Freedom Week as provided under the TEC, §29.907, or during another full school week as determined by the board of trustees of a school district, appropriate instruction concerning the intent, meaning, and importance of the Declaration of Independence and the U.S. Constitution, including the Bill of Rights, in their historical contexts. The study of the Declaration of Independence must include the study of the relationship of the ideas expressed in that document to subsequent American history, including the relationship of its ideas to the rich diversity of our people as a nation of immigrants, the American Revolution, the formulation of the U.S. Constitution, and the abolitionist movement, which led to the Emancipation Proclamation and the women's suffrage movement.

(B) Each school district shall require that, during Celebrate Freedom Week or other week of instruction prescribed under subparagraph (A) of this paragraph, students in Grades 3-12 study and recite the following text from the Declaration of Independence: "We hold these Truths to be self-evident, that all Men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the Pursuit of Happiness--That to secure these Rights, Governments are instituted among Men, deriving their just Powers from the Consent of the Governed."

(8) Students identify and discuss how the actions of U.S. citizens and the local, state, and federal governments have either met or failed to meet the ideals espoused in the founding documents.

(b) Knowledge and skills.

(1) History. The student understands the origins, similarities, and differences of American Indian groups in Texas [~~and North America~~] before European exploration. The student is expected to:

(A) explain the possible origins of American Indian groups in Texas [~~and North America~~];

(B) identify and compare the ways of life of American Indian groups in Texas [~~and North America~~] before European exploration such as the Lipan Apache, Karankawa, Caddo, and Jumano;

(C) describe the cultural regions in which American Indians lived such as Gulf, Plains, Puebloan, and Southeastern [~~and identify American Indian groups remaining in Texas such as the Ysleta Del Sur Pueblo, Alabama-Coushatta, and Kickapoo~~]; and

(D) locate American Indian groups remaining in Texas such as the Ysleta Del Sur Pueblo, Alabama-Coushatta, and Kickapoo.

~~[(D) compare the ways of life of American Indian groups in Texas and North America before European exploration.]~~

(2) History. The student understands the causes and effects of European exploration and colonization of Texas [~~and North America~~]. The student is expected to:

(A) summarize motivations for European exploration and settlement of Texas, including economic opportunity, competition, and the desire for expansion;

(B) identify the accomplishments and explain the impact of significant explorers, including Cabeza de Vaca; Francisco Coronado; and René Robert Cavelier, Sieur de la Salle, on the settlement of Texas;

(C) explain when, where, and why the Spanish established settlements and Catholic missions in Texas as well as important individuals [~~such as José de Escandón~~];

(D) identify Texas' role in the Mexican War of Independence and the war's impact on the development of Texas; and

(E) identify the accomplishments and explain the economic motivations and impact of significant empresarios, including Stephen F. Austin and Martín de León, on the settlement of Texas.

(3) History. The student understands the importance of the Texas Revolution, the Republic of Texas, and the annexation of Texas to the United States. The student is expected to:

(A) analyze the causes, major events, and effects of the Texas Revolution, including the Battle of the Alamo, the Texas Declaration of Independence, the Runaway Scrape, and the Battle of San Jacinto;

(B) summarize the significant contributions of individuals such as [~~Texians~~] William B. Travis, James Bowie, David Crockett, [~~George Childress, and Sidney Sherman; Tejanos Juan Antonio Padilla, Carlos Espalier;~~] Juan N. Seguín, Plácido Benavides, [~~and José Francisco Ruiz;~~] [~~Mexicans~~] Antonio López de Santa Anna, [~~and Vicente Filisola; and non-combatants~~] Susanna Dickinson, and Enrique Esparza;

(C) identify leaders important to the founding of Texas as a republic and state, including José Antonio Navarro, Sam Houston, Mirabeau Lamar, and Anson Jones;

(D) describe the successes, problems, and organizations of the Republic of Texas such as the establishment of a constitution, economic struggles, relations with American Indians, and the Texas Rangers; and

(E) explain the events that led to the annexation of Texas to the United States ~~and~~[including] the impact of the U.S.-Mexican War.

(4) History. The student understands the political, economic, and social changes in Texas during the last half of the 19th century. The student is expected to:

(A) describe the impact of the Civil War and Reconstruction on Texas;

(B) explain the growth, development, and impact of the cattle industry such as~~;~~[including] contributions made by Charles Goodnight, Richard King, and Lizzie Johnson;

(C) explain the effects of the railroad industry [identify the impact of railroads] on life in Texas, including changes to cities and major industries; and

(D) explain [examine] the effects on [upon] American Indian life brought about by [resulting from changes in Texas, including] the Red River War, building of U.S. forts and railroads, and loss of buffalo.

(5) History. The student understands important issues, events, and individuals of the 20th century in Texas. The student is expected to:

(A) explain [identify] the impact of various [issues and] events on life in Texas such as [urbanization, increased use of oil and gas,] the Great Depression, the Dust Bowl, and World War II and notable individuals such as Audie Murphy, Cleto Rodríguez, and Bessie Coleman and other local individuals; and

(B) explain the development and impact of the oil and gas industry on [upon] industrialization and urbanization in Texas, including [important places and people such as] Spindletop and important people such as Patillo Higgins.; and

~~[(C) identify the accomplishments of notable individuals such as John Tower, Scott Joplin, Audie Murphy, Cleto Rodríguez, Stanley Marcus, Bessie Coleman, Raul A. Gonzalez Jr., and other local notable individuals.]~~

~~[(6) Geography. The student uses geographic tools to collect, analyze, and interpret data. The student is expected to:]~~

~~[(A) apply geographic tools, including grid systems, legends, symbols, scales, and compass roses, to construct and interpret maps; and]~~

~~[(B) translate geographic data, population distribution, and natural resources into a variety of formats such as graphs and maps.]~~

~~[(6) [(7)] Geography. The student understands the concept of regions. The student is expected to:~~

~~[(A) describe a variety of regions in Texas and the United States such as political, population, and economic regions that result from patterns of human activity;]~~

~~[(A) [(B)] identify, locate, and describe [compare] the physical [geographic] regions of Texas (Mountains and Basins, Great Plains, North Central Plains, Coastal Plains), including their characteristics such as landforms, climate, [and] vegetation, and economic activities; and~~

~~[(B) [(C)] compare the physical [geographic] regions of Texas (Mountains and Basins, Great Plains, North Central Plains, Coastal Plains) [with regions of the United States and other parts of the world].~~

~~[(7) [(8)] Geography. The student understands the location and patterns of settlement and the geographic factors that influence where people live. The student is expected to:~~

~~[(A) explain the geographic factors such as landforms and climate that influence patterns of settlement and the distribution of population in Texas, past and present; and~~

~~[(B) [(A)] identify and explain [clusters and] patterns of settlement such as the location of towns and cities in Texas at different time periods. [such as prior to the Texas Revolution, after the building of the railroads, and following World War II;]~~

~~[(B) describe and explain the location and distribution of various towns and cities in Texas, past and present; and]~~

~~[(C) explain the geographic factors such as landforms and climate that influence patterns of settlement and the distribution of population in Texas, past and present.]~~

~~[(8) [(9)] Geography. The student understands how people adapt to and modify their environment. The student is expected to:~~

~~[(A) describe ways people have adapted to and modified their environment in Texas, past and present, such as timber clearing, agricultural production, wetlands drainage, energy production, and construction of dams;~~

~~[(B) explain [identify] reasons why people have adapted to and modified their environment in Texas, past and present, such as the use of natural resources to meet basic needs, facilitate transportation, and enhance recreational activities; and~~

~~[(C) compare the positive and negative consequences of human modification of the environment in Texas, past and present[; both governmental and private, such as economic development and the impact on habitats and wildlife as well as air and water quality].~~

~~[(9) [(10)] Economics. The student understands the basic economic activities of early societies in Texas [and North America]. The student is expected to:~~

~~[(A) explain the economic activities various early American Indian groups in Texas [and North America] used to meet their needs and wants such as farming, trading, and hunting; and~~

~~[(B) explain the economic activities early settlers [immigrants] to Texas used to meet their needs and wants.~~

~~[(10) [(11)] Economics. The student understands the characteristics and benefits of the free enterprise system in Texas. The student is expected to:~~

~~[(A) describe how the free enterprise system works, including supply and demand;~~

~~[(B) identify examples of the benefits of the free enterprise system such as choice and opportunity; and~~

~~[(C) [(A)] describe the development of the free enterprise system in Texas such as the growth of cash crops by early colonists and the railroad boom.];]~~

~~[(B) describe how the free enterprise system works, including supply and demand; and]~~

~~[(C) give examples of the benefits of the free enterprise system such as choice and opportunity.]~~

~~[(11) [(12)] Economics. The student understands patterns of work and economic activities in Texas. The student is expected to:~~

(A) identify [explain] how people in different regions of Texas earn their living, past and present[; through a subsistence economy and providing goods and services];

(B) explain how physical geographic factors such as climate[; ~~transportation;~~] and natural resources have influenced the location of economic activities in Texas;

(C) identify [analyze] the effects of exploration, immigration, migration, and limited resources on the economic development and growth of Texas; and

~~[(D) describe the impact of mass production; specialization, and division of labor on the economic growth of Texas;]~~

~~(D) [(E)]~~ explain how developments in transportation and communication have influenced economic activities in Texas.[; and]

~~[(F) explain the impact of American ideas about progress and equality of opportunity on the economic development and growth of Texas.]~~

~~[(13) Economics. The student understands how Texas, the United States, and other parts of the world are economically interdependent. The student is expected to:]~~

~~[(A) identify ways in which technological changes in areas such as transportation and communication have resulted in increased interdependence among Texas, the United States, and the world;]~~

~~[(B) identify oil and gas; agricultural; and technological products of Texas that are purchased to meet needs in the United States and around the world; and]~~

~~[(C) explain how Texans meet some of their needs through the purchase of products from the United States and the rest of the world.]~~

~~(12) [(14)] Government. The student understands how people organized governments in different ways during the early development of Texas. The student is expected to:~~

~~(A) compare how various American Indian groups such as the Caddo and the Comanche governed themselves; and~~

~~(B) [identify and] compare characteristics of the Spanish colonial government and the early Mexican governments in [and their influence on inhabitants of] Texas.~~

~~(13) [(15)] Government. The student understands important ideas in historical documents of Texas and the United States. The student is expected to:~~

~~(A) identify the purposes and explain the importance of the Texas Declaration of Independence and[; the Texas Constitution[; and other documents such as the Meusebach-Comanche Treaty];~~

~~(B) identify and explain the basic functions of the three branches of government according to the Texas Constitution; and~~

~~(C) identify the intent, meaning, and importance of the Declaration of Independence, the U.S. Constitution, and the Bill of Rights (Celebrate Freedom Week).~~

~~(14) [(16)] Citizenship. The student understands important customs, symbols, and celebrations of Texas. The student is expected to:~~

~~(A) explain the meaning of various patriotic symbols and landmarks of Texas, including the six flags that flew over Texas,~~

~~the Alamo, and the San Jacinto Monument[; the Alamo; and various missions];~~

~~(B) sing or recite "Texas, Our Texas";~~

~~(C) recite and explain the meaning of the Pledge to the Texas Flag; and~~

~~(D) describe the origins and significance of state celebrations such as Texas Independence Day and Juneteenth.~~

~~(15) [(17)] Citizenship. The student understands the importance of active individual participation in the democratic process. The student is expected to:~~

~~(A) identify important individuals who have participated voluntarily in civic affairs at state and local levels such as Adina de Zavala and Clara Driscoll;~~

~~(B) explain how individuals can participate voluntarily in civic affairs at state and local levels through activities such as [holding public officials to their word;] writing letters[;] and participating in historic preservation and service projects;~~

~~(C) explain the duty of the individual in state and local elections such as being informed and voting;~~

~~(D) identify the importance of historical figures and important individuals who modeled active participation in the democratic process such as Sam Houston, Barbara Jordan, Lorenzo de Zavala, Ann Richards, [Sam Rayburn;] Henry B. González, [James A. Baker III;] Wallace Jefferson, and other local individuals; and~~

~~(E) explain how to contact elected and appointed leaders in state and local governments.~~

~~(16) [(18)] Citizenship. The student understands the importance of effective leadership in a constitutional republic. The student is expected to:~~

~~(A) identify leaders in state, local, and national governments, including the governor, local members of the Texas Legislature, the local mayor, U.S. senators, local U.S. representatives, and Texans who have been president of the United States; and~~

~~(B) identify leadership qualities of state and local leaders, past and present.~~

~~(17) [(19)] Culture. The student understands the contributions of people of various racial, ethnic, and religious groups to Texas culture. The student is expected to:~~

~~[(A) identify the similarities and differences among various racial, ethnic, and religious groups in Texas;]~~

~~(A) ~~[(B)]~~ identify customs, celebrations, and traditions of various cultural, regional, and local groups in Texas such as Cinco de Mayo, Oktoberfest, [~~the Strawberry Festival;~~] and Fiesta San Antonio; and~~

~~(B) ~~[(C)]~~ summarize the contributions of artists [~~people~~] of various racial, ethnic, and religious groups in the development of Texas culture such as Lydia Mendoza, Chelo Silva, and Julius Lorenzo Cobb Bledsoe.~~

~~(18) [(20)] Science, technology, and society. The student understands the impact of science and technology on life in Texas. The student is expected to:~~

~~(A) identify famous inventors and scientists such as Gail Borden, Joseph Glidden, Michael DeBakey, and Millie Hughes-Fulford and their contributions; and~~

(B) describe how scientific discoveries and innovations such as in aerospace, agriculture, energy, and technology have benefited individuals, businesses, and society in Texas. [; and]

~~[(C) predict how future scientific discoveries and technological innovations might affect life in Texas.]~~

(19) [(21)] Social studies skills. The student applies critical-thinking skills to organize and use information acquired from a variety of valid sources, including ~~[electronic]~~ technology. The student is expected to:

(A) differentiate between, locate, and use valid primary and secondary sources such as technology [computer software]; interviews; biographies; oral, print, and visual material; documents; and artifacts to acquire information about ~~[the United States and]~~ Texas;

(B) analyze information by applying absolute and relative chronology through sequencing, categorizing, identifying cause-and-effect relationships, comparing, contrasting, finding the main idea, summarizing, making generalizations and predictions, and drawing inferences and conclusions;

(C) organize and interpret information in outlines, reports, databases, and visuals, including graphs, charts, timelines, and maps; and

(D) identify different points of view about an issue, topic, historical event, or current event. [; and]

~~[(E) use appropriate mathematical skills to interpret social studies information such as maps and graphs.]~~

(20) Social studies skills. The student uses geographic tools to collect, analyze, and interpret data. The student is expected to:

(A) apply mapping elements, including grid systems, legends, symbols, scales, and compass roses, to create and interpret maps; and

(B) interpret geographic data, population distribution, and natural resources into a variety of formats such as graphs and maps.

(21) [(22)] Social studies skills. The student communicates in written, oral, and visual forms. The student is expected to:

(A) use social studies terminology correctly;

(B) incorporate main and supporting ideas in verbal and written communication;

(C) express ideas orally based on research and experiences; and

(D) create written and visual material such as journal entries, reports, graphic organizers, outlines, and bibliographies. [; and]

~~[(E) use standard grammar, spelling, sentence structure, and punctuation.]~~

(22) [(23)] Social studies skills. The student uses problem-solving and decision-making skills, working independently and with others [; in a variety of settings]. The student is expected to [;]

~~[(A)] use [a] problem-solving and decision-making processes [proeess] to identify a problem, gather information, list and consider options, consider advantages and disadvantages, choose and implement a solution, and evaluate the effectiveness of the solution. [; and]~~

~~[(B) use a decision-making process to identify a situation that requires a decision, gather information, identify options, predict consequences, and take action to implement a decision.]~~

*§113.16. Social Studies, Grade 5, Adopted 2018 [Beginning with School Year 2011–2012].*

(a) Introduction.

(1) In Grade 5, students survey the history of the United States from 1565 to the present. Historical content includes the colonial period, the American Revolution, the establishment of the U.S. Constitution and American identity, westward expansion, the Civil War and Reconstruction, immigration and industrialization, and the 20th and 21st centuries. Students study a variety of regions in the United States that result from physical features and human activity and identify how people adapt to and modify the environment. Students explain the characteristics and benefits of the free enterprise system and describe economic activities in the United States. Students identify the roots of representative government in this nation as well as the important ideas in the Declaration of Independence and the U.S. Constitution. Students study the fundamental rights guaranteed in the Bill of Rights. Students examine the importance of effective leadership in a constitutional republic and identify important leaders in the national government. Students recite and explain the meaning of the Pledge of Allegiance to the United States Flag. Students describe the cultural impact of various racial, ethnic, and religious groups in the nation and identify the accomplishments of notable individuals in the fields of science and technology. Students explain symbols, traditions, and landmarks that represent American beliefs and principles. Students use critical-thinking skills to sequence, categorize, and summarize information and to draw inferences and conclusions.

(2) To support the teaching of the essential knowledge and skills, the use of a variety of rich primary and secondary source material such as documents, biographies, novels, speeches, letters, poetry, songs, and artworks is encouraged. Motivating resources are available from museums, historical sites, presidential libraries, and local and state preservation societies.

(3) The eight strands of the essential knowledge and skills for social studies are intended to be integrated for instructional purposes. Skills listed in the social studies skills strand in subsection (b) of this section should be incorporated into the teaching of all essential knowledge and skills for social studies. A greater depth of understanding of complex content material can be attained when integrated social studies content from the various disciplines and critical-thinking skills are taught together. Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(4) Students identify the role of the U.S. free enterprise system within the parameters of this course and understand that this system may also be referenced as capitalism or the free market system.

(5) Throughout social studies in Kindergarten-Grade 12, students build a foundation in history; geography; economics; government; citizenship; culture; science, technology, and society; and social studies skills. The content, as appropriate for the grade level or course, enables students to understand the importance of patriotism, function in a free enterprise society, and appreciate the basic democratic values of our state and nation as referenced in the Texas Education Code (TEC), §28.002(h).

(6) Students understand that a constitutional republic is a representative form of government whose representatives derive their authority from the consent of the governed, serve for an established tenure, and are sworn to uphold the constitution.

(7) State and federal laws mandate a variety of celebrations and observances, including Celebrate Freedom Week.

(A) Each social studies class shall include, during Celebrate Freedom Week as provided under the TEC, §29.907, or during another full school week as determined by the board of trustees of a school district, appropriate instruction concerning the intent, meaning, and importance of the Declaration of Independence and the U.S. Constitution, including the Bill of Rights, in their historical contexts. The study of the Declaration of Independence must include the study of the relationship of the ideas expressed in that document to subsequent American history, including the relationship of its ideas to the rich diversity of our people as a nation of immigrants, the American Revolution, the formulation of the U.S. Constitution, and the abolitionist movement, which led to the Emancipation Proclamation and the women's suffrage movement.

(B) Each school district shall require that, during Celebrate Freedom Week or other week of instruction prescribed under subparagraph (A) of this paragraph, students in Grades 3-12 study and recite the following text from the Declaration of Independence: "We hold these Truths to be self-evident, that all Men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the Pursuit of Happiness--That to secure these Rights, Governments are instituted among Men, deriving their just Powers from the Consent of the Governed."

(8) Students identify and discuss how the actions of U.S. citizens and the local, state, and federal governments have either met or failed to meet the ideals espoused in the founding documents.

(b) Knowledge and skills.

(1) History. The student understands the reasons for and the role of key people in the [causes and effects of] European colonization of North America [in the United States] beginning in 1565, the founding of St. Augustine. The student is expected to:

(A) explain when, where, and why groups of people explored, colonized, and settled in the United States, including the search for religious freedom and economic gain; and

(B) describe the accomplishments of significant individuals who settled for religious freedom and economic gain during the colonial period, including William Bradford, Anne Hutchinson, William Penn, John Smith, [John Wise,] and Roger Williams.

(2) History. The student understands how conflict between the American colonies and Great Britain led to American independence and the formation of the United States. The student is expected to:

(A) [identify and] analyze the causes and effects of events prior to and during the American Revolution, including the taxation resulting from the French and Indian War and the colonist response to taxation such as the Boston Tea Party;

(B) identify the Founding Fathers and Patriot heroes, including John Adams, [Samuel Adams,] Benjamin Franklin, [Nathan Hale,] Thomas Jefferson, the Sons of Liberty, and George Washington, and their motivations and contributions during the revolutionary period; and

(C) summarize the results of the American Revolution, including the establishment of the United States [and the development of the U.S. military].

(3) History. The student understands the significant individuals who contributed [events that led from the Articles of Confederation] to the creation of the U.S. Constitution and the government it established. The student is expected to[:]

~~[(A) identify the issues that led to the creation of the U.S. Constitution, including the weaknesses of the Articles of Confederation; and]~~

~~[(B) identify the contributions of Founding Fathers [individuals, including] James Madison[:] and [others such as] George Mason[:] Charles Pinckney, and Roger Sherman] who helped create the U.S. Constitution.~~

(4) History. The student understands political, economic, and social changes that occurred in the United States during the 19th century. The student is expected to:

(A) describe the causes and effects of the War of 1812 such as impressment of sailors, territorial conflicts with Great Britain, and the increase in U.S. manufacturing;

(B) identify and explain how changes resulting from the Industrial Revolution led to conflict among sections of the United States;

~~[(C) identify reasons people moved west;]~~

~~[(D) [(D)] identify significant events and concepts associated with U.S. territorial expansion, including the Louisiana Purchase, the expedition of Lewis and Clark, and Manifest Destiny;~~

~~[(E) [(E)] identify the central role of the expansion of slavery in causing [causes of] the Civil War and other contributing factors, including sectionalism and [:] states' rights, [and slavery,] and the effects of the Civil War, including Reconstruction and the 13th, 14th, and 15th amendments to the U.S. Constitution; and]~~

~~[(F) explain how industry and the mechanization of agriculture changed the American way of life; and]~~

~~[(G) [(G)] identify the challenges, opportunities, and contributions of people from various American Indian and immigrant groups such as the settlement of the frontier and building of the Transcontinental Railroad.~~

(5) History. The student understands important issues, events, and individuals in the United States during the 20th and 21st centuries. The student is expected to:

(A) explain the significance of [analyze various] issues and events of the 20th century such as industrialization, urbanization, [increased use of oil and gas,] the Great Depression, the world wars, the civil rights movement, and military actions;

(B) analyze various issues and events of the 21st century such as the War on Terror and the 2008 presidential election; and

(C) identify the accomplishments and contributions of individuals and groups such as [Jane Addams,] Susan B. Anthony, [Dwight Eisenhower,] Martin Luther King Jr., Rosa Parks, Cesar Chavez, Franklin D. Roosevelt, Ronald Reagan, [Colin Powell,] the Tuskegee Airmen, and the 442nd Regimental Combat Team [who have made contributions to society] in the areas of civil rights, women's rights, military actions, and politics.

~~[(6) Geography. The student uses geographic tools to collect, analyze, and interpret data. The student is expected to:]~~

~~[(A) apply geographic tools, including grid systems, legends, symbols, scales, and compass roses, to construct and interpret maps; and]~~

~~[(B) translate geographic data into a variety of formats such as raw data to graphs and maps.]~~

(6) ~~[(7)]~~ Geography. The student understands places and ~~[the concept of]~~ regions in the United States. The student is expected to:

(A) describe political and economic ~~[a variety of]~~ regions in the United States ~~[such as political, population, and economic regions]~~ that result from patterns of human activity;

(B) describe ~~[a variety of]~~ regions in the United States based on physical characteristics such as landform, climate, and vegetation ~~[regions that result from physical characteristics such as the Great Plains, Rocky Mountains, and Coastal Plains];~~

(C) locate on a map important political features such as the five ~~[ten]~~ largest cities by population ~~[urban areas]~~ in the United States and ~~[;]~~ the 50 states ~~[and their capitals, and regions such as the Northeast, the Midwest, and the Southwest];~~ and

(D) create ~~[locate on]~~ a map of important physical features such as the Appalachian Mountains, Great Lakes, Mississippi River, Great Plains, and Rocky Mountains ~~[; Mississippi River, and Great Plains].~~

(7) ~~[(8)]~~ Geography. The student understands the location and patterns of settlement and the geographic factors that influence where people live. The student is expected to:

(A) identify and describe the patterns ~~[types]~~ of settlement such as rural, urban, and suburban ~~[and patterns of land use in the United States];~~

(B) explain the geographic factors that influence patterns of settlement and the distribution of population in the United States ~~[; past and present];~~ and

(C) analyze the geographic factors that influence ~~[reasons for]~~ the location of the five largest urban areas ~~[cities]~~ in the United States ~~[; including capital cities,] and explain their distribution~~ ~~[; past and present].~~

(8) ~~[(9)]~~ Geography. The student understands how people adapt to and modify their environment. The student is expected to:

(A) describe how and why people have adapted to and modified their environment in the United States ~~[; past and present,] such as the use of human resources to meet basic needs; and~~

(B) analyze the positive and negative consequences of human modification of the environment in the United States ~~[; past and present].~~

(9) ~~[(10)]~~ Economics. The student understands the basic economic patterns of early societies in the United States. The student is expected to:

(A) explain the economic patterns of early European colonies ~~[colonists];~~ and

(B) identify major industries of colonial America such as shipbuilding and growing of cash crops.

(10) ~~[(11)]~~ Economics. The student understands the development, characteristics, and benefits of the free enterprise system in the United States. The student is expected to:

(A) identify ~~[describe]~~ the development of the free enterprise system in colonial America and the United States;

(B) describe how the free enterprise system works in the United States; and

(C) give examples of the benefits of the free enterprise system in the United States.

(11) ~~[(12)]~~ Economics. The student understands the impact of supply and demand on consumers and producers in a free enterprise system. The student is expected to:

(A) explain how supply and demand affects consumers in the United States; and

(B) evaluate the effects of supply and demand on ~~[business,] industry~~ ~~[;]~~ and agriculture, including the plantation system, in the United States.

(12) ~~[(13)]~~ Economics. The student understands patterns of work and economic activities in the United States. The student is expected to:

(A) compare how people in different regions ~~[parts]~~ of the United States earn a living, past and present;

(B) identify and explain how geographic factors have influenced the location of economic activities in the United States;

(C) analyze the effects of immigration and ~~[;]~~ migration ~~[; and limited resources]~~ on the economic development and growth of the United States; and

(D) describe the impact of mass production, specialization, and division of labor on the economic growth of the United States ~~[; and]~~

~~[(E) explain the impact of American ideas about progress and equality of opportunity on the economic development and growth of the United States.]~~

(13) ~~[(14)]~~ Government. The student understands the organization of governments in colonial America. The student is expected to:

(A) ~~[identify and]~~ compare the systems of government of early European colonists, including representative government and monarchy; and

(B) identify examples of representative government in the American colonies, including the Mayflower Compact and the Virginia House of Burgesses.

(14) ~~[(15)]~~ Government. The student understands important ideas in the Declaration of Independence, the U.S. Constitution, and the Bill of Rights. The student is expected to:

(A) explain ~~[identify]~~ the purposes, key elements, and ~~[the purposes and explain]~~ the importance of the Declaration of Independence;

(B) explain the purposes of the U.S. Constitution as identified in the Preamble; and

(C) explain the reasons for the creation of the Bill of Rights and its importance.

(15) ~~[(16)]~~ Government. The student understands the framework of government created by the U.S. Constitution of 1787. The student is expected to:

(A) identify and explain the basic functions of the three branches of government;

(B) identify the reasons for and describe the system of checks and balances outlined in the U.S. Constitution; and

(C) distinguish between national and state governments and compare their responsibilities in the U.S. federal system.

(16) ~~[(17)]~~ Citizenship. The student understands important symbols and ~~[;]~~ customs ~~[; celebrations, and landmarks]~~ that represent

American beliefs and principles ~~that~~ ~~[and]~~ contribute to our national identity. The student is expected to:

(A) explain various patriotic symbols, including Uncle Sam; national celebrations such as Labor Day; important landmarks such as the White House and Mount Rushmore~~;~~ and political symbols such as the donkey and elephant;

(B) sing or recite "The Star-Spangled Banner" and explain its history;

(C) recite and explain the meaning of the Pledge of Allegiance to the United States Flag; and

~~[(D) describe the origins and significance of national celebrations such as Memorial Day, Independence Day, Labor Day, Constitution Day, Columbus Day, and Veterans Day; and]~~

~~(D) [(E)] explain the significance of [important landmarks, including] the White House and~~;~~ the Statue of Liberty~~;~~ and Mount Rushmore].~~

~~(17) [(18)]~~ Citizenship. The student understands the importance of individual participation in the democratic process at the local, state, and national levels. The student is expected to:

(A) explain why individuals have a ~~[the]~~ duty ~~[individuals have]~~ to participate in civic affairs at the local, state, and national levels; and

(B) explain how to contact elected and appointed leaders in local, state, and national governments.

~~(18) [(19)]~~ Citizenship. The student understands the importance of effective leadership in a constitutional republic. The student is expected to:

~~[(A) explain the contributions of the Founding Fathers to the development of the national government;]~~

(A) ~~[(B)]~~ identify past and present leaders in the national government, including the president and various members of Congress, and their political parties; and

(B) ~~[(C)]~~ identify ~~[and compare]~~ leadership qualities of national leaders, past and present.

~~(19) [(20)]~~ Citizenship. The student understands the fundamental rights of American citizens guaranteed in the Bill of Rights ~~[and other amendments to the U.S. Constitution]~~. The student is expected to~~;~~

~~[(A)]~~ describe the fundamental rights guaranteed ~~[by each amendment]~~ in the Bill of Rights, including freedom of religion, speech, and press; the right to assemble and petition the government; the right to keep and bear arms; the right to trial by jury; and the right to an attorney.~~;~~ and

~~[(B) describe various amendments to the U.S. Constitution such as those that extended voting rights of U.S. citizens.]~~

~~(20) [(21)]~~ Culture. The student understands the relationship between the arts and the times during which they were created. The student is expected to:

(A) identify significant examples of art, music, and literature from various periods in U.S. history such as the painting *American Progress*, "Yankee Doodle," and "Paul Revere's Ride"; and

(B) explain how examples of art, music, and literature reflect the times during which they were created.

~~(21) [(22)]~~ Culture. The student understands the contributions of people of various racial, ethnic, and religious groups to the United States culture. The student is expected to:

~~[(A) identify the similarities and differences within and among various racial, ethnic, and religious groups in the United States;]~~

(A) ~~[(B)]~~ describe customs and traditions of various racial, ethnic, and religious groups in the United States; and

(B) ~~[(C)]~~ summarize the contributions of people of various racial, ethnic, and religious groups to our national identity.

~~(22) [(23)]~~ Science, technology, and society. The student understands the impact of science and technology on society in the United States. The student is expected to:

(A) identify the accomplishments of notable individuals in the fields of science and technology such as ~~[, including]~~ Benjamin Franklin, Eli Whitney, John Deere, Thomas Edison, Alexander Graham Bell, George Washington Carver, the Wright Brothers, and Neil Armstrong;

(B) identify how scientific discoveries, technological innovations, and the rapid growth of technology industries have advanced the economic development of the United States, including the transcontinental railroad and the space program; and

(C) explain how scientific discoveries and technological innovations in the fields of medicine, communication, and transportation have benefited individuals and society in the United States.~~;~~ and

~~[(D) predict how future scientific discoveries and technological innovations could affect society in the United States.]~~

~~(23) [(24)]~~ Social studies skills. The student applies critical-thinking skills to organize and use information acquired from a variety of valid sources, including ~~[electronic]~~ technology. The student is expected to:

(A) differentiate between, locate, and use valid primary and secondary sources such as technology ~~[computer software]~~; interviews; biographies; oral, print, and visual material; documents; and artifacts to acquire information about the United States;

(B) analyze information by applying absolute and relative chronology through sequencing, categorizing, identifying cause-and-effect relationships, comparing, contrasting, finding the main idea, summarizing, making generalizations and predictions, and drawing inferences and conclusions;

(C) organize and interpret information in outlines, reports, databases, and visuals, including graphs, charts, timelines, and maps;

(D) identify different points of view about an issue, topic, historical event, or current event; and

(E) identify the historical context of an event.

~~(24)~~ Social studies skills. The student uses geographic tools to collect, analyze, and interpret data. The student is expected to:

~~(A) apply mapping elements, including grid systems, legends, symbols, scales, and compass roses, to create and interpret maps; and~~

~~(B) interpret geographic data, population distribution, and natural resources into a variety of formats such as graphs and maps.~~

~~(25)~~ Social studies skills. The student communicates in written, oral, and visual forms. The student is expected to:



- (A) use social studies terminology correctly;
- (B) incorporate main and supporting ideas in verbal and written communication;
- (C) express ideas orally based on research and experiences; and
- (D) create written and visual material such as journal entries, reports, graphic organizers, outlines, and bibliographies. ~~;~~ and
- ~~{(E) use standard grammar, spelling, sentence structure, and punctuation.}~~

(26) Social studies skills. The student uses problem-solving and decision-making skills, working independently and with others ~~;~~ in a variety of settings. The student is expected to ~~;~~

~~{(A) use [a] problem-solving and decision-making processes [process] to identify a problem, gather information, list and consider options, consider advantages and disadvantages, choose and implement a solution, and evaluate the effectiveness of the solution.}~~

~~{(B) use a decision-making process to identify a situation that requires a decision, gather information, identify options, predict consequences, and take action to implement a decision.}~~

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

Filed with the Office of the Secretary of State on September 24, 2018.

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Cristina De La Fuente-Valadez  
Director, Rulemaking  
Texas Education Agency

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For further information, please call: (512) 475-1497



## SUBCHAPTER B. MIDDLE SCHOOL

### 19 TAC §§113.17 - 113.20

STATUTORY AUTHORITY. The amendments are proposed under the Texas Education Code (TEC), §7.102(c)(4), which requires the State Board of Education (SBOE) to establish curriculum and graduation requirements; and TEC, §28.002, which identifies the subjects of the required curriculum and requires the SBOE by rule to identify the essential knowledge and skills of each subject in the required curriculum that all students should be able to demonstrate and that will be used in evaluating instructional materials and addressed on the state assessment instruments.

CROSS REFERENCE TO STATUTE. The amendments implement the Texas Education Code, §7.102(c)(4) and §28.002.

*§113.17. Implementation of Texas Essential Knowledge and Skills for Social Studies, Middle School, Adopted 2018 [Beginning with School Year 2011-2012].*

The provisions of §§113.18-113.20 of this subchapter shall be implemented by school districts beginning with the 2019-2020 [2011-2012] school year.

*§113.18. Social Studies, Grade 6, Adopted 2018 [Beginning with School Year 2011-2012].*

#### (a) Introduction.

(1) In Grade 6, students study people, places, and societies of the contemporary world. Societies for study are from the following regions of the world: Europe, Russia and the Eurasian republics, North America, Central America and the Caribbean, South America, South-west Asia-North Africa, Sub-Saharan Africa, South Asia, East Asia, Southeast Asia, Australia, and the Pacific realm. Students describe the influence of individuals and groups on historical and contemporary events in those societies and identify the locations and geographic characteristics of various societies. Students identify different ways of organizing economic and governmental systems. The concepts of limited and unlimited government are introduced, and students describe the nature of citizenship in various societies. Students compare institutions common to all societies such as government, education, and religious institutions. Students explain how the level of technology affects the development of the various societies and identify different points of view about events. The concept of frame of reference is introduced as an influence on an individual's point of view.

(2) To support the teaching of the essential knowledge and skills, the use of a variety of rich primary and secondary source material such as biographies, autobiographies, novels, speeches, letters, poetry, songs, and artworks is encouraged. Motivating resources are available from museums, art galleries, and historical sites.

(3) The eight strands of the essential knowledge and skills for social studies are intended to be integrated for instructional purposes. Skills listed in the social studies skills strand in subsection (b) of this section should be incorporated into the teaching of all essential knowledge and skills for social studies. A greater depth of understanding of complex content material can be attained when integrated social studies content from the various disciplines and critical-thinking skills are taught together. Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(4) Students identify the role of the U.S. free enterprise system within the parameters of this course and understand that this system may also be referenced as capitalism or the free market system.

(5) Throughout social studies in Kindergarten-Grade 12, students build a foundation in history; geography; economics; government; citizenship; culture; science, technology, and society; and social studies skills. The content, as appropriate for the grade level or course, enables students to understand the importance of patriotism, function in a free enterprise society, and appreciate the basic democratic values of our state and nation as referenced in the Texas Education Code (TEC), §28.002(h).

(6) Students understand that a constitutional republic is a representative form of government whose representatives derive their authority from the consent of the governed, serve for an established tenure, and are sworn to uphold the constitution.

(7) State and federal laws mandate a variety of celebrations and observances, including Celebrate Freedom Week.

(A) Each social studies class shall include, during Celebrate Freedom Week as provided under the TEC, §29.907, or during another full school week as determined by the board of trustees of a school district, appropriate instruction concerning the intent, meaning, and importance of the Declaration of Independence and the U.S. Constitution, including the Bill of Rights, in their historical contexts. The study of the Declaration of Independence must include the study of the relationship of the ideas expressed in that document to subsequent American history, including the relationship of its ideas to the rich diversity of our people as a nation of immigrants, the American Revolution, the

formulation of the U.S. Constitution, and the abolitionist movement, which led to the Emancipation Proclamation and the women's suffrage movement.

(B) Each school district shall require that, during Celebrate Freedom Week or other week of instruction prescribed under subparagraph (A) of this paragraph, students in Grades 3-12 study and recite the following text from the Declaration of Independence: "We hold these Truths to be self-evident, that all Men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the Pursuit of Happiness--That to secure these Rights, Governments are instituted among Men, deriving their just Powers from the Consent of the Governed."

(8) Students identify and discuss how the actions of U.S. citizens and the local, state, and federal governments have either met or failed to meet the ideals espoused in the founding documents.

(b) Knowledge and skills.

(1) History. The student understands that historical events influence contemporary events. The student is expected to:

(A) trace characteristics of various contemporary societies in regions that resulted from historical events or factors such as [~~invasion, conquests,~~] colonization, immigration, and trade; and

(B) analyze the historical background of various contemporary societies to evaluate relationships between past conflicts and current conditions.

(2) History. The student understands the influences of individuals and groups from various cultures on various historical and contemporary societies. The student is expected to:

(A) identify and describe the historical influence of individuals or groups [~~individual or group achievements~~] on various [~~historical or~~] contemporary societies [~~such as the classical Greeks on government and the American Revolution on the French Revolution~~]; and

(B) describe [~~evaluate~~] the social, political, economic, and cultural contributions of individuals and groups from various societies, past and present.

[(3) Geography. The student uses geographic tools to answer geographic questions. The student is expected to:]

[(A) pose and answer geographic questions, including: Where is it located? Why is it there? What is significant about its location? How is its location related to the location of other people, places, and environments?;]

[(B) pose and answer questions about geographic distributions and patterns for various world regions and countries shown on maps, graphs, charts, models, and databases;]

[(C) compare various world regions and countries using data from geographic tools, including maps, graphs, charts, databases, and models; and]

[(D) create thematic maps, graphs, charts, models, and databases depicting aspects such as population, disease, and economic activities of various world regions and countries.]

(3) [(4)] Geography. The student understands the factors that influence the locations and characteristics of locations of various contemporary societies on maps and/or [~~and~~] globes [~~and uses latitude and longitude to determine absolute locations~~]. The student is expected to:

[(A) locate various contemporary societies on maps and globes using latitude and longitude to determine absolute location;]

(A) [(B)] identify and explain the geographic factors responsible for patterns of population in places and regions;

(B) [(C)] explain ways in which human migration influences the character of places and regions;

(C) [(D)] identify and locate major physical and human geographic features such as landforms, water bodies, and urban centers of various places and regions; and

[(E) draw sketch maps that illustrate various places and regions; and]

(D) [(F)] identify the location of major world countries for each of the world regions [~~such as Canada, Mexico, France, Germany, the United Kingdom, Italy, Spain, Norway, Sweden, Russia, South Africa, Nigeria, Iraq, Afghanistan, Israel, Iran, India, Pakistan, the People's Republic of China, the Republic of China (Taiwan), Japan, North and South Korea, Indonesia, and Australia~~].

(4) [(5)] Geography. The student understands how geographic factors influence the economic development and[;] political relationships[; and policies] of societies. The student is expected to:

(A) [~~identify and~~] explain the geographic factors responsible for the location of economic activities in places and regions; and

(B) identify geographic factors such as location, physical features, transportation corridors and barriers, and distribution of natural resources that influence a society's political relationships. [~~ability to control territory; and~~]

[(C) explain the impact of geographic factors on economic development and the domestic and foreign policies of societies.]

[(6) Geography. The student understands that geographical patterns result from physical environmental processes. The student is expected to:]

[(A) describe and explain the effects of physical environmental processes such as erosion, ocean currents, and earthquakes on Earth's surface;]

[(B) identify the location of renewable and nonrenewable natural resources such as fresh water, fossil fuels, fertile soils, and timber; and]

[(C) analyze the effects of the interaction of physical processes and the environment on humans.]

(5) [(7)] Geography. The student understands the impact of interactions between people and the physical environment on the development and conditions of places and regions. The student is expected to:

(A) describe ways people have been impacted by physical processes such as earthquakes and climate;

(B) [(A)] identify and analyze ways people have adapted to the physical environment in various places and regions; and

(C) [(B)] identify and analyze ways people have modified the physical environment such as mining, irrigation, and transportation infrastructure.[; and]

[(C) describe ways in which technology influences human interactions with the environment such as humans building dams for flood control.]

(6) [(8)] Economics. The student understands the factors of production in a society's economy. The student is expected to:

(A) describe ways in which the factors of production (natural resources, labor, capital, and entrepreneurs) influence the economies of various contemporary societies;

(B) identify problems [and issues] that may arise when one or more of the factors of production is in relatively short supply; and

(C) explain the impact of the distribution [relative scarcity] of resources on international trade and economic interdependence among and within societies.

(7) [(9)] Economics. The student understands the various ways in which people organize economic systems. The student is expected to:

(A) compare ways in which various societies organize the production and distribution of goods and services;

(B) compare and contrast free enterprise, socialist, and communist economies in various contemporary societies, including the benefits of the U.S. free enterprise system; and

(C) understand the importance of [morality and] ethics in maintaining a functional free enterprise system.[: and]

~~[(D) examine the record of collective, non-free market economic systems in contemporary world societies.]~~

(8) [(10)] Economics. The student understands categories of economic activities and the data used to measure a society's economic level. The student is expected to:

(A) define and give examples of agricultural, [wholesale,] retail, manufacturing (goods), and service industries; and

(B) describe levels of economic development of various societies using indicators such as life expectancy, gross domestic product (GDP), GDP per capita, and literacy. [: and]

~~[(C) identify and describe the effects of government regulation and taxation on economic development and business planning.]~~

(9) [(11)] Government. The student understands the concepts of limited and unlimited governments. The student is expected to:

(A) describe [identify] and compare [describe] examples of limited and unlimited governments such as constitutional (limited) and totalitarian (unlimited);

~~[(B) compare the characteristics of limited and unlimited governments;]~~

(B) [(C)] identify reasons for limiting the power of government; and

(C) [(D)] identify and describe examples [review the record] of human rights abuses by [of] limited or unlimited governments such as the oppression of religious, ethnic, and political groups [Christians in Sudan].

(10) [(12)] Government. The student understands various ways in which people organize governments. The student is expected to:

(A) identify and give examples of governments with rule by one, few, or many;

(B) compare ways in which various societies such as China, Germany, India, and Russia organize government and how they function; and

(C) identify historical origins of democratic forms of government such as Ancient Greece.

(11) [(13)] Citizenship. The student understands that the nature of citizenship varies among societies. The student is expected to:

(A) describe and compare roles and responsibilities of citizens in various contemporary societies, including the United States; and

(B) explain how opportunities for citizens to participate in and influence the political process vary among various contemporary societies.[: and]

~~[(C) compare the role of citizens in the United States with the role of citizens from various contemporary societies with representative and nonrepresentative governments.]~~

(12) [(14)] Citizenship. The student understands the relationship among individual rights, responsibilities, duties, and freedoms in societies with representative governments. The student is expected to:

(A) identify and explain the duty of civic participation in societies with representative governments; and

(B) explain relationships among rights, responsibilities, and duties in societies with representative governments.

(13) [(15)] Culture. The student understands the similarities and differences within and among cultures in various world societies. The student is expected to:

~~[(A) define culture and the common traits that unify a culture region;]~~

(A) [(B)] identify and describe common traits that define cultures and culture regions;

(B) [(C)] define a multicultural society [and consider both the positive and negative qualities of multiculturalism];

(C) [(D)] analyze the experiences and [evaluate the] contributions of diverse groups to multicultural societies; and

~~[(E) analyze the similarities and differences among various world societies; and]~~

(D) [(F)] identify and explain examples of conflict and cooperation between and among cultures.

(14) [(16)] Culture. The student understands that all societies have basic institutions in common even though the characteristics of these institutions may differ. The student is expected to:

(A) identify institutions basic to all societies, including government, economic, educational, and religious institutions;

(B) compare characteristics of institutions in various contemporary societies; and

(C) analyze the efforts and activities institutions use to sustain themselves over time [such as the development of an informed citizenry through education and the use of monumental architecture by religious institutions].

(15) [(17)] Culture. The student understands relationships that exist among world cultures. The student is expected to:

(A) identify and describe means of cultural diffusion [how culture traits] such as trade, travel, and war [spread];

(B) identify and describe factors that influence cultural change such as improvements in [improved] communication, transportation, and economic development;

(C) analyze [evaluate] the impact of improved communication technology among cultures; and

(D) identify [and define] the impact of cultural diffusion on individuals and world societies.[: and]

~~[(E) identify examples of positive and negative effects of cultural diffusion.]~~

(16) [(18)] Culture. The student understands the relationship that exists between the arts and the societies in which they are produced. The student is expected to:

(A) explain the relationships that exist between societies and their architecture, art, music, and literature;

~~[(B) relate ways in which contemporary expressions of culture have been influenced by the past;]~~

(B) [(C)] describe ways in which contemporary issues influence creative expressions; and

(C) [(D)] identify examples of art, music, and literature that [have transcended the boundaries of societies and] convey universal themes such as religion, justice, and the passage of time.

(17) [(19)] Culture. The student understands the relationships among religion, philosophy, and culture. The student is expected to:

(A) explain the relationship among religious ideas, philosophical ideas, and cultures; and

(B) explain the significance of religious holidays and observances such as Christmas, Easter, Ramadan, the annual hajj, Yom Kippur, Rosh Hashanah, Diwali, and Vaisakhi in various contemporary societies.

(18) [(20)] Science, technology, and society. The student understands the influences of science and technology on contemporary societies. The student is expected to:

(A) identify [give] examples of scientific discoveries, [and] technological innovations, and [including the roles of] scientists and inventors[: that have [transcended the boundaries of societies and have] shaped the world;

(B) explain how resources, [belief systems,] economic factors, and political decisions affect [have affected] the use of technology; and

(C) make predictions about future social, political, economic, cultural, and environmental impacts that may result from future scientific discoveries and technological innovations.

(19) [(21)] Social studies skills. The student applies critical-thinking skills to organize and use information acquired through established research methodologies from a variety of valid sources, including [electronic] technology. The student is expected to:

(A) differentiate between, locate, and use valid primary and secondary sources such as [computer software; interviews; biographies;] oral, print, and visual material[:] and artifacts to acquire information about various world cultures;

(B) analyze information by sequencing, categorizing, identifying cause-and-effect relationships, comparing, contrasting,

finding the main idea, summarizing, making generalizations and predictions, and drawing inferences and conclusions;

(C) organize and interpret information from outlines, reports, databases, and visuals, including graphs, charts, timelines, and maps; and

(D) identify different points of view about an issue or current topic. [:]

~~[(E) identify the elements of frame of reference that influenced participants in an event; and]~~

~~[(F) use appropriate mathematical skills to interpret social studies information such as maps and graphs.]~~

(20) Social studies skills. The student uses geographic tools to collect, analyze, and interpret data. The student is expected to:

(A) answer geographic questions, including: Where is it located? Why is it there? What is significant about its location? How is its location related to the location of other people, places, and environments? Using latitude and longitude, where is it located?;

(B) pose and answer questions about geographic distributions and patterns for various world regions and countries shown on maps, graphs, and charts;

(C) compare various world regions and countries using data from maps, graphs, and charts; and

(D) create and interpret regional sketch maps, thematic maps, graphs, and charts depicting aspects such as population, disease, and economic activities of various world regions and countries.

(21) [(22)] Social studies skills. The student communicates in written, oral, and visual forms. The student is expected to:

(A) use social studies terminology correctly;

(B) incorporate main and supporting ideas in verbal and written communication based on research;

(C) express ideas orally based on research and experiences;

(D) create written and visual material such as journal entries, reports, graphic organizers, outlines, and bibliographies based on research; and

~~[(E) use standard grammar, spelling, sentence structure, and punctuation; and]~~

(E) [(F)] use effective written communication skills, including proper citations to avoid plagiarism.

(22) [(23)] Social studies skills. The student uses problem-solving and decision-making skills, working independently and with others[: in a variety of settings]. The student is expected to[:]

~~[(A)] use [a] problem-solving and decision-making processes [process] to identify a problem, gather information, list and consider options, consider advantages and disadvantages, choose and implement a solution, and evaluate the effectiveness of the solution.[: and]~~

~~[(B) use a decision-making process to identify a situation that requires a decision, gather information, identify options, predict consequences, and take action to implement a decision.]~~

§113.19. *Social Studies, Grade 7, Adopted 2018 [Beginning with School Year 2011-2012].*

(a) Introduction.

(1) In Grade 7, students study the history of Texas from early times to the present. Content is presented with more depth and breadth than in Grade 4. Students examine the full scope of Texas history, including Natural Texas and its People; Age of Contact; Spanish Colonial; Mexican National; Revolution and Republic; Early Statehood; Texas in the Civil War and Reconstruction; Cotton, Cattle, and Railroads; Age of Oil; Texas in the Great Depression and World War II; Civil Rights and Conservatism; and Contemporary Texas eras. The focus in each era is on key individuals, events, and issues and their impact. Students identify regions of Texas and the distribution of population within and among the regions and explain the factors that caused Texas to change from an agrarian to an urban society. Students describe the structure and functions of municipal, county, and state governments, explain the influence of the U.S. Constitution on the Texas Constitution, and examine the rights and responsibilities of Texas citizens. Students use primary and secondary sources to examine the rich and diverse cultural background of Texas as they identify the different racial and ethnic groups that settled in Texas to build a republic and then a state. Students analyze the impact of scientific discoveries and technological innovations on the development of Texas in various industries such as agricultural, energy, medical, computer, and aerospace. Students use primary and secondary sources to acquire information about Texas.

(2) To support the teaching of the essential knowledge and skills, the use of a variety of rich primary and secondary source material such as biographies, autobiographies, novels, speeches, letters, diaries, poetry, songs, and images is encouraged. Motivating resources are available from museums, historical sites, presidential libraries, and local and state preservation societies.

(3) The eight strands of the essential knowledge and skills for social studies are intended to be integrated for instructional purposes. Skills listed in the social studies skills strand in subsection (b) of this section should be incorporated into the teaching of all essential knowledge and skills for social studies. A greater depth of understanding of complex content material can be attained when integrated social studies content from the various disciplines and critical-thinking skills are taught together. Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(4) Students identify the role of the U.S. free enterprise system within the parameters of this course and understand that this system may also be referenced as capitalism or the free market system.

(5) Throughout social studies in Kindergarten-Grade 12, students build a foundation in history; geography; economics; government; citizenship; culture; science, technology, and society; and social studies skills. The content, as appropriate for the grade level or course, enables students to understand the importance of patriotism, function in a free enterprise society, and appreciate the basic democratic values of our state and nation as referenced in the Texas Education Code (TEC), §28.002(h).

(6) Students understand that a constitutional republic is a representative form of government whose representatives derive their authority from the consent of the governed, serve for an established tenure, and are sworn to uphold the constitution.

(7) State and federal laws mandate a variety of celebrations and observances, including Celebrate Freedom Week.

(A) Each social studies class shall include, during Celebrate Freedom Week as provided under the TEC, §29.907, or during another full school week as determined by the board of trustees of a school district, appropriate instruction concerning the intent, meaning, and importance of the Declaration of Independence and the U.S. Constitution,

including the Bill of Rights, in their historical contexts. The study of the Declaration of Independence must include the study of the relationship of the ideas expressed in that document to subsequent American history, including the relationship of its ideas to the rich diversity of our people as a nation of immigrants, the American Revolution, the formulation of the U.S. Constitution, and the abolitionist movement, which led to the Emancipation Proclamation and the women's suffrage movement.

(B) Each school district shall require that, during Celebrate Freedom Week or other week of instruction prescribed under subparagraph (A) of this paragraph, students in Grades 3-12 study and recite the following text from the Declaration of Independence: "We hold these Truths to be self-evident, that all Men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the Pursuit of Happiness--That to secure these Rights, Governments are instituted among Men, deriving their just Powers from the Consent of the Governed."

(8) Students identify and discuss how the actions of U.S. citizens and the local, state, and federal governments have either met or failed to meet the ideals espoused in the founding documents.

(b) Knowledge and skills.

(1) History. The student understands traditional historical points of reference in Texas history. The student is expected to:

(A) identify the major eras in Texas history, describe their defining characteristics, and explain the purpose of dividing [why historians divide] the past into eras, including Natural Texas and its People; Age of Contact; Spanish Colonial; Mexican National; Revolution and Republic; Early Statehood; Texas in the Civil War and Reconstruction; Cotton, Cattle, and Railroads; Age of Oil; Texas in the Great Depression and World War II; Civil Rights [and Conservatism]; and Contemporary Texas; and

~~{(B) apply absolute and relative chronology through the sequencing of significant individuals, events, and time periods; and}~~

~~{(C) explain the significance of the following dates: 1519, mapping of the Texas coast and first mainland Spanish settlement; 1718, founding of San Antonio; 1821, independence from Spain; 1836, Texas independence; 1845, annexation; 1861, Civil War begins; 1876, adoption of current state constitution; and 1901, discovery of oil at Spindletop.~~

(2) History. The student understands how individuals, events, and issues through the Mexican National Era shaped the history of Texas. The student is expected to:

(A) compare the cultures of American Indians in Texas prior to European colonization such as Gulf, Plains, Puebloan, and Southeastern;

(B) identify important individuals, events, and issues related to European exploration of Texas such as Alonso Álvarez de Pineda, Alvar Núñez Cabeza de Vaca [and his writings], the search for gold, and the conflicting territorial claims between France and Spain;

(C) identify important individuals, events, and issues related to European colonization of Texas, including the establishment of Catholic missions, towns, and ranches, and the contributions of individuals such as Fray Damián Massanet, [José de Esequedo], Antonio Margil de Jesús, and Francisco Hidalgo;

(D) identify the individuals, issues, and events related to Mexico becoming an independent nation and its impact on Texas, including Father Miguel Hidalgo, Texas involvement in the fight for independence, José Gutiérrez de Lara, the Battle of Medina, the Mexi-

can federal Constitution of 1824, the merger of Texas and Coahuila as a state, the State Colonization Law of 1825, and slavery;

(E) identify the contributions of significant individuals, including Moses Austin, Stephen F. Austin, Erasmo Seguín, Martín De León, and Green DeWitt, during the Mexican settlement of Texas; and

(F) contrast Spanish, Mexican, and Anglo purposes for and methods of settlement in Texas.

(3) History. The student understands how individuals, events, and issues related to the Texas Revolution shaped the history of Texas. The student is expected to:

(A) describe the chain [trace the development] of events that led to the Texas Revolution, including the Fredonian Rebellion, the Mier y Terán Report, the Law of April 6, 1830, the Turtle Bayou Resolutions, and the arrest of Stephen F. Austin;

(B) explain the roles played by significant individuals during the Texas Revolution, including George Childress, Lorenzo de Zavala, James Fannin, Sam Houston, Antonio López de Santa Anna, Juan N. Seguín, and William B. Travis; and

(C) explain the issues surrounding significant events of the Texas Revolution, including the Battle of Gonzales; ~~William B. Travis's letter "To the People of Texas and All Americans in the World,"~~ the siege of the Alamo, ~~William B. Travis's letter "To the People of Texas and All Americans in the World,"~~ and the heroism of the diverse [all the heroic] defenders who gave their lives there; the Constitutional Convention of 1836; ~~Fannin's surrender at Goliad;~~ and the Battle of San Jacinto; and

~~(D) explain how the establishment of the Republic of Texas brought civil, political, and religious freedom to Texas.~~

(4) History. The student understands how individuals, events, and issues shaped the history of the Republic of Texas and early Texas statehood. The student is expected to:

(A) identify individuals, events, and issues during the administrations of Republic of Texas Presidents Houston, Lamar, and Jones such as ~~including~~ the Texas Navy, the Texas Rangers, ~~Edwin W. Moore,~~ Jack Coffee Hays, Chief Bowles, William Goynes, Mary Maverick, José Antonio Navarro, the Córdova Rebellion, the Council House Fight, the Santa Fe Expedition, slavery [public debt], and the roles of racial and ethnic groups;

(B) analyze the causes of and events leading to Texas annexation such as security and public debt; and

(C) identify individuals, events, and issues during early Texas statehood, including the U.S.-Mexican War, the Treaty of Guadalupe-Hidalgo, slavery [population growth], and the Compromise of 1850.

(5) History. The student understands how events and issues shaped the history of Texas during the Civil War and Reconstruction. The student is expected to:

(A) explain the central role the expansion of slavery played in [reasons for] the involvement of Texas in the Civil War [such as states' rights, slavery, sectionalism, and tariffs];

(B) identify significant events concerning Texas and the Civil War such as the Battle of Galveston, the Battle of Sabine Pass, and the Battle of Palmito Ranch; and

(C) ~~[(B)]~~ discuss [analyze] the political, economic, and social effects of the Civil War and Reconstruction in Texas; and

~~[(C) identify significant individuals and events concerning Texas and the Civil War such as John Bell Hood, John Reagan, Francis Lubbock, Thomas Green, John Magruder and the Battle of Galveston, the Battle of Sabine Pass, and the Battle of Palmito Ranch.]~~

(6) History. The student understands how individuals, events, and issues shaped the history of Texas from Reconstruction through the beginning of the 20th century. The student is expected to:

(A) identify significant individuals, events, and issues ~~[from Reconstruction through the beginning of the 20th century]~~, including the factors leading to the expansion of the Texas frontier, the effects of westward expansion on American Indians, the buffalo soldiers, and Quanah Parker;

(B) identify significant individuals, events, and issues ~~[from Reconstruction through the beginning of the 20th century]~~, including the development of the cattle industry from its Spanish beginnings and the ~~[myths and realities of the]~~ cowboy way of life;

(C) identify significant individuals, events, and issues ~~[from Reconstruction through the beginning of the 20th century]~~, including the effects of the growth of railroads and the contributions of James Hogg; and

(D) explain the political, economic, and social impact of the agricultural industry and the development of West Texas resulting from the close of the frontier.

(7) History. The student understands how individuals, events, and issues shaped the history of Texas during the late 19th, 20th, and early 21st centuries. The student is expected to:

(A) explain how [the political, economic, and social impact of] the oil industry led to [on] the industrialization of Texas;

(B) define and trace the impact of "boom-and-bust" cycles of leading Texas industries throughout the 20th and early 21st centuries such as farming, oil and gas production, cotton, ranching, real estate, banking, and computer technology;

(C) describe and compare the impact of ~~[the Progressive and other]~~ reform movements in Texas in the 19th and 20th centuries such as progressivism, populism [the Populists], women's suffrage, agrarianism [agrarian groups], labor reform [unions], and the conservative [evangelical] movement of the late 20th century;

(D) describe and compare the civil rights and equal rights movements of various groups in Texas in the 20th century and identify key leaders in these movements such as; ~~including~~ James L. Farmer Jr., Hector P. Garcia, Oveta Culp Hobby, Lyndon B. Johnson, the League of United Latin American Citizens (LULAC), Jane McCallum, and Lulu Belle Madison White; and

(E) analyze the political, economic, and social impact of ~~[major events, including]~~ World War I, the Great Depression, ~~[and]~~ World War II, and significant issues in the latter half of the 20th and early 21st centuries such as political and economic controversies, immigration, and migration on the history of Texas; and

~~[(F) analyze the political, economic, and social impact of major events in the latter half of the 20th and early 21st centuries such as major conflicts, the emergence of a two-party system, political and economic controversies, immigration, and migration.]~~

~~[(8) Geography. The student uses geographic tools to collect, analyze, and interpret data. The student is expected to:]~~

~~[(A) create and interpret thematic maps, graphs, charts, models, and databases representing various aspects of Texas during the 19th, 20th, and 21st centuries; and]~~

~~[(B) analyze and interpret geographic distributions and patterns in Texas during the 19th, 20th, and 21st centuries.]~~

(8) ~~[(9)]~~ Geography. The student understands the location and characteristics of places and regions of Texas. The student is expected to:

(A) locate and compare the Mountains and Basins, Great Plains, North Central Plains, and Coastal Plains regions ~~[and places of importance in Texas during the 19th, 20th, and 21st centuries such as major cities, rivers, natural and historic landmarks, political and cultural regions, and local points of interest];~~

(B) locate and compare places ~~[and regions]~~ of importance in Texas in terms of physical and human characteristics such as major cities, waterways, natural and historic landmarks, political and cultural regions, and local points of interest; and

(C) analyze the effects of physical and human factors such as climate, weather, landforms, irrigation, transportation, and communication on major events in Texas.

(9) ~~[(10)]~~ Geography. The student understands the effects of the interaction between humans and the environment in Texas ~~[during the 19th, 20th, and 21st centuries].~~ The student is expected to:

(A) identify ways in which Texans have adapted to and modified the environment and explain ~~[analyze]~~ the positive and negative consequences of the modifications; and

(B) explain ways in which geographic factors such as the Galveston Hurricane of 1900, the Dust Bowl, limited water resources, and alternative energy sources have affected the political, economic, and social development of Texas.

(10) ~~[(11)]~~ Geography. The student understands the characteristics, distribution, and migration of population in Texas in the 19th, 20th, and 21st centuries. The student is expected to:

(A) identify ~~[analyze]~~ why immigrant groups came to Texas and where they settled;

(B) describe ~~[analyze]~~ how immigration and migration to Texas ~~[in the 19th, 20th, and 21st centuries]~~ have influenced Texas;

(C) describe the structure of the population of Texas using demographic concepts such as growth rate and age distribution; and

(D) ~~[(C)]~~ analyze the effects of the changing population distribution and growth in Texas ~~[during the 20th and 21st centuries]~~ and the additional need for education, health care, and transportation. ~~;~~ and

~~[(D) describe the structure of the population of Texas using demographic concepts such as growth rate and age distribution.]~~

(11) ~~[(12)]~~ Economics. The student understands the factors that caused Texas to change from an agrarian to an urban society. The student is expected to:

(A) explain economic factors and the development of major industries that led to the urbanization of Texas such as transportation, oil and gas, and manufacturing; and

~~[(B) trace the development of major industries that contributed to the urbanization of Texas such as transportation, oil and gas, and manufacturing; and]~~

(B) ~~[(C)]~~ explain the changes in the types of jobs and occupations that have resulted from the urbanization of Texas.

(12) ~~[(13)]~~ Economics. The student understands the interdependence of the Texas economy with the United States and the world. The student is expected to:

(A) explain ~~[analyze]~~ the impact of national and international markets ~~[and events]~~ on the production of goods and services in Texas, including ~~[such as]~~ agriculture and ~~;~~ oil and gas ~~;~~ and computer technology;

(B) explain ~~[analyze]~~ the impact of economic concepts within the free enterprise system such as supply and demand, profit, ~~[government regulation,]~~ and world competition on the economy of Texas; and

(C) analyze the impact of significant industries in Texas such as ~~[oil and gas,]~~ aerospace, medical, and computer technologies on local, national, and international markets.

(13) ~~[(14)]~~ Government. The student understands the basic principles reflected in the Texas Constitution. The student is expected to:

(A) identify how the Texas Constitution reflects the principles of limited government, republicanism, checks and balances, federalism, separation of powers, popular sovereignty, and individual rights; and

(B) compare the principles and concepts of the Texas Constitution to the U.S. Constitution, including the Texas and U.S. Bill of Rights.

(14) ~~[(15)]~~ Government. The student understands the structure and functions of government created by the Texas Constitution. The student is expected to:

(A) describe the structure and functions of government at municipal, county, and state levels; and

(B) identify major sources of revenue for state and local governments such as property taxes ~~[tax,]~~ sales taxes ~~[tax,]~~ bonds, and fees. ~~;~~ and

~~[(C) describe the structure, funding, and governance of Texas public education, including local property taxes, bond issues, and state and federal funding supported by state and federal taxpayers.]~~

(15) ~~[(16)]~~ Citizenship. The student understands the rights and responsibilities of Texas citizens in a democratic society. The student is expected to:

(A) explain ~~[identify]~~ rights of Texas citizens; and

(B) explain ~~[and analyze]~~ civic responsibilities of Texas citizens and the importance of civic participation.

(16) ~~[(17)]~~ Citizenship. The student understands the importance of the expression of different points of view in a democratic society. The student is expected to:

(A) identify different points of view of political parties and interest groups on important Texas issues, past and present; and

(B) describe the importance of free speech and press in a democratic society. ~~;~~ and

~~[(C) express and defend a point of view on an issue of historical or contemporary interest in Texas.]~~

(17) ~~[(18)]~~ Citizenship. The student understands the importance of effective leadership in a democratic society. The student is expected to:

(A) identify the leadership qualities of elected and appointed leaders of Texas, past and present, including Texans who have been president of the United States; and

(B) identify the contributions of Texas leaders ~~such as~~ [including] Lawrence Sullivan "Sul" Ross, John Nance Garner ("Cactus Jack"), James A. Baker III, Henry B. González, Kay Bailey Hutchison, Barbara Jordan, Raymond L. Telles, Sam Rayburn, and Raul A. Gonzalez Jr.

(18) [(19)] Culture. The student understands the concept of diversity within unity in Texas. The student is expected to:

(A) explain how the diversity of Texas is reflected in a variety of cultural activities and [and] celebrations [and performances];

(B) describe how people from various racial, ethnic, and religious groups attempt to maintain their cultural heritage while adapting to the larger Texas culture;

(C) identify examples of Spanish influence and the influence of other cultures on Texas such as place names, vocabulary, religion, architecture, food, and the arts; and

(D) identify contributions to the arts by Texans such as Roy Bedichek, Diane Gonzales Bertrand, J. Frank Dobie, Scott Joplin, Elisabet Ney, Amado Peña Jr., Walter Prescott Webb, and Horton Foote.

(19) [(20)] Science, technology, and society. The student understands the impact of scientific discoveries and technological innovations on the political, economic, and social development of Texas. The student is expected to:

(A) compare types and uses of technology, past and present;

(B) identify Texas leaders in science and technology such as Walter Cunningham, Michael DeBakey, Denton Cooley, Benjy Brooks, Michael Dell, and Howard Hughes Sr.;

(C) analyze the effects of various scientific discoveries and technological innovations on the development of Texas such as advancements in the agricultural, energy, medical, computer, and aerospace industries;

(D) evaluate the effects of scientific discoveries and technological innovations on the use of resources such as fossil fuels, water, and land; and

(E) analyze how scientific discoveries and technological innovations have resulted in an interdependence among Texas, the United States, and the world.

(20) [(21)] Social studies skills. The student applies critical-thinking skills to organize and use information acquired through established research methodologies from a variety of valid sources, including [electronic] technology. The student is expected to:

(A) differentiate between, locate, and use valid primary and secondary sources such as [computer software, databases,] media and news services, biographies, interviews, and artifacts to acquire information about Texas;

(B) analyze information by applying absolute and relative chronology through sequencing, categorizing, identifying cause-and-effect relationships, comparing, contrasting, finding the main idea, summarizing, making generalizations and predictions, and drawing inferences and conclusions;

(C) organize and interpret information from outlines, reports, databases, and visuals, including graphs, charts, timelines, and maps;

(D) identify bias and points of view from the historical context surrounding an event [and the frame of reference] that influenced the participants;

(E) support a point of view on a social studies issue or event; and

~~[(F) identify bias in written, oral, and visual material;]~~

~~[(G)] evaluate the validity of a source based on [language,] corroboration with other sources [and information about the author.]; and]~~

~~[(H) use appropriate mathematical skills to interpret social studies information such as maps and graphs.]~~

(21) Social studies skills. The student uses geographic tools to collect, analyze, and interpret data. The student is expected to:

(A) create and interpret thematic maps, graphs, and charts representing various aspects of Texas during the 19th, 20th, and 21st centuries; and

(B) analyze and interpret geographic distributions and patterns in Texas during the 19th, 20th, and 21st centuries.

(22) Social studies skills. The student communicates in written, oral, and visual forms. The student is expected to:

(A) use social studies terminology correctly;

(B) use effective written communication skills, including proper citations and avoiding plagiarism; and

~~[(B) use standard grammar, spelling, sentence structure, punctuation, and proper citation of sources;]~~

~~[(C) transfer information from one medium to another, including written to visual and statistical to written or visual, using computer software as appropriate; and]~~

~~[(D)] create written, oral, and visual presentations of social studies information.~~

(23) Social studies skills. The student uses problem-solving and decision-making skills, working independently and with others [in a variety of settings]. The student is expected to [and]

~~[(A)] use [a] problem-solving and decision-making processes [process] to identify a problem, gather information, list and consider options, consider advantages and disadvantages, choose and implement a solution, and evaluate the effectiveness of the solution.]; and]~~

~~[(B) use a decision-making process to identify a situation that requires a decision, gather information, identify options, predict consequences, and take action to implement a decision.]~~

§113.20. *Social Studies, Grade 8, Adopted 2018 [Beginning with School Year 2011-2012].*

(a) Introduction.

(1) In Grade 8, students study the history of the United States from the early colonial period through Reconstruction. The knowledge and skills in subsection (b) of this section comprise the first part of a two-year study of U.S. history. The second part, comprising U.S. history from Reconstruction to the present, is provided in §113.41 of this title (relating to United States History Studies Since 1877 (One Credit), Beginning with School Year 2011-2012). The content in Grade 8 builds upon that from Grade 5 but provides more depth and breadth.



Historical content focuses on the political, economic, religious, and social events and issues related to the colonial and revolutionary eras, the creation and ratification of the U.S. Constitution, challenges of the early republic, the Age of Jackson, westward expansion, sectionalism, Civil War, and Reconstruction. Students describe the physical characteristics of the United States and their impact on population distribution and settlement patterns in the past and present. Students analyze the various economic factors that influenced the development of colonial America and the early years of the republic and identify the origins of the free enterprise system. Students examine the American beliefs and principles, including limited government, checks and balances, federalism, separation of powers, and individual rights, reflected in the U.S. Constitution and other historical documents. Students evaluate the impact of Supreme Court cases and major reform movements of the 19th century and examine the rights and responsibilities of citizens of the United States as well as the importance of effective leadership in a constitutional republic. Students evaluate the impact of scientific discoveries and technological innovations on the development of the United States. Students use critical-thinking skills, including the identification of bias in written, oral, and visual material.

(2) To support the teaching of the essential knowledge and skills, the use of a variety of rich primary and secondary source material such as the complete text of the U.S. Constitution and the Declaration of Independence, landmark cases of the U.S. Supreme Court, biographies, autobiographies, novels, speeches, letters, diaries, poetry, songs, and artworks is encouraged. Motivating resources are available from museums, historical sites, presidential libraries, and local and state preservation societies.

(3) The eight strands of the essential knowledge and skills for social studies are intended to be integrated for instructional purposes. Skills listed in the social studies skills strand in subsection (b) of this section should be incorporated into the teaching of all essential knowledge and skills for social studies. A greater depth of understanding of complex content material can be attained when integrated social studies content from the various disciplines and critical-thinking skills are taught together. Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(4) Students identify the role of the U.S. free enterprise system within the parameters of this course and understand that this system may also be referenced as capitalism or the free market system.

(5) Throughout social studies in Kindergarten-Grade 12, students build a foundation in history; geography; economics; government; citizenship; culture; science, technology, and society; and social studies skills. The content, as appropriate for the grade level or course, enables students to understand the importance of patriotism, function in a free enterprise society, and appreciate the basic democratic values of our state and nation as referenced in the Texas Education Code (TEC), §28.002(h).

(6) Students understand that a constitutional republic is a representative form of government whose representatives derive their authority from the consent of the governed, serve for an established tenure, and are sworn to uphold the constitution.

(7) State and federal laws mandate a variety of celebrations and observances, including Celebrate Freedom Week.

(A) Each social studies class shall include, during Celebrate Freedom Week as provided under the TEC, §29.907, or during another full school week as determined by the board of trustees of a school district, appropriate instruction concerning the intent, meaning, and importance of the Declaration of Independence and the U.S. Constitution, including the Bill of Rights, in their historical contexts. The study of

the Declaration of Independence must include the study of the relationship of the ideas expressed in that document to subsequent American history, including the relationship of its ideas to the rich diversity of our people as a nation of immigrants, the American Revolution, the formulation of the U.S. Constitution, and the abolitionist movement, which led to the Emancipation Proclamation and the women's suffrage movement.

(B) Each school district shall require that, during Celebrate Freedom Week or other week of instruction prescribed under subparagraph (A) of this paragraph, students in Grades 3-12 study and recite the following text from the Declaration of Independence: "We hold these Truths to be self-evident, that all Men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the Pursuit of Happiness--That to secure these Rights, Governments are instituted among Men, deriving their just Powers from the Consent of the Governed."

(8) Students identify and discuss how the actions of U.S. citizens and the local, state, and federal governments have either met or failed to meet the ideals espoused in the founding documents.

(b) Knowledge and skills.

(1) History. The student understands traditional historical points of reference in U.S. history through 1877. The student is expected to:

(A) identify the major eras [~~and events~~] in U.S. history through 1877, including colonization, revolution, [~~drafting of the Declaration of Independence,~~] creation and ratification of the Constitution, [~~religious revivals such as the Second Great Awakening,~~] early republic, the Age of Jackson, westward expansion, reform movements, sectionalism, Civil War, and Reconstruction, and describe their causes and effects; and

~~[(B) apply absolute and relative chronology through the sequencing of significant individuals, events, and time periods; and]~~

(B) [~~(C)~~] explain the significance of the following dates: 1607, founding of Jamestown; 1620, arrival of the Pilgrims and signing of the Mayflower Compact; 1776, adoption of the Declaration of Independence; 1787, writing of the U.S. Constitution; 1803, Louisiana Purchase; and 1861-1865, Civil War.

(2) History. The student understands the causes of exploration and colonization eras. The student is expected to:

(A) identify reasons for English, Spanish, and French [~~European~~] exploration and colonization of North America; and

(B) compare political, economic, religious, and social reasons for the establishment of the 13 English colonies.

(3) History. The student understands the foundations of representative government in the United States. The student is expected to:

(A) explain the reasons for the growth of representative government and institutions during the colonial period; and

(B) analyze the importance of the Mayflower Compact, the Fundamental Orders of Connecticut, and the Virginia House of Burgesses to the growth of representative government.~~[,] and]~~

~~[(C) describe how religion and virtue contributed to the growth of representative government in the American colonies.]~~

(4) History. The student understands significant political and economic issues of the revolutionary and Constitutional eras [~~era~~]. The student is expected to:

(A) analyze causes of the American Revolution, including the Proclamation of 1763, the Intolerable Acts, the Stamp Act, mercantilism, lack of representation in Parliament, and British economic policies following the French and Indian War;

(B) explain the roles played by significant individuals during the American Revolution, including Abigail Adams, John Adams, [~~Wentworth Cheswell~~], Samuel Adams, Mercy Otis Warren, James Armistead, Benjamin Franklin, [~~Bernardo de Gálvez~~], Crispus Attucks, King George III, [~~Haym Salomon~~], Patrick Henry, Thomas Jefferson, the Marquis de Lafayette, Thomas Paine, and George Washington;

(C) explain the issues surrounding important events of the American Revolution, including declaring independence; [~~writing the Articles of Confederation~~]; fighting the battles of Lexington and [~~]~~ Concord, Saratoga, and Yorktown; enduring the winter at Valley Forge; and signing the Treaty of Paris of 1783; and

(D) analyze the issues of the Constitutional Convention of 1787, including the Great Compromise and the Three-Fifths Compromise. [~~]~~ and

~~[(E) analyze the arguments for and against ratification.]~~

(5) History. The student understands the challenges confronted by the government and its leaders in the early years of the republic and the Age of Jackson. The student is expected to:

(A) describe major domestic problems faced by the leaders of the new republic, including [~~sueh as~~] maintaining national security, building a military, creating a stable economic system, setting up the court system, and defining the authority of the central government;

(B) summarize arguments regarding protective tariffs, taxation, and the banking system;

(C) explain the origin and development of American political parties;

(D) explain the causes, important events, and effects of the War of 1812;

(E) identify the foreign policies of presidents Washington through Monroe and explain the impact of Washington's Farewell Address and the Monroe Doctrine;

(F) explain the impact of the election of Andrew Jackson, including expanded suffrage; and

(G) analyze the reasons for the removal and resettlement of Cherokee Indians during the Jacksonian era, including the Indian Removal Act, Worcester v. Georgia, and the Trail of Tears.

(6) History. The student understands westward expansion and its effects on the political, economic, and social development of the nation. The student is expected to:

(A) explain how the Northwest Ordinance established principles and procedures for orderly expansion of the United States;

~~[(B) explain the political, economic, and social roots of Manifest Destiny.]~~

~~[(B) [(C)] analyze [the relationship between the concept of Manifest Destiny and] the westward growth of the nation, including the Louisiana Purchase and Manifest Destiny; and~~

~~[(C) [(D)] explain the causes and effects of the U.S.-Mexican War and their impact on the United States. [~~]~~ and]~~

~~[(E) identify areas that were acquired to form the United States, including the Louisiana Purchase.]~~

(7) History. The student understands how political, economic, and social factors led to the growth of sectionalism and the Civil War. The student is expected to:

(A) analyze the impact of tariff policies on sections of the United States before the Civil War;

(B) compare the effects of political, economic, and social factors on slaves and free blacks;

(C) analyze the impact of slavery on different sections of the United States; and

(D) identify the provisions and compare the effects of congressional conflicts and compromises prior to the Civil War, including the roles of John Quincy Adams, John C. Calhoun, Henry Clay, and Daniel Webster.

(8) History. The student understands individuals, issues, and events of the Civil War. The student is expected to:

(A) explain the roles played by significant individuals during the Civil War, including Jefferson Davis, Ulysses S. Grant, Robert E. Lee, and Abraham Lincoln, and heroes such as congressional Medal of Honor recipients William Carney and Philip Bazaar;

(B) explain the causes of the Civil War, particularly the central role of the expansion of slavery and other contributing factors, including sectionalism and [~~]~~ states' rights; and slavery; and significant events of the Civil War, including the firing on Fort Sumter; the battles of Antietam, Gettysburg, and Vicksburg; the announcement of the Emancipation Proclamation; Lee's surrender at Appomattox Court House; and the assassination of Abraham Lincoln; [~~]~~ and

(C) explain significant events of the Civil War, including the firing on Fort Sumter; the battles of Antietam, Gettysburg, and Vicksburg; the Emancipation Proclamation; Lee's surrender at Appomattox Court House; and the assassination of Abraham Lincoln; and

~~[(D) [(C)] analyze Abraham Lincoln's ideas about liberty, equality, union, and government as contained in his first and second inaugural addresses and the Gettysburg Address and contrast them with the ideas contained in Jefferson Davis's inaugural address.~~

(9) History. The student understands the effects of Reconstruction on the political, economic, and social life of the nation. The student is expected to:

(A) evaluate legislative reform programs of the Radical Reconstruction Congress and reconstructed state governments;

(B) explain [evaluate] the impact of the election of African Americans from the South such as Hiram Rhodes Revels; and

(C) explain the economic, political, and social problems during Reconstruction and evaluate their impact on different groups. [~~]~~ and

~~[(D) identify the effects of legislative acts such as the Homestead Act, the Dawes Act, and the Morrill Act.]~~

(10) Geography. The student understands the location and characteristics of places and regions of the United States, past and present. The student is expected to:

(A) locate places and regions directly related to major eras and turning points [of importance] in the United States during the 17th, 18th, and 19th centuries;

(B) compare places and regions of the United States in terms of physical and human characteristics; and

(C) analyze the effects of physical and human geographic factors such as weather, landforms, waterways, transportation, and communication on major historical [and contemporary] events in the United States.

(11) Geography. The student understands the physical characteristics of North America and how humans adapted to and modified the environment through the mid-19th century. The student is expected to:

(A) analyze how physical characteristics of the environment influenced population distribution, settlement patterns, and economic activities in the United States [during the 17th, 18th, and 19th centuries]; and

(B) describe the positive and negative consequences of human modification of the physical environment of the United States.;

~~(C) describe how different immigrant groups interacted with the environment in the United States during the 17th, 18th, and 19th centuries.~~

(12) Economics. The student understands why various sections of the United States developed different patterns of economic activity through 1877. The student is expected to:

(A) identify economic differences among different regions of the United States;

(B) explain reasons for the development of the plantation system, the transatlantic slave trade, and the spread of slavery; and

~~(C) explain the reasons for the increase in factories and urbanization; and~~

~~(C) [D]~~ analyze the causes and effects of economic differences among different regions of the United States at selected times [in U.S. history].

(13) Economics. The student understands how various economic forces resulted in the Industrial Revolution in the 19th century. The student is expected to:

(A) analyze the economic effects of the War of 1812 [as a cause of economic changes in the nation]; and

(B) identify the economic factors that brought about rapid industrialization and urbanization.

(14) Economics. The student understands the origins and development of the free enterprise system in the United States. The student is expected to:

(A) explain why a free enterprise system of economics developed in the new nation, including minimal government regulation [intrusion], taxation, and property rights; and

(B) describe the characteristics and the benefits of the U.S. free enterprise system through 1877 [during the 18th and 19th centuries].

(15) Government. The student understands the American beliefs and principles reflected in the Declaration of Independence, the U.S. Constitution, and other important historic documents. The student is expected to:

(A) identify the influence of ideas from historic documents, including the Magna Carta, the English Bill of Rights, the

Mayflower Compact, and the Federalist Papers, [and selected Anti-Federalist writings,] on the U.S. system of government;

(B) summarize the strengths and weaknesses of the Articles of Confederation;

(C) identify colonial grievances listed in the Declaration of Independence and explain how those grievances were addressed in the U.S. Constitution and the Bill of Rights; [and]

(D) analyze how the U.S. Constitution reflects the principles of limited government, republicanism, checks and balances, federalism, separation of powers, popular sovereignty, and individual rights; and[-]

(E) explain the role of significant individuals such as Thomas Hooker, Charles de Montesquieu, and John Locke in the development of self-government in colonial America.

(16) Government. The student understands the purpose [process] of changing the U.S. Constitution and the impact of amendments on American society. The student is expected to:

(A) summarize the purposes for [and process of] amending the U.S. Constitution; and

~~(B) describe the impact of [19th-century amendments, including] the 13th, 14th, and 15th amendments[; on life in the United States].~~

(17) Government. The student understands the dynamic nature of the powers of the national government and state governments in a federal system. The student is expected to:

(A) analyze the arguments of the Federalists and Anti-Federalists, including those of Alexander Hamilton, Patrick Henry, James Madison, and George Mason; and

(B) explain constitutional issues arising over the issue of states' rights, including the Nullification Crisis and the Civil War.

(18) Government. The student understands the impact of landmark Supreme Court cases. The student is expected to:

(A) identify the origin of judicial review [and analyze examples of congressional and presidential responses];

(B) summarize the issues, decisions, and significance of landmark Supreme Court cases, including Marbury v. Madison, McCulloch v. Maryland, and Gibbons v. Ogden; and

(C) evaluate the impact of [selected] landmark Supreme Court decision [decisions; including] Dred Scott v. Sandford[;] on life in the United States.

(19) Citizenship. The student understands the rights and responsibilities of citizens of the United States. The student is expected to:

(A) define and give examples of unalienable rights;

(B) summarize rights guaranteed in the Bill of Rights;

and

~~(C) explain the importance of personal responsibilities, including accepting responsibility for one's behavior and supporting one's family;]~~

~~(C) [D]~~ identify examples of responsible citizenship, including obeying rules and laws, staying informed on public issues, voting, and serving on juries.[-]

~~(E) summarize the criteria and explain the process for becoming a naturalized citizen of the United States; and]~~

~~[(F) explain how the rights and responsibilities of U.S. citizens reflect our national identity.]~~

(20) Citizenship. The student understands the importance of voluntary individual participation in the democratic process. The student is expected to:

~~[(A) explain the role of significant individuals such as Thomas Hooker, Charles de Montesquieu, John Locke, William Blackstone, and William Penn in the development of self-government in colonial America;]~~

(A) ~~[(B)]~~ evaluate the contributions of the Founding Fathers as models of civic virtue; and

(B) ~~[(C)]~~ analyze reasons for and the impact of selected examples of civil disobedience in U.S. history such as the Boston Tea Party and Henry David Thoreau's refusal to pay a tax.

(21) Citizenship. The student understands the importance of the expression of different points of view in a constitutional republic. The student is expected to:

(A) identify different points of view of political parties and interest groups on important historical ~~[and contemporary]~~ issues;

(B) describe the importance of free speech and press in a constitutional republic; and

(C) summarize ~~[a]~~ historical events ~~[event]~~ in which compromise resulted in a ~~[peaceful]~~ resolution such as the Missouri Compromise, the Compromise of 1850, and Kansas-Nebraska Act.

(22) Citizenship. The student understands the importance of effective leadership in a constitutional republic. The student is expected to:

(A) analyze the leadership qualities of elected and appointed leaders of the United States such as George Washington, John Marshall, and Abraham Lincoln; and

(B) describe the contributions of significant political, social, and military leaders of the United States such as Frederick Douglass, John Paul Jones, ~~[James Monroe, Stonewall Jackson,]~~ Susan B. Anthony, and Elizabeth Cady Stanton.

(23) Culture. The student understands the relationships between and among people from various groups, including racial, ethnic, and religious groups, during the 17th, 18th, and 19th centuries. The student is expected to:

(A) identify ~~[selected]~~ racial, ethnic, and religious groups that settled in the United States and explain their reasons for immigration;

(B) explain how ~~[the relationship between]~~ urbanization contributed to ~~[and]~~ conflicts resulting from differences in religion, social class, and political beliefs;

(C) identify ways conflicts between people from various racial, ethnic, and religious groups were addressed ~~[resolved]~~;

(D) analyze the contributions of people of various racial, ethnic, and religious groups to our national identity; and

(E) identify the political, social, and economic contributions of women to American society.

(24) Culture. The student understands the major reform movements of the 19th century. The student is expected to:

(A) describe and evaluate the historical development of the abolitionist movement; and

(B) evaluate the impact of reform movements, including educational reform, temperance, the women's rights movement, prison reform, ~~[abolition,]~~ the labor reform movement, and care of the disabled.

(25) Culture. The student understands the impact of religion on the American way of life. The student is expected to:

(A) trace the development of religious freedom in the United States;

(B) describe religious influences ~~[motivation for immigration and influence]~~ on social movements, including the impact of the first and second Great Awakenings; and

(C) analyze the impact of the First Amendment guarantees of religious freedom on the American way of life.

(26) Culture. The student understands the relationship between the arts and the times during which they were created. The student is expected to:

~~[(A) describe developments in art, music, and literature that are unique to American culture such as the Hudson River School artists, John James Audubon, "Battle Hymn of the Republic," transcendentalism, and other cultural activities in the history of the United States;]~~

(A) ~~[(B)]~~ identify examples of American art, music, and literature that reflect society in different eras such as the Hudson River School artists and transcendental literature; and

(B) ~~[(C)]~~ analyze the relationship between the ~~[fine]~~ arts and continuity and change in the American way of life.

(27) Science, technology, and society. The student understands the impact of science and technology on the economic development of the United States. The student is expected to:

(A) explain the effects of technological and scientific innovations such as the steamboat, the cotton gin, the telegraph, and interchangeable parts;

~~[(B) analyze the impact of transportation and communication systems on the growth, development, and urbanization of the United States;]~~

(B) ~~[(C)]~~ analyze how technological innovations changed the way goods were manufactured and ~~distributed~~~~[marketed]~~, nationally and internationally; and

(C) ~~[(D)]~~ analyze ~~[explain]~~ how technological innovations brought about economic growth such as the development of ~~[how]~~ the factory system ~~[contributed to rapid industrialization]~~ and the construction of the Transcontinental Railroad ~~[led to the opening of the west]~~.

(28) Science, technology, and society. The student understands the impact of scientific discoveries and technological innovations on daily life in the United States. The student is expected to:

(A) compare the effects of scientific discoveries and technological innovations that have influenced daily life in different periods in U.S. history; and

(B) identify examples of how industrialization changed life in the United States.

(29) Social studies skills. The student applies critical-thinking skills to organize and use information acquired through established research methodologies from a variety of valid sources, including ~~[electronic]~~ technology. The student is expected to:

(A) differentiate between, locate, and use valid primary and secondary sources such as ~~[computer software, databases,]~~ media and news services, biographies, interviews, and artifacts to acquire information about the United States;

(B) analyze information by applying absolute and relative chronology through sequencing, categorizing, identifying cause-and-effect relationships, comparing, contrasting, finding the main idea, summarizing, making generalizations and predictions, and drawing inferences and conclusions;

(C) organize and interpret information from outlines, reports, databases, and visuals, including graphs, charts, timelines, and maps;

(D) identify bias and points of view from the historical context surrounding an event ~~[and the frame of reference]~~ which influenced the participants;

(E) support a point of view on a social studies issue or event;

~~[(F) identify bias in written, oral, and visual material;]~~

~~[(G)]~~ evaluate the validity of a source based on ~~[language,]~~ corroboration with other sources~~;~~ and information about the author;

~~[(H) use appropriate mathematical skills to interpret social studies information such as maps and graphs;]~~

~~[(H)]~~ create a visual representation of historical information such as thematic maps, graphs, and charts~~;~~ ~~models;~~ and ~~databases]~~ representing various aspects of the United States; and

~~[(H)]~~ pose and answer questions about geographic distributions and patterns shown on maps, graphs, and charts~~;~~ ~~models;~~ and ~~databases]~~.

(30) Social studies skills. The student communicates in written, oral, and visual forms. The student is expected to:

(A) use social studies terminology correctly;

(B) use effective written communication skills, including proper citations and avoiding plagiarism; and

~~[(B) use standard grammar, spelling, sentence structure, punctuation; and proper citation of sources;]~~

~~[(C) transfer information from one medium to another, including written to visual and statistical to written or visual; using computer software as appropriate; and]~~

~~[(C)]~~ create written, oral, and visual presentations of social studies information.

(31) Social studies skills. The student uses problem-solving and decision-making skills, working independently and with others~~;~~ in a variety of settings]. The student is expected to~~[-]~~

~~[(A)]~~ use [a] problem-solving and decision-making processes ~~[p[ro]cess]~~ to identify a problem, gather information, list and consider options, consider advantages and disadvantages, choose and implement a solution, and evaluate the effectiveness of the solution~~;~~ and]

~~[(B) use a decision-making p[ro]cess to identify a situation that requires a decision; gather information; identify options; predict consequences; and take action to implement a decision.]~~

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

Filed with the Office of the Secretary of State on September 24, 2018.

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Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

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For further information, please call: (512) 475-1497



## SUBCHAPTER C. HIGH SCHOOL

### 19 TAC §§113.30, 113.31, 113.41 - 113.44

STATUTORY AUTHORITY. The new sections and amendments are proposed under the Texas Education Code (TEC), §7.102(c)(4), which requires the State Board of Education (SBOE) to establish curriculum and graduation requirements; TEC, §28.002, which identifies the subjects of the required curriculum and requires the SBOE by rule to identify the essential knowledge and skills of each subject in the required curriculum that all students should be able to demonstrate and that will be used in evaluating instructional materials and addressed on the state assessment instruments; and TEC, §28.025, which requires the SBOE by rule to determine the curriculum requirements for the foundation high school graduation program that are consistent with the required curriculum under the TEC, §28.002.

CROSS REFERENCE TO STATUTE. The new sections and amendments implement the Texas Education Code, §§7.102(c)(4), 28.002, and 28.025.

§113.30. Implementation of Texas Essential Knowledge and Skills for Social Studies, High School, Adopted 2018.

(a) The provisions of §113.31 and §§113.41-113.44 of this subchapter shall be implemented by school districts beginning with the 2019-2020 school year.

(b) The provisions of §§113.45-113.48 of this subchapter shall be implemented by school districts beginning with the 2011-2012 school year.

§113.31. Economics with Emphasis on the Free Enterprise System and Its Benefits, High School (One-Half Credit), Adopted 2018.

(a) General requirements. This course will be taught in the social studies department and is recommended to be taught in Grade 12.

(b) Introduction.

(1) Economics with Emphasis on the Free Enterprise System and Its Benefits is the culmination of the economic content and concepts studied from Kindergarten through required secondary courses. The focus is on the basic principles concerning production, consumption, and distribution of goods and services (the problem of scarcity) in the United States and a comparison with those in other countries around the world. Students analyze the interaction of supply, demand, and price. Students will investigate the concepts of specialization and international trade, economic growth, key economic measurements, and monetary and fiscal policy. Students will study the roles of the Federal Reserve System and other financial institutions, government, and businesses in a free enterprise system. Types of business ownership and market structures are discussed. The course also incorporates instruction in personal financial literacy. Students apply critical-thinking

skills using economic concepts to evaluate the costs and benefits of economic issues.

(2) Students identify the role of the U.S. free enterprise system within the parameters of this course and understand that this system may also be referenced as capitalism or the free market system.

(3) Economics with Emphasis on the Free Enterprise System and Its Benefits builds upon the foundation in economics and social studies laid by the social studies essential knowledge and skills in Kindergarten-Grade 12. The course will apply these skills to current economic situations. The content enables students to understand the importance of patriotism, function in a free enterprise society, and appreciate the basic democratic values of our state and nation as referenced in the Texas Education Code (TEC), §28.002(h).

(4) Students understand that a constitutional republic is a representative form of government whose representatives derive their authority from the consent of the governed, serve for an established tenure, and are sworn to uphold the constitution.

(5) As referenced in House Bill 492, an act of the Texas Legislature signed into law in 2005, the concepts of personal financial literacy are to be mastered by students in order that they may become self-supporting adults who can make informed decisions relating to personal financial matters. These concepts are incorporated into the student expectations of Economics with Emphasis on the Free Enterprise System and Its Benefits: understanding interest, avoiding and eliminating credit card debt; understanding the rights and responsibilities of renting or buying a home; managing money to make the transition from renting a home to home ownership; starting a small business; being a prudent investor in the stock market and using other investment options; beginning a savings program and planning for retirement; bankruptcy; types of bank accounts available to consumers and benefits of maintaining a bank account; balancing a checkbook; types of loans available to consumers and becoming a low-risk borrower; understanding insurance; and charitable giving.

(6) State and federal laws mandate a variety of celebrations and observances, including Celebrate Freedom Week.

(A) Each social studies class shall include, during Celebrate Freedom Week as provided under the TEC, §29.907, or during another full school week as determined by the board of trustees of a school district, appropriate instruction concerning the intent, meaning, and importance of the Declaration of Independence and the U.S. Constitution, including the Bill of Rights, in their historical contexts. The study of the Declaration of Independence must include the study of the relationship of the ideas expressed in that document to subsequent American history, including the relationship of its ideas to the rich diversity of our people as a nation of immigrants, the American Revolution, the formulation of the U.S. Constitution, and the abolitionist movement, which led to the Emancipation Proclamation and the women's suffrage movement.

(B) Each school district shall require that, during Celebrate Freedom Week or other week of instruction prescribed under subparagraph (A) of this paragraph, students in Grades 3-12 study and recite the following text from the Declaration of Independence: "We hold these Truths to be self-evident, that all Men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the Pursuit of Happiness--That to secure these Rights, Governments are instituted among Men, deriving their just Powers from the Consent of the Governed."

(7) Students identify and discuss how the actions of U.S. citizens and the local, state, and federal governments have either met or failed to meet the ideals espoused in the founding documents.

(c) Knowledge and skills.

(1) Economics. The student understands the concepts of scarcity and opportunity costs. The student is expected to:

(A) explain why scarcity and choice are basic economic problems faced by every society;

(B) describe how societies answer the basic economic questions: what to produce, how to produce, and for whom to produce;

(C) describe the economic factors of production: land, labor, capital, and entrepreneurship; and

(D) interpret a production-possibilities curve and apply the concepts of opportunity costs and scarcity.

(2) Economics. The student understands the interaction of supply, demand, and price. The student is expected to:

(A) understand the effect of changes in price on the quantity demanded and quantity supplied;

(B) identify the non-price determinants that create changes in supply and demand, which result in a new equilibrium price; and

(C) interpret a supply-and-demand graph using supply-and-demand schedules.

(3) Economics. The student understands the reasons for international trade and its importance to the United States and the global economy. The student is expected to:

(A) apply the concepts of absolute and comparative advantages;

(B) compare the effects of free trade and trade barriers on economic activities, including the benefits and costs of participating in international trade; and

(C) analyze the effects of changes in exchange rates on imports and exports.

(4) Economics. The student understands free enterprise, socialist, and communist economic systems. The student is expected to:

(A) explain the basic characteristics of economic systems, including property rights, incentives, economic freedom, competition, and the role of government;

(B) compare current and historic examples of the free enterprise system, socialism, and communism using the basic characteristics of economic systems; and

(C) analyze the contributions of various economic philosophers, including Friedrich Hayek, Milton Friedman, John Maynard Keynes, and Adam Smith, and their impact on the U.S. free enterprise system.

(5) Economics. The student understands the basic characteristics and benefits of a free enterprise system. The student is expected to:

(A) explain the benefits of the U.S. free enterprise system, including individual freedom of consumers and producers, variety of goods, responsive prices, investment opportunities, and the creation of wealth; and

(B) analyze recent changes in the basic characteristics, including private property, incentives, economic freedom, competition, and the limited role of government, of the U.S. economy.

(6) Economics. The student understands the right to own, use, and dispose of private property. The student is expected to:

(A) analyze the costs and benefits of the purchase, use, or disposal of personal and business property; and

(B) identify and evaluate examples of restrictions that the government places on the use of business and individual property.

(7) Economics. The student understands the circular-flow model of the economy. The student is expected to:

(A) interpret the roles of resource owners and firms in a circular-flow model of the economy and provide real-world examples to illustrate elements of the model; and

(B) explain how government actions affect the circular-flow model.

(8) Economics. The student understands types of market structures. The student is expected to:

(A) describe characteristics and give examples of pure competition, monopolistic competition, oligopoly, and monopoly; and

(B) identify regulations that apply to the establishment and operation of various types of market structures.

(9) Economics. The student understands key economic measurements. The student is expected to:

(A) interpret economic data, including unemployment rate, gross domestic product, gross domestic product per capita as a measure of national wealth, and rate of inflation; and

(B) analyze business cycles using key economic indicators.

(10) Economics. The student understands key components of economic growth. The student is expected to:

(A) analyze how productivity relates to growth;

(B) analyze how technology relates to growth; and

(C) analyze how trade relates to growth.

(11) Economics. The student understands the role of money in an economy. The student is expected to:

(A) describe the functions of money;

(B) describe the characteristics of money, including commodity money, fiat money, and representative money; and

(C) examine the positive and negative aspects of barter, currency, and debit cards.

(12) Economics. The student understands the role of the Federal Reserve System in establishing monetary policy. The student is expected to:

(A) explain the structure of the Federal Reserve System;

(B) analyze the three basic tools used to implement U.S. monetary policy, including reserve requirements, the discount rate and the federal funds rate target, and open-market operations;

(C) explain how the actions of the Federal Reserve System affect the nation's money supply; and

(D) analyze the decline in value of the U.S. dollar, including the abandonment of the gold standard.

(13) Economics. The student understands the role that the government plays in the U.S. free enterprise system. The student is expected to:

(A) describe the role of government in the U.S. free enterprise system and the changes in that role over time; and

(B) analyze the costs and benefits of U.S. economic policies, rules, and regulations related to the economic goals of economic growth, stability, full employment, freedom, security, equity (equal opportunity versus equal outcome), and efficiency.

(14) Economics. The student understands the economic impact of fiscal policy decisions at the local, state, and national levels. The student is expected to:

(A) identify types of taxes at the local, state, and national levels and the economic importance of each;

(B) explain the categories of revenues and expenditures in the U.S. federal budget; and

(C) analyze the impact of fiscal policy decisions on the economy.

(15) Personal financial literacy. The student understands types of business ownership. The student is expected to:

(A) explain the characteristics of sole proprietorships, partnerships, and corporations; and

(B) analyze the advantages and disadvantages of sole proprietorships, partnerships, and corporations.

(16) Personal financial literacy. The student understands the role of financial markets/institutions in saving, borrowing, and capital formation. The student is expected to:

(A) explain the functions of financial institutions and how they affect households and businesses;

(B) explain how the amount of savings in an economy is the basis of capital formation;

(C) analyze the role of interest and risk in allocating savings to its most productive use; and

(D) examine the types of accounts available to consumers from financial institutions and the risks, monetary costs, and benefits of maintaining these accounts.

(17) Personal financial literacy. The student understands the role of individuals in financial markets. The student is expected to:

(A) assess ways to be a wise investor in the stock market and in other personal investment options such as developing a personal retirement plan;

(B) explain how to begin a savings program;

(C) demonstrate how to maintain a checking account, including reconciling a bank statement;

(D) identify the types of loans available to consumers;

(E) explain the responsibilities and obligations of borrowing money; and

(F) develop strategies to become a low-risk borrower by improving and understanding one's personal credit score.

(18) Personal financial literacy. The student applies critical-thinking skills to analyze the costs and benefits of personal financial decisions. The student is expected to:

(A) examine ways to avoid and eliminate credit card debt;

(B) evaluate the costs and benefits of declaring personal bankruptcy;

(C) evaluate the costs and benefits of buying insurance; and

(D) evaluate the costs and benefits of charitable giving.

(19) Personal financial literacy. The student understands how to provide for basic needs while living within a budget. The student is expected to:

(A) evaluate the costs and benefits of renting a home versus buying a home; and

(B) assess the financial aspects of making the transition from renting to home ownership.

(20) Personal financial literacy. The student understands the various methods available to pay for college and other postsecondary education and training. The student is expected to:

(A) understand how to complete the Free Application for Federal Student Aid (FAFSA) provided by the United States Department of Education;

(B) research and evaluate various scholarship opportunities such as those from state governments, schools, employers, individuals, private companies, nonprofits, and professional organizations;

(C) analyze and compare student grant options;

(D) analyze and compare student loan options, including private and federal loans; and

(E) research and evaluate various work-study program opportunities.

(21) Social studies skills. The student applies critical-thinking skills to organize and use information acquired through established research methodologies from a variety of valid sources, including technology. The student is expected to:

(A) analyze economic information by sequencing, categorizing, identifying cause-and-effect relationships, comparing, contrasting, finding the main idea, summarizing, making generalizations and predictions, and drawing inferences and conclusions;

(B) create economic models, including production-possibilities curves, circular-flow charts, and supply-and-demand graphs, to analyze economic concepts or issues;

(C) explain a point of view on an economic issue;

(D) analyze and evaluate the validity of economic information from primary and secondary sources for bias, propaganda, point of view, and frame of reference; and

(E) evaluate economic data using charts, tables, graphs, and maps.

(22) Social studies skills. The student communicates in written, oral, and visual forms. The student is expected to:

(A) use social studies terminology correctly; and

(B) create written, oral, and visual presentations of economic information using effective communication skills, including proper citations and avoiding plagiarism.

(23) Social studies skills. The student uses problem-solving and decision-making skills, working independently and with oth-

ers. The student is expected to use problem-solving and decision-making processes to identify a problem, gather information, list and consider options, consider advantages and disadvantages, choose and implement a solution, and evaluate the effectiveness of the solution.

§113.41. United States History Studies Since 1877 (One Credit), Adopted 2018 [Beginning with School Year 2011-2012].

(a) General requirements. Students shall be awarded one unit of credit for successful completion of this course.

(b) Introduction.

(1) In United States History Studies Since 1877, which is the second part of a two-year study that begins in Grade 8, students study the history of the United States from 1877 to the present. The course content is based on the founding documents of the U.S. government, which provide a framework for its heritage. Historical content focuses on the political, economic, and social events and issues related to industrialization and urbanization, major wars, domestic and foreign policies, and reform movements, including civil rights. Students examine the impact of geographic factors on major events and eras and analyze their causes and effects. Students examine the impact of constitutional issues on American society, evaluate the dynamic relationship of the three branches of the federal government, and analyze efforts to expand the democratic process. Students describe the relationship between the arts and popular culture and the times during which they were created. Students analyze the impact of technological innovations on American life. Students use critical-thinking skills and a variety of primary and secondary source material to explain and apply different methods that historians use to understand and interpret the past, including multiple points of view and historical context.

(2) To support the teaching of the essential knowledge and skills, the use of a variety of rich primary and secondary source material such as biographies, autobiographies, landmark cases of the U.S. Supreme Court, novels, speeches, letters, diaries, poetry, songs, and artworks is encouraged. Motivating resources are available from museums, historical sites, presidential libraries, and local and state preservation societies.

(3) The eight strands of the essential knowledge and skills for social studies are intended to be integrated for instructional purposes. Skills listed in the social studies skills strand in subsection (c) of this section should be incorporated into the teaching of all essential knowledge and skills for social studies. A greater depth of understanding of complex content material can be attained when integrated social studies content from the various disciplines and critical-thinking skills are taught together. Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(4) Students identify the role of the U.S. free enterprise system within the parameters of this course and understand that this system may also be referenced as capitalism or the free market system.

(5) Throughout social studies in Kindergarten-Grade 12, students build a foundation in history; geography; economics; government; citizenship; culture; science, technology, and society; and social studies skills. The content, as appropriate for the grade level or course, enables students to understand the importance of patriotism, function in a free enterprise society, and appreciate the basic democratic values of our state and nation as referenced in the Texas Education Code (TEC), §28.002(h).

(6) Students understand that a constitutional republic is a representative form of government whose representatives derive their authority from the consent of the governed, serve for an established tenure, and are sworn to uphold the constitution.



(7) State and federal laws mandate a variety of celebrations and observances, including Celebrate Freedom Week.

(A) Each social studies class shall include, during Celebrate Freedom Week as provided under the TEC, §29.907, or during another full school week as determined by the board of trustees of a school district, appropriate instruction concerning the intent, meaning, and importance of the Declaration of Independence and the U.S. Constitution, including the Bill of Rights, in their historical contexts. The study of the Declaration of Independence must include the study of the relationship of the ideas expressed in that document to subsequent American history, including the relationship of its ideas to the rich diversity of our people as a nation of immigrants, the American Revolution, the formulation of the U.S. Constitution, and the abolitionist movement, which led to the Emancipation Proclamation and the women's suffrage movement.

(B) Each school district shall require that, during Celebrate Freedom Week or other week of instruction prescribed under subparagraph (A) of this paragraph, students in Grades 3-12 study and recite the following text from the Declaration of Independence: "We hold these Truths to be self-evident, that all Men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the Pursuit of Happiness--That to secure these Rights, Governments are instituted among Men, deriving their just Powers from the Consent of the Governed."

(8) Students identify and discuss how the actions of U.S. citizens and the local, state, and federal governments have either met or failed to meet the ideals espoused in the founding documents.

(c) Knowledge and skills.

(1) History. The student understands the principles included in the Celebrate Freedom Week program. The student is expected to:

(A) analyze and evaluate the text, intent, meaning, and importance of the Declaration of Independence and the U.S. Constitution, including the Bill of Rights; and identify the full text of the first three paragraphs of the Declaration of Independence;

(B) analyze and evaluate the application of these founding principles to historical events in U.S. history; and

(C) discuss the meaning and historical significance of the mottos "E Pluribus Unum" and "In God We Trust."

~~(C)~~ explain the contributions of the Founding Fathers such as Benjamin Rush, John Hancock, John Jay, John Witherspoon, John Peter Muhlenberg, Charles Carroll, and Jonathan Trumbull Sr.;

(2) History. The student understands traditional historical points of reference in U.S. history from 1877 to the present. The student is expected to:

~~(A)~~ identify the major characteristics that define an historical era.;

(A) ~~(B)~~ identify the major eras in U.S. history from 1877 to the present and describe their defining characteristics; and

~~(C)~~ apply absolute and relative chronology through the sequencing of significant individuals, events, and time periods; and

(B) ~~(D)~~ explain the significance of the following years as turning points: 1898 (Spanish-American War), 1914-1918 (World War I), 1929 (the Great Depression begins), 1939-1945 (World War II), 1957 (Sputnik launch ignites U.S.-Soviet space race), 1968 ~~[1968-1969]~~ (Martin Luther King Jr. assassination ~~[and U.S. lands on the moon]~~), 1969 (U.S. lands on the moon), 1991 (Cold War ends), 2001

(terrorist attacks on World Trade Center and the Pentagon), and 2008 (election of first black president, Barack Obama).

(3) History. The student understands the political, economic, and social changes in the United States from 1877 to 1898. The student is expected to:

(A) analyze political issues such as Indian policies, the growth of political machines, and civil service reform; and the beginnings of Populism;

(B) analyze economic issues such as industrialization, the growth of railroads, the growth of labor unions, farm issues, the cattle industry boom, the growth ~~[rise]~~ of entrepreneurship, ~~[free enterprise]~~ and the pros and cons of big business; and

(C) analyze social issues affecting women, minorities, children, immigrants, and urbanization; the Social Gospel, and philanthropy of industrialists; and

~~(D)~~ describe the optimism of the many immigrants who sought a better life in America.;

(4) History. The student understands the emergence of the United States as a world power between 1898 and 1920. The student is expected to:

(A) explain why significant events, policies, and individuals, including ~~[such as]~~ the Spanish-American War, U.S. expansionism, ~~[Henry Cabot Lodge]~~ Alfred Thayer Mahan, Theodore Roosevelt, and Sanford B. Dole; and missionaries moved the United States into the position of a world power;

(B) evaluate American expansionism, including acquisitions such as Guam, Hawaii, the Philippines, and Puerto Rico;

(C) identify the causes of World War I and reasons for U.S. entry;

(D) understand the contributions of the American Expeditionary Forces (AEF) led by General John J. Pershing, including the Battle of Argonne Forest;

(E) analyze the impact of ~~[significant technological innovations in World War I such as]~~ machine guns, airplanes, tanks, poison gas, and trench warfare as significant technological innovations in World War I ~~[that resulted in the stalemate]~~ on the Western Front; and

(F) analyze major issues ~~[such as isolationism and neutrality]~~ raised by U.S. involvement in World War I, including isolationism, neutrality, Woodrow Wilson's Fourteen Points, and the Treaty of Versailles; and

~~(G)~~ analyze significant events such as the Battle of Argonne Forest.;

(5) History. The student understands the effects of reform and third-party movements in the early 20th century. The student is expected to:

(A) analyze ~~[evaluate]~~ the impact of Progressive Era reforms, including initiative, referendum, recall, and the passage of the 16th, 17th, 18th, and 19th amendments;

(B) evaluate the impact of muckrakers and reform leaders such as Upton Sinclair, Susan B. Anthony, Jane Addams, Ida B. Wells, and W. E. B. DuBois on American society; and

(C) analyze ~~[evaluate]~~ the impact of third parties, including the Populist and Progressive parties.

(6) History. The student understands significant events, social issues, and individuals of the 1920s. The student is expected to:

(A) analyze causes and effects of events and social issues such as immigration, Social Darwinism, the Scopes Trial, eugenics, race relations, nativism, the Red Scare, Prohibition, and the changing role of women; and

(B) analyze the impact of significant individuals such as [Clarence Darrow, William Jennings Bryan,] Henry Ford, [Glenn Curtiss,] Marcus Garvey, and Charles A. Lindbergh.

(7) History. The student understands the domestic and international impact of U.S. participation in World War II. The student is expected to:

(A) identify reasons for U.S. involvement in World War II, including the aggression of Italian, German, and Japanese dictatorships [and their aggression], especially the attack on Pearl Harbor;

(B) evaluate the domestic and international leadership of Franklin D. Roosevelt and Harry Truman during World War II, including the U.S. relationship with its allies [and domestic industry's rapid mobilization for the war effort];

[(C) analyze the function of the U.S. Office of War Information;]

(C) [(D)] analyze major issues of World War II, including the Holocaust; the internment of German, Italian, and Japanese Americans as a result of [and] Executive Order 9066; and the development of [conventional and] atomic weapons;

(D) [(E)] analyze major military events of World War II, including fighting the war on multiple fronts, the Bataan Death March, the U.S. military advancement through the Pacific Islands, the Battle of Midway, [the U.S. military advancement through the Pacific Islands, the Bataan Death March,] the invasion of Normandy, [fighting the war on multiple fronts,] and the liberation of concentration camps;

(E) [(F)] describe [evaluate] the military contributions of leaders during World War II, including [Omar Bradley,] Dwight Eisenhower, Douglas MacArthur, and Chester W. [A.] Nimitz; George Marshall, and George Patton; and]

(F) [(G)] explain issues affecting the home front [and how American patriotism inspired exceptional actions by citizens and military personnel], including [high levels of military enlistment,] volunteerism, [the purchase of war bonds, and] Victory Gardens [the bravery and contributions of the Tuskegee Airmen, the Flying Tigers, and the Navajo Code Talkers,] and opportunities and obstacles for women and ethnic minorities; and[-]

(G) explain how American patriotism inspired high levels of military enlistment and the bravery and contributions of the Tuskegee Airmen, the Flying Tigers, and the Navajo Code Talkers.

(8) History. The student understands the impact of significant national and international decisions and conflicts in the Cold War on the United States. The student is expected to:

(A) describe U.S. responses to Soviet aggression after World War II, including the Truman Doctrine, the Marshall Plan, [the North Atlantic Treaty Organization,] the Berlin airlift, the North Atlantic Treaty Organization, and John F. Kennedy's role in the Cuban Missile Crisis;

(B) describe how Cold War tensions were intensified by the House Un-American Activities Committee (HUAC), [the arms race, the space race,] McCarthyism, the arms race, and the space race [and the House Un-American Activities Committee (HUAC), the findings of which were confirmed by the Venona Papers];

(C) explain reasons and outcomes for U.S. involvement in the Korean War and its relationship to the containment policy;

(D) explain reasons and outcomes for U.S. involvement in foreign countries and their relationship to the Domino Theory, including the Vietnam War;

(E) analyze the major [issues and] events of the Vietnam War, including the escalation of forces, [such as] the Tet Offensive, [the escalation of forces,] Vietnamization, and the fall of Saigon; and

(F) describe the responses to the Vietnam War such as the draft, the 26th Amendment, the role of the media, the credibility gap, the silent majority, and the anti-war movement.

(9) History. The student understands the impact of the American civil rights movement. The student is expected to:

(A) trace the historical development of the civil rights movement in the 19th, 20th, and 21st centuries, including the 13th, 14th, 15th, and 19th amendments and responses to Jim Crow laws;

(B) describe the roles of political organizations that promoted [civil rights, including ones from] African American, Chicano, American Indian, and women's; and other civil rights [movements];

(C) identify the roles of significant leaders who supported various rights movements, including Martin Luther King Jr., Cesar Chavez, Dolores Huerta, Rosa Parks, [Hector P. Garcia], and Betty Friedan;

(D) compare and contrast the approach taken by [some civil rights groups such as] the Black Panthers with the nonviolent approach of Martin Luther King Jr.;

(E) discuss the impact of the writings of Martin Luther King Jr. such as his "I Have a Dream" speech and "Letter from Birmingham Jail" on the civil rights movement;

(F) describe presidential actions and congressional votes to address minority rights in the United States, including desegregation of the armed forces, the Civil Rights Act [acts] of [1957 and] 1964, and the Voting Rights Act of 1965;

(G) explain how [describe the role of individuals such as governors] George Wallace, Orval Faubus, and [Lester Maddox and groups, including] the Congressional bloc of southern Democrats; that] sought to maintain the status quo;

(H) evaluate changes [and events] in the United States that have resulted from the civil rights movement, including increased participation of minorities in the political process; and

(I) describe how Sweatt v. Painter and [litigation such as the landmark cases of] Brown v. Board of Education; Mendez v. Westminster, Hernandez v. Texas, Delgado v. Bastrop I.S.D., Edge-wood I.S.D. v. Kirby, and Sweatt v. Painter] played a role in protecting the rights of the minority during the civil rights movement.

(10) History. The student understands the impact of political, economic, and social factors in the U.S. [role in the world] from the 1970s through 1990. The student is expected to:

(A) describe Richard M. Nixon's leadership in the normalization of relations with China and the policy of détente;

(B) describe Ronald Reagan's leadership in domestic and international policies, including Reagan's economic policies [Reaganomics] and Peace Through Strength;

[(C) compare the impact of energy on the American way of life over time;]

(C) [~~(D)~~] describe U.S. involvement in the Middle East such as support for Israel, the Camp David Accords, the Iran Hostage Crisis, Marines in Lebanon, and the Iran-Contra Affair; ~~Marines in Lebanon, and the Iran Hostage Crisis~~;

(D) [~~(E)~~] describe the causes and key organizations [and individuals] of the conservative resurgence of the 1980s such as [and 1990s, including Phyllis Schlafly, the Contract with America,] the Heritage Foundation and [and] the Moral Majority; ~~and the National Rifle Association~~]; and

(E) [~~(F)~~] describe significant societal issues of this time period such as the War on Drugs and the AIDS epidemic.

(11) History. The student understands the emerging political, economic, and social issues of the United States from the 1990s into the 21st century. The student is expected to:

(A) describe U.S. involvement in world affairs, including the end of the Cold War, the Persian Gulf War, ~~the Balkans Crisis,~~ 9/11, and the global War on Terror;

(B) identify significant social and political ~~advocacy organizations, leaders, and~~ issues such as health care, immigration, and education from different viewpoints across the political spectrum;

~~[(C) evaluate efforts by global organizations to undermine U.S. sovereignty through the use of treaties;]~~

(C) [~~(D)~~] analyze the impact of third parties on the 1992 and 2000 presidential elections; and

(D) identify the impact of international events, multinational corporations, government policies, and individuals on the 21st century economy.

~~[(E) discuss the historical significance of the 2008 presidential election; and]~~

~~[(F) discuss the solvency of long-term entitlement programs such as Social Security and Medicare.]~~

(12) Geography. The student understands the impact of geographic factors on major events. The student is expected to:

(A) analyze the impact of physical and human geographic factors on ~~[the settlement of the Great Plains,] the Klondike Gold Rush, the Panama Canal, the Dust Bowl, and the levee failure in New Orleans after Hurricane Katrina; and~~

(B) identify and explain reasons for changes in political boundaries such as those resulting from statehood and international conflicts.

(13) Geography. The student understands the causes and effects of migration and immigration on American society. The student is expected to:

(A) analyze the causes and effects of changing demographic patterns resulting from migration within the United States, including western expansion, rural to urban, the Great Migration, and the Rust Belt to the Sun Belt; and

(B) analyze the causes and effects of changing demographic patterns resulting from ~~[legal and illegal]~~ immigration to the United States.

(14) Geography. The student understands the relationship between population growth and ~~[modernization on]~~ the physical environment. The student is expected to:

(A) identify the effects of population growth and distribution on the physical environment; and

(B) identify the roles of governmental entities and private citizens in managing the environment such as the establishment of the National Park System, the Environmental Protection Agency (EPA), and the Endangered Species Act.~~]; and]~~

~~[(C) understand the effects of governmental actions on individuals, industries, and communities, including the impact on Fifth Amendment property rights.]~~

(15) Economics. The student understands domestic and foreign issues related to U.S. economic growth from the 1870s to 1920. The student is expected to:

(A) describe how the economic impact of the Transcontinental Railroad and the Homestead Act contributed to the close of the frontier in the late 19th century;

(B) describe the changing relationship between the federal government and private business, including the growth of free enterprise, costs and benefits of laissez-faire, Sherman Antitrust Act, [anti-trust acts, the] Interstate Commerce Act, and [the] Pure Food and Drug Act;

(C) explain how foreign policies affected economic issues such as the Chinese Exclusion Act of 1882, the Open Door Policy, Dollar Diplomacy, and immigration quotas; and

(D) describe the economic effects of international military conflicts, including the Spanish-American War and World War I, on the United States.~~]; and]~~

~~[(E) describe the emergence of monetary policy in the United States, including the Federal Reserve Act of 1913 and the shifting trend from a gold standard to fiat money.]~~

(16) Economics. The student understands significant economic developments between World War I and World War II. The student is expected to:

(A) analyze causes of economic growth and prosperity in the 1920s, including Warren Harding's Return to Normalcy, reduced taxes, and increased production efficiencies;

(B) identify the causes of the Great Depression, including the impact of tariffs on world trade, stock market speculation, bank failures, and the monetary policy of the Federal Reserve System;

(C) analyze the effects of the Great Depression on the U.S. economy and society such as widespread unemployment and deportation and repatriation of people of ~~[European and] Mexican heritage [and others];~~

(D) compare the New Deal policies and its opponents' approaches to resolving the economic effects of the Great Depression; and

(E) describe how various New Deal agencies and programs, including the Federal Deposit Insurance Corporation, the Securities and Exchange Commission, and the Social Security Administration, continue to affect the lives of U.S. citizens.

(17) Economics. The student understands the economic effects of government policies from World War II through the present [and the Cold War]. The student is expected to:

(A) describe the economic effects of World War II on the home front such as mobilization, the end of the Great Depression, rationing, and increased opportunity for women and minority employment;

(B) identify the causes of prosperity in the 1950s, including the Baby Boom and the impact of the GI Bill (Servicemen's

Readjustment Act of 1944), and the effects of prosperity in the 1950s such as increased consumption and the growth of agriculture and business;

(C) describe the economic impact of defense spending on the business cycle and education priorities from 1945 to the 1990s;

(D) identify the actions and outcomes of government policies intended to create economic opportunities for citizens ~~[and the private sector]~~ such as the Great Society, affirmative action, and Title IX ~~[to create economic opportunities for citizens and analyze the unintended consequences of each];~~ and

(E) describe the dynamic relationship between U.S. international trade policies and the U.S. free enterprise system such as the Organization of Petroleum Exporting Countries (OPEC) oil embargo, the General Agreement of Tariffs and Trade (GATT), and the North American Free Trade Agreement (NAFTA).

~~[(18) Economics. The student understands the economic effects of increased worldwide interdependence as the United States enters the 21st century. The student is expected to:]~~

~~[(A) discuss the role of American entrepreneurs such as Bill Gates, Sam Walton, Estée Lauder, Robert Johnson, Lionel Sosa, and millions of small business entrepreneurs who achieved the American dream; and]~~

~~[(B) identify the impact of international events, multinational corporations, government policies, and individuals on the 21st century economy.]~~

~~(18) [(19)] Government. The student understands changes over time in the role of government. The student is expected to:~~

~~(A) evaluate the impact of New Deal legislation on the historical roles of state and federal government;~~

~~(B) explain constitutional issues raised by federal government policy changes during times of significant events, including World War I, the Great Depression, World War II, the 1960s, and 9/11;~~

~~(C) describe the effects of political scandals, including Teapot Dome, Watergate, and Bill Clinton's impeachment, on the views of U.S. citizens concerning trust in the federal government and its leaders; and~~

~~(D) discuss the role of contemporary government legislation in the private and public sectors such as the Community Reinvestment Act of 1977, USA PATRIOT Act of 2001, and the American Recovery and Reinvestment Act of 2009.[: and]~~

~~[(E) evaluate the pros and cons of U.S. participation in international organizations and treaties.]~~

~~(19) [(20)] Government. The student understands the changing relationships among the three branches of the federal government. The student is expected to:~~

~~(A) describe the impact of events such as the Gulf of Tonkin Resolution and the War Powers Act on the relationship between the legislative and executive branches of government; and~~

~~(B) evaluate the impact of relationships among the legislative, executive, and judicial branches of government, including Franklin D. Roosevelt's attempt to increase the number of U.S. Supreme Court justices and the presidential election of 2000.~~

~~(20) [(21)] Government. The student understands the impact of constitutional issues on American society. The student is expected to:~~

(A) analyze the effects of landmark U.S. Supreme Court decisions, including ~~[Brown v. Board of Education, and other U.S. Supreme Court decisions such as]~~ Plessy v. Ferguson, Hernandez v. Texas, Tinker v. Des Moines, and Wisconsin v. Yoder; ~~and[; and White v. Regester]~~

(B) discuss historical reasons why landmark constitutional amendments have been proposed and ratified from 1877 to the present. ~~[the constitution has been amended; and]~~

~~[(C) evaluate constitutional change in terms of strict construction versus judicial interpretation.]~~

~~(21) [(22)] Citizenship. The student understands the concept of American exceptionalism as identified by Alexis de Tocqueville. The student is expected to:~~

~~(A) discuss [Alexis de Tocqueville's five] values crucial to America's success as a constitutional republic, including[:] liberty, egalitarianism, individualism, populism, and laissez-faire; and~~

~~(B) describe how the American values [identified by Alexis de Tocqueville] are different and unique from those of other nations.[: and]~~

~~[(C) describe U.S. citizens as people from numerous places throughout the world who hold a common bond in standing for certain self-evident truths.]~~

~~(22) [(23)] Citizenship. The student understands efforts to expand the democratic process. The student is expected to:~~

~~(A) identify and analyze methods of expanding the right to participate in the democratic process, including lobbying, non-violent protesting, litigation, and amendments to the U.S. Constitution;~~

~~(B) evaluate various means of achieving equality of political rights, including the 19th, 24th, and 26th amendments and congressional acts such as the American Indian Citizenship Act of 1924; [and]~~

~~(C) explain how participation in the democratic process reflects our national identity [ethos], patriotism, and civic responsibility; and [as well as our progress to build a "more perfect union."]~~

~~(D) summarize the criteria and explain the process for becoming a naturalized citizen of the United States.~~

~~(23) [(24)] Citizenship. The student understands the importance of effective leadership in a constitutional republic. The student is expected to[:]~~

~~[(A) describe qualities of effective leadership; and]~~

~~[(B)] evaluate the contributions of significant political and social leaders in the United States such as Andrew Carnegie, Thurgood Marshall, Billy Graham, and [Barry Goldwater,] Sandra Day O'Connor[: and Hillary Clinton].~~

~~(24) [(25)] Culture. The student understands the relationship between the arts and the times during which they were created. The student is expected to:~~

~~(A) describe how the characteristics and issues in U.S. history have been reflected in various genres of art, music, film, and literature;~~

~~(B) describe [both] the [positive and negative] impacts of [significant examples of] cultural movements in art, music, and literature such as Tin Pan Alley, the Harlem Renaissance, the Beat Generation, rock and roll, the Chicano Mural Movement, and country and western music on American society; and~~

~~(C)~~ identify the impact of popular American culture on the rest of the world over time; and]

(C) ~~[(D)]~~ identify and analyze the global diffusion of American culture through [the entertainment industry via] various media.

(25) ~~[(26)]~~ Culture. The student understands how people from various groups contribute to our national identity. The student is expected to:

(A) explain actions taken by people to expand economic opportunities and political rights; ~~including those~~ for racial, ethnic, gender, and religious groups ~~[minorities as well as women,]~~ in American society;

(B) discuss the Americanization movement to assimilate immigrants and American Indians into American culture;

(C) explain how the contributions of people of various racial, ethnic, gender, and religious groups shape American culture;

(D) identify the ~~[political, social, and economic]~~ contributions of women such as Rosa Parks and ~~[Frances Willard, Jane Addams, Eleanor Roosevelt, Dolores Huerta,]~~ Sonia Sotomayor; ~~and Oprah Winfrey]~~ to American society; and

~~[(E)]~~ discuss the meaning and historical significance of the mottos "E Pluribus Unum" and "In God We Trust"; and]

(E) ~~[(F)]~~ discuss the importance of congressional Medal of Honor recipients; ~~including individuals of all races and genders]~~ such as Army First Lieutenant Vernon J. Baker, Army Corporal Alvin York, and Army Master Sergeant Raul "Roy" Perez ~~[Roy]~~ Benavidez.

(26) ~~[(27)]~~ Science, technology, and society. The student understands the impact of science, technology, and the free enterprise system on the economic development of the United States. The student is expected to:

(A) explain the effects of scientific discoveries and technological innovations such as electric power, telephone and satellite communications, petroleum-based products, steel production, and computers on the economic development of the United States;

(B) explain how specific needs result in scientific discoveries and technological innovations in agriculture, the military, and medicine; ~~including vaccines];~~ and

(C) describe the effect ~~[understand the impact]~~ of technological ~~[and management]~~ innovations ~~[and their applications]~~ in the workplace ~~[and the resulting productivity enhancements for business and labor]~~ such as assembly line manufacturing ~~and];~~ time-study analysis; ~~robotics];~~ computer management, and just-in-time inventory management].

(27) ~~[(28)]~~ Science, technology, and society. The student understands the influence of scientific discoveries, technological innovations, and the free enterprise system on the standard of living in the United States. The student is expected to:

(A) analyze how scientific discoveries, technological innovations, and the application of these by the free enterprise system improve the standard of living in the United States, including changes ~~[those]~~ in transportation and communication; ~~improve the standard of living in the United States];~~

(B) explain how space technology and exploration improve the quality of life; and

(C) describe ~~[understand]~~ how the free enterprise system drives technological innovation and its application in the market-

place such as cell phones, inexpensive personal computers, and global positioning products.

(28) ~~[(29)]~~ Social studies skills. The student understands how historians use historiography to interpret the past and applies critical-thinking skills to organize and use information acquired from a variety of valid sources, including ~~[electronic]~~ technology. The student is expected to:

(A) analyze ~~[use a variety of both]~~ primary and secondary ~~[valid]~~ sources such as maps, graphs, speeches, political cartoons, and artifacts to acquire information ~~[and]~~ to ~~[analyze and]~~ answer historical questions;

(B) analyze information by applying absolute and relative chronology through sequencing, categorizing, identifying cause-and-effect relationships, comparing and contrasting, finding the main idea, summarizing, making generalizations, making predictions, drawing inferences, and drawing conclusions;

~~[(C)]~~ understand how historians interpret the past (historiography) and how their interpretations of history may change over time;]

(C) ~~[(D)]~~ apply ~~[use]~~ the process of historical inquiry to research, interpret, and use multiple types of sources of evidence;

(D) ~~[(E)]~~ evaluate the validity of a source based on ~~[language,]~~ corroboration with other sources; and information about the author, including points of view, frames of reference, and historical context; and

~~[(F)]~~ identify bias in written, oral, and visual material;]

(E) ~~[(G)]~~ identify bias and support with historical evidence a point of view on a social studies issue or event; and]

~~[(H)]~~ use appropriate skills to analyze and interpret social studies information such as maps, graphs, presentations, speeches, lectures, and political cartoons;]

(29) ~~[(30)]~~ Social studies skills. The student communicates in written, oral, and visual forms. The student is expected to:

(A) create written, oral, and visual presentations of social studies information using effective communication skills, including proper citations and avoiding plagiarism; and

(B) use ~~[correct]~~ social studies terminology correctly. ~~[to explain historical concepts; and]~~

~~[(C)]~~ use different forms of media to convey information; including written to visual and statistical to written or visual; using available computer software as appropriate;]

(30) ~~[(31)]~~ Social studies skills. The student uses geographic tools to collect, analyze, and interpret data. The student is expected to:

(A) create a visual representation of historical information such as thematic maps, graphs, and charts ~~[representing various aspects of the United States];~~ and

(B) pose and answer questions about geographic distributions and patterns shown on maps, graphs, charts, and available databases.

(31) ~~[(32)]~~ Social studies skills. The student uses problem-solving and decision-making skills, working independently and with others ~~];~~ in a variety of settings]. The student is expected to:]

~~[(A)]~~ use ~~[a]~~ problem-solving and decision-making processes ~~[process]~~ to identify a problem, gather information, list and

consider options, consider advantages and disadvantages, choose and implement a solution, and evaluate the effectiveness of the solution.[: and]

~~[(B) use a decision-making process to identify a situation that requires a decision, gather information, identify options, predict consequences, and take action to implement a decision.]~~

*§113.42. World History Studies (One Credit), Adopted 2018 [Beginning with School Year 2011-2012].*

(a) General requirements. Students shall be awarded one unit of credit for successful completion of this course.

(b) Introduction.

(1) World History Studies is a survey of the history of humankind. Due to the expanse of world history and the time limitations of the school year, the scope of this course should focus on "essential" concepts and skills that can be applied to various eras, events, and people within the standards in subsection (c) of this section. The major emphasis is on the study of significant people, events, and issues from the earliest times to the present. Traditional historical points of reference in world history are identified as students analyze important events and issues in western civilization as well as in civilizations in other parts of the world. Students evaluate the causes and effects of political and economic imperialism and of major political revolutions since the 17th century. Students examine the impact of geographic factors on major historic events and identify the historic origins of contemporary economic systems. Students analyze the process by which constitutional governments evolved as well as the ideas from historic documents that influenced that process. Students trace the historical development of important legal and political concepts. Students examine the history and impact of major religious and philosophical traditions. Students analyze the connections between major developments in science and technology and the growth of industrial economies, and they use the process of historical inquiry to research, interpret, and use multiple sources of evidence.

(2) The following periodization should serve as the framework for the organization of this course: 8000 BC-500 BC (Development of River Valley Civilizations); 500 BC-AD 600 (Classical Era); 600-1450 (Post-classical Era); 1450-1750 (Connecting Hemispheres); 1750-1914 (Age of Revolutions); and 1914-present (20th Century to the Present). Specific events and processes may transcend these chronological boundaries.

(3) To support the teaching of the essential knowledge and skills, the use of a variety of rich primary and secondary source material such as state papers, legal documents, charters, constitutions, biographies, autobiographies, speeches, letters, literature, music, art, and architecture is encouraged. Motivating resources are available from museums, art galleries, and historical sites.

(4) The eight strands of the essential knowledge and skills for social studies are intended to be integrated for instructional purposes. Skills listed in the social studies skills strand in subsection (c) of this section should be incorporated into the teaching of all essential knowledge and skills for social studies.

(5) A greater depth of understanding of complex content material can be attained by integrating social studies content and skills and by analyzing connections between and among historical periods and events. The list of events and people in this course curriculum should not be considered exhaustive. Additional examples can and should be incorporated. Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(6) Students identify the role of the U.S. free enterprise system within the parameters of this course and understand that this system may also be referenced as capitalism or the free market system.

(7) Throughout social studies in Kindergarten-Grade 12, students build a foundation in history; geography; economics; government; citizenship; culture; science, technology, and society; and social studies skills. The content, as appropriate for the grade level or course, enables students to understand the importance of patriotism, function in a free enterprise society, and appreciate the basic democratic values of our state and nation, as referenced in the Texas Education Code (TEC), §28.002(h).

(8) Students understand that a constitutional republic is a representative form of government whose representatives derive their authority from the consent of the governed, serve for an established tenure, and are sworn to uphold the constitution.

(9) State and federal laws mandate a variety of celebrations and observances, including Celebrate Freedom Week.

(A) Each social studies class shall include, during Celebrate Freedom Week as provided under the TEC, §29.907, or during another full school week as determined by the board of trustees of a school district, appropriate instruction concerning the intent, meaning, and importance of the Declaration of Independence and the U.S. Constitution, including the Bill of Rights, in their historical contexts. The study of the Declaration of Independence must include the study of the relationship of the ideas expressed in that document to subsequent American history, including the relationship of its ideas to the rich diversity of our people as a nation of immigrants, the American Revolution, the formulation of the U.S. Constitution, and the abolitionist movement, which led to the Emancipation Proclamation and the women's suffrage movement.

(B) Each school district shall require that, during Celebrate Freedom Week or other week of instruction prescribed under subparagraph (A) of this paragraph, students in Grades 3-12 study and recite the following text from the Declaration of Independence: "We hold these Truths to be self-evident, that all Men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the Pursuit of Happiness--That to secure these Rights, Governments are instituted among Men, deriving their just Powers from the Consent of the Governed."

(10) Students identify and discuss how the actions of U.S. citizens and the local, state, and federal governments have either met or failed to meet the ideals espoused in the founding documents.

(c) Knowledge and skills.

(1) History. The student understands traditional historical points of reference in world history. The student is expected to:

(A) identify major causes and describe the major effects of the following events from 8000 BC to 500 BC: the development of agriculture and the development of the river valley civilizations;

(B) identify major causes and describe the major effects of the following events from 500 BC to AD 600: the development of the classical civilizations of Greece, Rome, Persia, India (Maurya and Gupta), China (Zhou, Qin, and Han), and the development of major world religions;

(C) identify major causes and describe the major effects of the following important turning points in world history from 600 to 1450: the spread of major world religions [~~Christianity, the decline of Rome and the formation of medieval Europe; the development of Islamic empires~~] and their impact on Asia, Africa, and Europe ~~and~~[:]

the Mongol invasions and their impact on Europe, China, India, and Southwest Asia;

(D) identify major causes and describe the major effects of the following important turning points in world history from 1450 to 1750: the rise of the Ottoman Empire, the influence of the Ming dynasty on world trade, European exploration and the Columbian Exchange, European expansion, and the Renaissance and the Reformation;

(E) identify major causes and describe the major effects of the following important turning points in world history from 1750 to 1914: the Scientific Revolution, the Industrial Revolution and its impact on the development of modern economic systems, European imperialism, and the Enlightenment's impact on political revolutions; and

(F) identify major causes and describe the major effects of the following important turning points in world history from 1914 to the present: the world wars and their impact on political, economic, and social systems; communist revolutions and their impact on the Cold War; independence movements; and globalization.

(2) History. The student understands how early civilizations developed from 8000 BC to 500 BC. The student is expected to:

(A) summarize the impact of the development of farming (Neolithic Revolution) on the creation of river valley civilizations;

(B) identify the characteristics of civilization; and

(C) explain how major river valley civilizations influenced the development of the classical civilizations.

(3) History. The student understands the contributions and influence of classical civilizations from 500 BC to AD 600 on subsequent civilizations. The student is expected to:

(A) describe the major political, religious/philosophical, and cultural influences of Persia, India, China, Israel, Greece, and Rome; ~~including the development of monotheism, Judaism, and Christianity~~;

(B) explain the impact of the fall of Rome on Western Europe; and

(C) compare the factors that led to the collapse of Rome and Han China.

(4) History. The student understands how, after the collapse of classical empires, new political, economic, and social systems evolved and expanded from 600 to 1450. The student is expected to:

(A) explain the development of Roman Catholicism and Eastern Orthodoxy [Christianity] as a unifying social and political factors [factor] in medieval Europe and the Byzantine Empire;

~~{(B) explain the characteristics of Roman Catholicism and Eastern Orthodoxy;}~~

(B) ~~{(C)}~~ describe the major characteristics of and the factors contributing to the development of the political/social system of feudalism and the economic system of manorialism;

(C) ~~{(D)}~~ explain the political, economic, and social impact of Islam on Europe, Asia, and Africa;

(D) ~~{(E)}~~ describe the interactions among Muslim, Christian, and Jewish societies in Europe, Asia, and North Africa;

(E) ~~{(F)}~~ describe the interactions between Muslim and Hindu societies in South Asia;

~~{(F) [(G)] explain how the Crusades, the Black Death, and the Hundred Years' War; and the Great Schism} contributed to the end of medieval Europe;~~

~~{(G) [(H)] summarize the major political, economic, and cultural developments in Tang and Song China and their impact on Eastern Asia;~~

~~{(H) [(I)] explain the evolution and expansion [development] of the slave trade;~~

~~{(I) [(J)] analyze how the Silk Road and the African gold-salt trade facilitated the spread of ideas and trade; and~~

~~{(J) [(K)] summarize the changes resulting from the Mongol invasions of Russia, China, and the Islamic world.~~

(5) History. The student understands the causes, characteristics, and impact of the European Renaissance and the Reformation from 1450 to 1750. The student is expected to:

(A) explain the political, intellectual, artistic, economic, and religious impact of the Renaissance; and

(B) explain the political, intellectual, artistic, economic, and religious impact of the Reformation.

(6) History. The student understands the characteristics and impact of the Maya, Inca, and Aztec civilizations. The student is expected to:

(A) compare the major political, economic, social, and cultural developments of the Maya, Inca, and Aztec civilizations and explain how prior civilizations influenced their development; and

(B) explain how the Inca and Aztec empires were impacted by European exploration/colonization.

(7) History. The student understands the causes and impact of increased global interaction [European expansion] from 1450 to 1750. The student is expected to:

(A) analyze the causes of European expansion from 1450 to 1750;

(B) explain the impact of the Columbian Exchange [~~on the Americas and Europe~~];

(C) explain the impact of the Atlantic slave trade on West Africa and the Americas;

(D) explain the impact of the Ottoman Empire on Eastern Europe and global trade;

(E) explain Ming China's impact on global trade; and

(F) explain new economic factors and principles [~~that contributed to the success~~] of Europe's Commercial Revolution.

(8) History. The student understands the causes and the global impact of the Industrial Revolution and European imperialism from 1750 to 1914. The student is expected to:

~~{(A) explain how 17th and 18th century European scientific advancements led to the Industrial Revolution;}~~

~~{(A) [(B)] explain how the Industrial Revolution led to political, economic, and social changes [in Europe];}~~

~~{(B) [(C)] identify the major political, economic, and social motivations that influenced European imperialism;~~

~~{(C) [(D)] explain the major characteristics and impact of European imperialism; and~~

(D) ~~[(E)]~~ explain the effects of free enterprise in the Industrial Revolution.

(9) History. The student understands the causes and effects of major political revolutions between 1750 and 1914. The student is expected to:

(A) compare the causes, characteristics, and consequences of the American and French revolutions, emphasizing the role of the Enlightenment~~;~~ ~~the Glorious Revolution;~~ and religion~~;~~

(B) explain the impact of Napoleon Bonaparte and the Napoleonic Wars on Europe and Latin America;

(C) trace the influence of the American and French revolutions on Latin America, including the role of Simón Bolívar; and

(D) identify the influence of ideas such as separation of powers, checks and balances, liberty, equality, democracy, popular sovereignty, human rights, constitutionalism, and nationalism on political revolutions.

(10) History. The student understands the causes and impact of World War I. The student is expected to:

(A) identify the importance of imperialism, nationalism, militarism, and the alliance system in causing World War I;

(B) identify major characteristics of World War I, including total war, trench warfare, modern military technology, and high casualty rates;

(C) explain the ~~[political impact of Woodrow Wilson's Fourteen Points and the]~~ political and economic impact of the Treaty of Versailles, including changes in boundaries and the mandate system; and

(D) identify the causes of the February (March) and October ~~(November)~~ revolutions of 1917 in Russia, their effects on the outcome of World War I, and the Bolshevik establishment of the Union of Soviet Socialist Republics.

(11) History. The student understands the causes and impact of the global economic depression immediately following World War I. The student is expected to:

(A) summarize the international, political, and economic causes of the global depression; and

(B) explain the responses of governments ~~[in the United States, Germany, and the Soviet Union]~~ to the global depression such as in the United States, Germany, Great Britain, and France.

(12) History. The student understands the causes and impact of World War II. The student is expected to:

(A) describe the emergence and characteristics of totalitarianism;

(B) explain the roles of various world leaders, including Benito Mussolini, Adolf Hitler, Hideki Tojo, Joseph Stalin, Franklin D. Roosevelt, and Winston Churchill, prior to and during World War II; and

(C) explain the major causes and events of World War II, including the German invasions of Poland and the Soviet Union, the Holocaust, ~~[Japanese imperialism,]~~ the attack on Pearl Harbor, the Normandy landings, and the dropping of the atomic bombs.

(13) History. The student understands the impact of major events associated with the Cold War and independence movements. The student is expected to:

(A) summarize how the outcome of World War II contributed to the development of the Cold War;

(B) summarize the factors that contributed to communism in China, including Mao Zedong's role in its rise~~;~~ and ~~how it differed from Soviet communism;~~

(C) identify ~~[the following]~~ major events of the Cold War, including the Korean War, the Vietnam War, and the arms race;

(D) explain the roles of modern world leaders, including Ronald Reagan, Mikhail Gorbachev, Lech Walesa, and Pope John Paul II, in the collapse of communism in Eastern Europe and the Soviet Union; and

(E) summarize the rise of independence movements in Africa, the Middle East, and South Asia and reasons for ongoing conflicts; and

(F) explain how Arab rejection of the State of Israel has led to ongoing conflict.

(14) History. The student understands the development of radical Islamic fundamentalism and the subsequent use of terrorism by some of its adherents. The student is expected to:

(A) summarize the development and impact of radical Islamic fundamentalism on events in the second half of the 20th century, including ~~[Palestinian]~~ terrorism and the growth of terrorist groups [al Qaeda]; and

(B) explain the U.S. response to terrorism from September 11, 2001, to the present.

~~{(15) Geography. The student uses geographic skills and tools to collect, analyze, and interpret data. The student is expected to:}~~

~~{(A) create and interpret thematic maps, graphs, and charts to demonstrate the relationship between geography and the historical development of a region or nation; and}~~

~~{(B) analyze and compare geographic distributions and patterns in world history shown on maps, graphs, charts, and models.}~~

(15) ~~[(16)]~~ Geography. The student understands the impact of geographic factors on major historic events and processes. The student is expected to:

(A) locate places and regions of historical significance directly related to major eras and turning points in world history;

(B) analyze the influence of human and physical geographic factors on major events in world history such as; ~~including~~ the development of river valley civilizations, trade in the Indian Ocean, and the opening of the Panama and Suez canals; and

(C) interpret maps, charts, and graphs to explain how geography has influenced people and events in the past.

(16) ~~[(17)]~~ Economics. The student understands the impact of the Neolithic and Industrial revolutions and globalization on humanity. The student is expected to:

(A) identify important changes in human life caused by the Neolithic Revolution ~~[and the Industrial Revolution];~~

(B) summarize the role of economics in driving political changes as related to ~~[the Neolithic Revolution and]~~ the Industrial Revolution; and

(C) describe [summarize] the economic ~~[and social]~~ impact of ~~[20th century]~~ globalization.



(17) [(18)] Economics. The student understands the historical origins of contemporary economic systems and the benefits of free enterprise in world history. The student is expected to:

(A) identify the historical origins and characteristics of the free enterprise system, including the influence [~~contributions~~] of Adam Smith[, especially the influence of his ideas found in The Wealth of Nations];

(B) identify the historical origins and characteristics of communism, including the influence [~~influencees~~] of Karl Marx;

(C) identify the historical origins and characteristics of socialism;

(D) identify the historical origins and characteristics of fascism; and

(E) explain why communist command economies collapsed in competition with free market economies at the end of the 20th century.]; and]

~~[(F) formulate generalizations on how economic freedom improved the human condition, based on students' knowledge of the benefits of free enterprise in Europe's Commercial Revolution, the Industrial Revolution, and 20th-century free market economies, compared to communist command communities.]~~

(18) [(19)] Government. The student understands the characteristics of major political systems throughout history. The student is expected to:

(A) identify the characteristics of monarchies and theocracies as forms of government in early civilizations; and

(B) identify the characteristics of the following political systems: theocracy, absolute monarchy, democracy, republic, oligarchy, limited monarchy, and totalitarianism.

(19) [(20)] Government. The student understands how contemporary political systems have developed from earlier systems of government. The student is expected to:

(A) explain the development of democratic-republican government from its beginnings in [the] Judeo-Christian legal tradition and classical Greece and Rome through the French Revolution [English Civil War and the Enlightenment];

(B) identify the impact of political and legal ideas contained in the following documents: Hammurabi's Code, the Jewish Ten Commandments, Justinian's Code of Laws, Magna Carta, the English Bill of Rights, the Declaration of Independence, the U.S. Constitution, and the Declaration of the Rights of Man and of the Citizen;

(C) explain the political philosophies of individuals such as John Locke, Thomas Hobbes, Voltaire, Charles de Montesquieu, Jean Jacques Rousseau, Thomas Aquinas, John Calvin, [Thomas Jefferson,] and William Blackstone; and

(D) explain the significance of the League of Nations and the United Nations.

(20) [(21)] Citizenship. The student understands the significance of political choices and decisions made by individuals, groups, and nations throughout history. The student is expected to:

(A) describe how people have participated in supporting or changing their governments;

(B) describe the rights and responsibilities of citizens and noncitizens in civic participation throughout history; and

(C) identify examples of key persons who were successful in shifting political thought, including William Wilberforce.

(21) [(22)] Citizenship. The student understands the historical development of significant legal and political concepts related to the rights and responsibilities of citizenship. The student is expected to:

(A) summarize the development of the rule of law from ancient to modern times;

(B) identify the origins [~~influence~~] of ideas regarding the right to a "trial by a jury of your peers" and the concepts of "innocent until proven guilty" and "equality before the law" from sources including [~~that originated from~~] the Judeo-Christian legal tradition and in Greece and Rome;

(C) identify examples of politically motivated mass murders such as in Cambodia, China, Latin America, the Soviet Union, and Armenia;

(D) identify examples of genocide, including the Holocaust and genocide in the Balkans, Rwanda, and Darfur;

(E) identify examples of individuals who led resistance to political oppression such as Nelson Mandela, Mohandas Gandhi, [Oscar Romero, Natan Sharansky,] Las Madres de la Plaza de Mayo, and Chinese student protestors in Tiananmen Square; and

(F) identify examples of [assess the degree to which] American ideals that have advanced human rights and democratic ideas throughout the world.

(22) [(23)] Culture. The student understands the history and relevance of major religious and philosophical traditions. The student is expected to:

(A) describe the historical origins and central ideas in the development of monotheism;

~~(B) [(A)] describe the historical origins, central ideas, and spread of major religious and philosophical traditions, including Buddhism, Christianity, Confucianism, Hinduism, Islam, Judaism, and Sikhism[, and the development of monotheism]; and~~

~~(C) [(B)] identify examples of religious influence on various events referenced in the major eras of world history.~~

(23) [(24)] Culture. The student understands the roles of women, children, and families in different historical cultures. The student is expected to:

(A) describe the changing roles of women, children, and families during major eras of world history; and

(B) describe the major influences of women during major eras of world history such as Elizabeth I, Queen Victoria, Mother Teresa, Indira Gandhi, Margaret Thatcher, and Golda Meir [during major eras of world history].

(24) [(25)] Culture. The student understands how the development of ideas has influenced institutions and societies. The student is expected to:

(A) summarize the fundamental ideas and institutions of Eastern civilizations that originated in China and India;

(B) summarize the fundamental ideas and institutions of Western civilizations that originated in Greece and Rome;

(C) explain how the relationship between [~~among~~] Christianity and Humanism[, individualism, and growing secularism]

that began with the Renaissance [and how the relationship] influenced subsequent political developments; and

(D) explain how developments in Islam influenced [influences] law and government in the Muslim world such as secularism, nationalism, and fundamentalism.

(25) [(26)] Culture. The student understands the relationship between the arts and the times during which they were created. The student is expected to:

[(A) identify significant examples of art and architecture that demonstrate an artistic ideal or visual principle from selected cultures;]

(A) [(B)] analyze examples of how art, architecture, literature, music, and drama reflect the history of the cultures in which they are produced; and

(B) [(C)] describe [identify] examples of art, music, and literature that transcend the cultures in which they were created and convey universal themes.

(26) [(27)] Science, technology, and society. The student understands how major scientific and mathematical discoveries and technological innovations affected societies prior to 1750. The student is expected to:

(A) identify the origin and diffusion of major ideas in mathematics, science, and technology that occurred in river valley civilizations, classical Greece and Rome, classical India, [and] the Islamic caliphates between 700 and 1200, and [in] China from the Tang to Ming dynasties;

(B) summarize the major ideas in astronomy, mathematics, and architectural engineering that developed in the Maya, Inca, and Aztec civilizations;

(C) explain the impact of the printing press on the Renaissance and the Reformation in Europe;

(D) describe the origins of the Scientific Revolution in 16th century Europe and explain its impact on scientific thinking worldwide; and

(E) identify the contributions of significant scientists such as Archimedes, Copernicus, Eratosthenes, Galileo, Pythagoras, Isaac Newton, and Robert Boyle.

(27) [(28)] Science, technology, and society. The student understands how major scientific and mathematical discoveries and technological innovations have affected societies from 1750 to the present. The student is expected to:

(A) explain the role of textile manufacturing, [and] steam technology, development [in initiating the Industrial Revolution and the role] of the factory system, and transportation technology in [advancing] the Industrial Revolution;

(B) explain the roles of military technology, transportation technology, communication technology, and medical advancements in initiating and advancing 19th century imperialism;

(C) explain the effects of major new military technologies on World War I, World War II, and the Cold War;

(D) explain the role of telecommunication technology, computer technology, transportation technology, and medical advancements in developing the modern global economy and society; and

(E) identify the contributions of significant scientists and inventors such as Marie Curie, Thomas Edison, Albert Einstein, Louis Pasteur, and James Watt.

(28) [(29)] Social studies skills. The student understands how historians use historiography to interpret the past and applies critical-thinking skills to organize and use information acquired from a variety of valid sources, including [electronic] technology. The student is expected to:

(A) identify methods used by archaeologists, anthropologists, historians, and geographers to analyze evidence;

(B) explain how historians analyze[; when examining] sources for[; analyze] frame of reference, historical context, and point of view to interpret historical events;

(C) [explain the differences between primary and secondary sources and] examine primary and secondary [those] sources to analyze frame of reference, historical context, and point of view;

(D) evaluate the validity of a source based on bias [language], corroboration with other sources, and information about the author;

[(E) identify bias in written, oral, and visual material;]

(E) [(F)] analyze information by sequencing, categorizing, identifying cause-and-effect relationships, comparing, contrasting, finding the main idea, summarizing, making generalizations and predictions, drawing inferences and conclusions, and developing connections between historical events over time; and

(F) [(G)] construct a thesis on a social studies issue or event supported by evidence.[; and]

[(H) use appropriate reading and mathematical skills to interpret social studies information such as maps and graphs.]

(29) Social studies skills. The student uses geographic skills and tools to collect, analyze, and interpret data. The student is expected to:

(A) create and interpret thematic maps, graphs, and charts to demonstrate the relationship between geography and the historical development of a region or nation; and

(B) analyze and compare geographic distributions and patterns in world history shown on maps, graphs, charts, and models.

(30) Social studies skills. The student communicates in written, oral, and visual forms. The student is expected to:

(A) use social studies terminology correctly;

(B) use effective written communication skills, including proper citations and avoiding plagiarism; and

[(B) use standard grammar, spelling, sentence structure, and punctuation;]

(C) interpret and create written, oral, and visual presentations of social studies information.[; and]

[(D) transfer information from one medium to another.]

(31) Social studies skills. The student uses problem-solving and decision-making skills, working independently and with others[; in a variety of settings]. The student is expected to[;]

[(A)] use [a] problem-solving and decision-making processes [process] to identify a problem, gather information, list and consider options, consider advantages and disadvantages, choose and implement a solution, and evaluate the effectiveness of the solution.[; and]

~~{(B) use a decision-making process to identify a situation that requires a decision, gather information, identify options, predict consequences, and take action to implement a decision.}~~

*§113.43. World Geography Studies (One Credit), Adopted 2018 [Beginning with School Year 2011-2012].*

(a) General requirements. Students shall be awarded one unit of credit for successful completion of this course.

(b) Introduction.

(1) In World Geography Studies, students examine people, places, and environments at local, regional, national, and international scales from the spatial and ecological perspectives of geography. Students describe the influence of geography on events of the past and present with emphasis on contemporary issues. A significant portion of the course centers around the physical processes that shape patterns in the physical environment; the characteristics of major landforms, climates, and ecosystems and their interrelationships; the political, economic, and social processes that shape cultural patterns of regions; types and patterns of settlement; the distribution and movement of the world population; relationships among people, places, and environments; and the concept of region. Students analyze how location affects economic activities in different economic systems. Students identify the processes that influence political divisions of the planet and analyze how different points of view affect the development of public policies. Students compare how components of culture shape the characteristics of regions and analyze the impact of technology and human modifications on the physical environment. Students use problem-solving and decision-making skills to ask and answer geographic questions.

(2) To support the teaching of the essential knowledge and skills, the use of a variety of rich primary and secondary source material such as contemporary and historic maps of various types, satellite-produced images, photographs, graphs, map sketches, and diagrams is encouraged.

(3) The eight strands of the essential knowledge and skills for social studies are intended to be integrated for instructional purposes. Skills listed in the social studies skills strand in subsection (c) of this section should be incorporated into the teaching of all essential knowledge and skills for social studies. A greater depth of understanding of complex content material can be attained when integrated social studies content from the various disciplines and critical-thinking skills are taught together. Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(4) Students identify the role of the U.S. free enterprise system within the parameters of this course and understand that this system may also be referenced as capitalism or the free market system.

(5) Throughout social studies in Kindergarten-Grade 12, students build a foundation in history; geography; economics; government; citizenship; culture; science, technology, and society; and social studies skills. The content, as appropriate for the grade level or course, enables students to understand the importance of patriotism, function in a free enterprise society, and appreciate the basic democratic values of our state and nation as referenced in the Texas Education Code (TEC), §28.002(h).

(6) Students understand that a constitutional republic is a representative form of government whose representatives derive their authority from the consent of the governed, serve for an established tenure, and are sworn to uphold the constitution.

(7) State and federal laws mandate a variety of celebrations and observances, including Celebrate Freedom Week.

(A) Each social studies class shall include, during Celebrate Freedom Week as provided under the TEC, §29.907, or during another full school week as determined by the board of trustees of a school district, appropriate instruction concerning the intent, meaning, and importance of the Declaration of Independence and the U.S. Constitution, including the Bill of Rights, in their historical contexts. The study of the Declaration of Independence must include the study of the relationship of the ideas expressed in that document to subsequent American history, including the relationship of its ideas to the rich diversity of our people as a nation of immigrants, the American Revolution, the formulation of the U.S. Constitution, and the abolitionist movement, which led to the Emancipation Proclamation and the women's suffrage movement.

(B) Each school district shall require that, during Celebrate Freedom Week or other week of instruction prescribed under subparagraph (A) of this paragraph, students in Grades 3-12 study and recite the following text from the Declaration of Independence: "We hold these Truths to be self-evident, that all Men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the Pursuit of Happiness--That to secure these Rights, Governments are instituted among Men, deriving their just Powers from the Consent of the Governed."

(8) Students identify and discuss how the actions of U.S. citizens and the local, state, and federal governments have either met or failed to meet the ideals espoused in the founding documents.

(c) Knowledge and skills.

(1) History. The student understands how geography and processes of spatial exchange (diffusion) influenced events in the past and helped to shape the present. The student is expected to:

(A) analyze ~~[the effects of physical and human geographic patterns and processes on the past and describe their impact on the present, including]~~ significant physical features and environmental conditions that have influenced the past and migration patterns and have shaped the distribution of culture groups today; and

(B) trace the spatial diffusion of phenomena such as the Columbian Exchange or the diffusion of American popular culture and describe the effects on regions of contact.

(2) History. The student understands how people, places, and environments have changed over time and the effects of these changes. The student is expected to:

(A) describe the human and physical characteristics of the same regions at different periods of time to analyze [evaluate] relationships between past events and current conditions; and

(B) explain how changes in societies such as population shifts, technological advancements, and environmental policies have led to diverse uses of physical features over time such as terrace farming, dams, and polders.

(3) Geography. The student understands how physical processes shape patterns in the physical environment. The student is expected to:

(A) explain weather conditions and climate in relation to annual changes in Earth-Sun relationships;

(B) describe the physical processes that affect the environments of regions, including weather, tectonic forces, erosion, and soil-building processes; and

(C) examine the physical processes that affect the lithosphere, atmosphere, hydrosphere, and biosphere such as hurricanes, El Niño, earthquakes, and volcanoes.

(4) Geography. The student understands the patterns and characteristics of major landforms, climates, and ecosystems of Earth and the interrelated processes that produce them. The student is expected to:

(A) explain how elevation, latitude, wind systems, ocean currents, position on a continent, and mountain barriers influence temperature, precipitation, and distribution of climate regions;

(B) describe different landforms such as plains, mountains, and islands and the physical processes that cause their development; and

(C) explain the influence of climate on the distribution of biomes in different regions.

(5) Geography. The student understands how political, economic, and social processes shape cultural patterns and characteristics in various places and regions. The student is expected to:

(A) analyze how the character of a place is related to its political, economic, social, and cultural elements; and

(B) interpret political, economic, social, and demographic indicators (gross domestic product per capita, life expectancy, literacy, and infant mortality) to determine the level of development and standard of living in nations using the levels as defined by the [terms] Human Development Index[; less developed, newly industrialized, and more developed].

(6) Geography. The student understands the types, patterns, and processes of settlement. The student is expected to:

(A) locate and describe human and physical features that influence the size and distribution of settlements; and

(B) explain the processes that have caused changes in settlement patterns, including urbanization, transportation, access to and availability of resources, and economic activities.

(7) Geography. The student understands the growth, distribution, movement, and characteristics of world population. The student is expected to:

(A) ~~construct and~~ analyze population pyramids and use other data, graphics, and maps to describe the population characteristics of different societies and to predict future population trends;

(B) explain how physical geography and push and pull forces, including political, economic, social, and environmental conditions, [push and pull factors and physical geography] affect the routes and flows of human migration;

(C) describe trends in world population growth and distribution; and

(D) examine how [benefits and challenges of] globalization affects[; including] connectivity, standard of living, pandemics, and loss of local culture.

(8) Geography. The student understands how people, places, and environments are connected and interdependent. The student is expected to:

(A) compare ways that humans depend on, adapt to, and modify the physical environment, including the influences of culture and technology;

(B) ~~[describe the interaction between humans and the physical environment and]~~ analyze the consequences of extreme weather and other natural disasters such as El Niño, floods, tsunamis, and volcanoes on people and their environment; and

(C) evaluate the economic and political relationships between settlements and the environment, including sustainable development and renewable/non-renewable resources.

(9) Geography. The student understands the concept of region as an area of Earth's surface with related geographic characteristics. The student is expected to:

(A) identify physical and/or human factors such as climate, vegetation, language, trade networks, political units, river systems, and religion that constitute a region; and

(B) describe different types of regions, including formal, functional, and perceptual regions.

(10) Economics. The student understands the distribution, characteristics, and interactions of the economic systems in the world. The student is expected to:

(A) describe the forces that determine the distribution of goods and services in traditional, free enterprise, socialist, and communist economic systems;

(B) classify ~~[where specific]~~ countries ~~[fall]~~ along the economic spectrum between free enterprise and communism;

(C) compare the ways people satisfy their basic needs through the production of goods and services such as subsistence agriculture versus commercial agriculture or cottage industries versus commercial industries; and

(D) compare global trade patterns over time and examine the implications of globalization, including outsourcing and free trade zones.

(11) Economics. The student understands how geography influences economic activities. The student is expected to:

(A) understand the connections between levels of development and economic activities (primary, secondary, tertiary, and quaternary);

(B) identify the factors affecting the location of different types of economic activities, including subsistence and commercial agriculture, manufacturing, and service industries; and

(C) assess how changes in climate, resources, and infrastructure (technology, transportation, and communication) affect the location and patterns of economic activities.

(12) Economics. The student understands the economic importance of, and issues related to, the location and management of resources. The student is expected to:

(A) analyze how the creation, distribution, and management of key natural resources affects the location and patterns of movement of products, money, and people; and

(B) evaluate the geographic and economic impact of policies related to the development, use, and scarcity of natural resources such as regulations of water.

(13) Government. The student understands the spatial characteristics of a variety of global political units. The student is expected to:

(A) interpret maps to explain the division of land, including man-made and natural borders, into separate political units such as cities, states, or countries; and

(B) compare maps of voting patterns and [of] political boundaries to make inferences about the distribution of political power.

(14) Government. The student understands the processes that influence political divisions, relationships, and policies. The student is expected to:

(A) analyze current events to infer the physical and human processes that lead to the formation of boundaries and other political divisions;

(B) compare how democracy, dictatorship, monarchy, republic, theocracy, and totalitarian systems operate in specific countries; and

(C) analyze the human and physical factors that influence ~~the power to~~ control of territories ~~territory~~ and resources, ~~ereate~~ conflict/war, and ~~impact~~ international ~~political~~ relations of sovereign nations such as China, the United States, Japan, and Russia and international organizations ~~organized nation groups~~ such as the United Nations (UN) and the European Union (EU).

(15) Citizenship. The student understands how different points of view influence the development of public policies and decision-making processes at ~~on local, state,~~ national~~;~~ and international levels. The student is expected to:

(A) identify and give examples of different points of view that influence the development of public policies and decision-making processes at ~~on local, state,~~ national~~;~~ and international levels; and

(B) explain how citizenship practices, public policies, and decision making may be influenced by cultural beliefs, including nationalism and patriotism.

(16) Culture. The student understands how the components of culture affect the way people live and shape the characteristics of regions. The student is expected to:

(A) describe distinctive cultural patterns and landscapes associated with different places in Texas, the United States, and other regions of the world and how these patterns influenced the processes of innovation and diffusion;

(B) describe elements of culture, including language, religion, beliefs ~~and customs~~, institutions, and technologies; and

~~[(C) explain ways various groups of people perceive the characteristics of their own and other cultures, places, and regions differently; and]~~

(C) ~~[(D)] describe [compare] life in a variety of urban and rural areas in the world to compare [evaluate] political, economic, social, and environmental changes.~~

(17) Culture. The student understands the distribution, patterns, and characteristics of different cultures. The student is expected to:

(A) describe and compare patterns of culture such as language, religion, land use, education, and customs that make specific regions of the world distinctive;

(B) describe central ideas and spatial distribution of major religious traditions ~~[world religions]~~, including ~~[animism,]~~ Buddhism, Christianity, Hinduism, Islam, Judaism, and Sikhism~~;~~ and their spatial distribution];

(C) compare economic, political, or social opportunities in different cultures for ~~[women, ethnic and religious minorities, and other]~~ underrepresented populations such as women and ethnic and religious minorities; and

(D) evaluate the experiences and contributions of diverse groups to multicultural societies.

(18) Culture. The student understands the ways in which cultures change and maintain continuity. The student is expected to:

(A) analyze cultural changes in specific regions caused by migration, war, trade, innovations, and diffusion;

(B) assess causes and~~;~~ effects~~;~~ and perceptions of conflicts between groups of people, including modern genocides and terrorism;

(C) identify examples of cultures that maintain traditional ways, including traditional economies; and

(D) evaluate the spread of cultural traits to find examples of cultural convergence and divergence such as the spread of democratic ideas, ~~[U.S.-based fast-food franchises, the English]~~ language, foods, technology, or global sports.

(19) Science, technology, and society. The student understands the impact of technology and human modifications on the physical environment. The student is expected to:

(A) evaluate the significance of major technological innovations in the areas of transportation and energy that have been used to modify the physical environment;

(B) analyze ways technological innovations such as air conditioning and desalinization have allowed humans to adapt to places; and

(C) examine the environmental, economic, and social impacts of advances in technology on agriculture and natural resources.

(20) Science, technology, and society. The student understands how current technology affects human interaction. The student is expected to:

(A) describe the impact of new information technologies such as the Internet, Global Positioning System (GPS), or Geographic Information Systems (GIS); and

(B) examine the economic, environmental, and social effects of technology such as medical advancements or changing trade patterns on societies at different levels of development.

(21) Social studies skills. The student applies critical-thinking skills to organize and use information acquired through established research methodologies from a variety of valid sources, including ~~[electronic]~~ technology. The student is expected to:

(A) analyze and evaluate the validity and utility of multiple sources of geographic information such as primary and secondary sources, aerial photographs, and maps;

(B) identify [locate] places of contemporary geopolitical significance on a map; ~~[and]~~

(C) create and interpret different types of maps to answer geographic questions, infer relationships, and analyze change~~;~~~~[-]~~

(D) analyze information by sequencing, categorizing, identifying cause-and-effect relationships, comparing, contrasting, finding the main idea, summarizing, making generalizations and predictions, drawing inferences and conclusions, and developing connections over time; and

(E) identify different points of view about an issue or current topic.

(22) Social studies skills. The student communicates in written, oral, and visual forms. The student is expected to:

(A) create [design and draw] appropriate graphics such as maps, diagrams, tables, and graphs to communicate geographic features, distributions, and relationships;

(B) generate summaries, generalizations, and thesis statements supported by evidence;

(C) use social studies [geographic] terminology correctly; and

~~(D) use standard grammar, spelling, sentence structure, and punctuation; and~~

(D) ~~(E)~~ create original work using effective written communication skills, including proper citations and understanding and avoiding plagiarism.

(23) Social studies skills. The student uses problem-solving and decision-making skills, working independently and with others [; in a variety of settings]. The student is expected to:

(A) plan, organize, and complete a research project that involves asking geographic questions; acquiring, organizing, and analyzing information; answering questions; and communicating results;

(B) use case studies and GIS to identify contemporary challenges and to answer real-world questions; and

(C) use problem-solving and decision-making processes to identify a problem, gather information, list and consider options, consider advantages and disadvantages, choose and implement a solution, and evaluate the effectiveness of the solution.

§113.44. United States Government (One-Half Credit), Adopted 2018 [Beginning with School Year 2011-2012].

(a) General requirements. Students shall be awarded one-half unit of credit for successful completion of this course.

(b) Introduction.

(1) In United States Government, the focus is on the principles and beliefs upon which the United States was founded and on the structure, functions, and powers of government at the national, state, and local levels. This course is the culmination of the civic and governmental content and concepts studied from Kindergarten through required secondary courses. Students learn major political ideas and forms of government in history. A significant focus of the course is on the U.S. Constitution, its underlying principles and ideas, and the form of government it created. Students analyze major concepts of republicanism, federalism, checks and balances, separation of powers, popular sovereignty, and individual rights and compare the U.S. system of government with other political systems. Students identify the role of government in the U.S. free enterprise system and examine the strategic importance of places to the United States. Students analyze the impact of individuals, political parties, interest groups, and the media on the American political system, evaluate the importance of voluntary individual participation in a constitutional republic, and analyze the rights guaranteed by the U.S. Constitution. Students examine the relationship between governmental policies and the culture of the United States. Students identify examples of government policies that encourage scientific research and use critical-thinking skills to create a product on a contemporary government issue.

(2) To support the teaching of the essential knowledge and skills, the use of a variety of rich primary and secondary source material such as the complete text of the U.S. Constitution, selected Federalist Papers, landmark cases of the U.S. Supreme Court (such as those studied in Grade 8 and U.S. History Since 1877), biographies, autobiographies, memoirs, speeches, letters, and periodicals that feature analyses of political issues and events is encouraged.

(3) The eight strands of the essential knowledge and skills for social studies are intended to be integrated for instructional purposes. Skills listed in the social studies skills strand in subsection (c) of this section should be incorporated into the teaching of all essential knowledge and skills for social studies. A greater depth of understanding of complex content material can be attained when integrated social studies content from the various disciplines and critical-thinking skills are taught together. Statements that contain the word "including" reference content that must be mastered, while those containing the phrase "such as" are intended as possible illustrative examples.

(4) Students identify the role of the U.S. free enterprise system within the parameters of this course and understand that this system may also be referenced as capitalism or the free market system.

(5) Throughout social studies in Kindergarten-Grade 12, students build a foundation in history; geography; economics; government; citizenship; culture; science, technology, and society; and social studies skills. The content, as appropriate for the grade level or course, enables students to understand the importance of patriotism, function in a free enterprise society, and appreciate the basic democratic values of our state and nation as referenced in the Texas Education Code (TEC), §28.002(h).

(6) Students understand that a constitutional republic is a representative form of government whose representatives derive their authority from the consent of the governed, serve for an established tenure, and are sworn to uphold the constitution.

(7) State and federal laws mandate a variety of celebrations and observances, including Celebrate Freedom Week.

(A) Each social studies class shall include, during Celebrate Freedom Week as provided under the TEC, §29.907, or during another full school week as determined by the board of trustees of a school district, appropriate instruction concerning the intent, meaning, and importance of the Declaration of Independence and the U.S. Constitution, including the Bill of Rights, in their historical contexts. The study of the Declaration of Independence must include the study of the relationship of the ideas expressed in that document to subsequent American history, including the relationship of its ideas to the rich diversity of our people as a nation of immigrants, the American Revolution, the formulation of the U.S. Constitution, and the abolitionist movement, which led to the Emancipation Proclamation and the women's suffrage movement.

(B) Each school district shall require that, during Celebrate Freedom Week or other week of instruction prescribed under subparagraph (A) of this paragraph, students in Grades 3-12 study and recite the following text from the Declaration of Independence: "We hold these Truths to be self-evident, that all Men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the Pursuit of Happiness--That to secure these Rights, Governments are instituted among Men, deriving their just Powers from the Consent of the Governed."

(8) Students identify and discuss how the actions of U.S. citizens and the local, state, and federal governments have either met or failed to meet the ideals espoused in the founding documents.

(c) Knowledge and skills.

(1) History. The student understands how constitutional government, as developed in America and expressed in the Declaration of Independence, the Articles of Confederation, and the U.S. Constitution, has been influenced by ideas, people, and historical documents. The student is expected to:

(A) explain major political ideas in history, including the laws of nature and nature's God, unalienable rights, divine right of kings, social contract theory, and the rights of resistance to illegitimate government;

(B) identify major intellectual, philosophical, political, and religious traditions that informed the American founding, including Judeo-Christian (especially biblical law), English common law and constitutionalism, Enlightenment, and republicanism, as they address issues of liberty, rights, and responsibilities of individuals;

(C) identify the individuals whose principles of laws and government institutions informed the American founding documents, including those of Moses, William Blackstone, John Locke, and Charles de Montesquieu;

(D) identify the contributions of the political philosophies of the Founding Fathers, including John Adams, Alexander Hamilton, Thomas Jefferson, James Madison, John Jay, George Mason, Roger Sherman, and James Wilson, on the development of the U.S. government;

(E) examine debates and compromises that impacted the creation of the founding documents; and

(F) identify significant individuals in the field of government and politics, including George Washington, Thomas Jefferson, John Marshall, Andrew Jackson, Abraham Lincoln, Theodore Roosevelt, Franklin D. Roosevelt, and Ronald Reagan.

(2) History. The student understands the roles played by individuals, political parties, interest groups, and the media in the U.S. political system, past and present. The student is expected to:

(A) describe [give examples of] the processes used by individuals, political parties, interest groups, or the media to affect public policy; and

(B) analyze the impact of political changes brought about by individuals, political parties, interest groups, or the media, past and present.

(3) Geography. The student understands how geography can influence U.S. political divisions and policies. The student is expected to:

(A) explain [understand] how population shifts affect voting patterns;

(B) examine political boundaries to make inferences regarding the distribution of political power; and

(C) explain how political divisions are crafted and how they are affected by Supreme Court decisions such as Baker v. Carr.

{(4) Geography. The student understands why certain places or regions are important to the United States. The student is expected to:}

{(A) identify the significance to the United States of the location and key natural resources of selected global places or regions; and}

{(B) analyze how U.S. foreign policy affects selected places and regions.}

(4) [(5)] Economics. The student understands the roles played by local, state, and national governments in both the public and private sectors of the U.S. free enterprise system. The student is expected to:

(A) explain how government fiscal, [monetary,] and regulatory policies influence the economy at the local, state, and national levels; and

{(B) identify the sources of revenue and expenditures of the U. S. government and analyze their impact on the U.S. economy;}

(B) [(C)] compare the role of government in the U.S. free enterprise system and other economic systems; and

(C) [(D)] explain [understand] how government taxation, expenditures, and regulation can influence the U.S. economy and impact [serve as restrictions to] private enterprise.

(5) [(6)] Economics. The student understands the relationship between U.S. government policies and the economy. The student is expected to:

(A) examine how [the U.S. government uses] economic and natural resources influence U.S. [in] foreign policy; and

(B) describe [understand] the roles of the executive and legislative branches in setting international trade and fiscal policies.

(6) [(7)] Government. The student understands the American beliefs and principles reflected in the U.S. Constitution and why these are significant. The student is expected to:

(A) explain the importance of a written constitution;

(B) explain [evaluate] how the federal government serves the purposes set forth in the Preamble to the U.S. Constitution;

(C) analyze how the Federalist Papers such as Number 10[; Number 39,] and Number 51 explain the principles of the American constitutional system of government;

(D) evaluate constitutional provisions for limiting the role of government, including republicanism, checks and balances, federalism, separation of powers, popular sovereignty, and individual rights;

(E) describe the constitutionally prescribed procedures by which the U.S. Constitution can be changed and analyze the role of the amendment process in a constitutional government; and

(F) identify how the American beliefs and principles reflected in the Declaration of Independence and the U.S. Constitution [contribute to both a national identity and federal identity and] are embodied in the United States today.]; and]

{(G) examine the reasons the Founding Fathers protected religious freedom in America and guaranteed its free exercise by saying that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof," and compare and contrast this to the phrase, "separation of church and state."}

(7) [(8)] Government. The student understands the structure and functions of the government created by the U.S. Constitution. The student is expected to:

(A) analyze the structure and functions of the legislative branch of government, including the bicameral structure of Congress, the role of committees, and the procedure for enacting laws;

(B) analyze the structure and functions of the executive branch of government, including the constitutional powers of the president, the growth of presidential power, and the role of the Cabinet and executive departments;

(C) analyze the structure and functions of the judicial branch of government, including the federal court system, types of jurisdiction, and judicial review;

(D) identify the purpose of selected independent executive agencies, including the National Aeronautics and Space Administration (NASA), and regulatory commissions, including the Environmental Protection Agency (EPA), Occupational Safety and Health Administration (OSHA), Food and Drug Administration (FDA), and Federal Communications Commission (FCC);

(E) explain how ~~cert~~ provisions of the U.S. Constitution provide for checks and balances among the three branches of government;

(F) analyze selected issues raised by judicial activism and judicial restraint;

(G) explain the major responsibilities of the federal government for domestic and foreign policy such as national defense; and

(H) compare the structures, functions, and processes of national, state, and local governments in the U.S. federal system.

(8) ~~(9)~~ Government. The student understands the concept of federalism. The student is expected to:

(A) explain why the Founding Fathers created a distinctly new form of federalism and adopted a federal system of government instead of a unitary system;

(B) categorize government powers as national, state, or shared;

(C) analyze historical and contemporary conflicts over the respective roles of national and state governments; and

(D) explain how U.S. constitutional provisions limit the power of national and state governments.

~~[(D) understand the limits on the national and state governments in the U.S. federal system of government.]~~

(9) ~~(10)~~ Government. The student understands the processes for filling public offices in the U.S. system of government. The student is expected to:

(A) ~~identify~~ ~~compare~~ different methods of filling public offices, including elected and appointed offices at the local, state, and national levels;

(B) explain the process of electing the president of the United States and analyze the Electoral College; and

(C) analyze the impact of the passage of the 17th Amendment.

(10) ~~(11)~~ Government. The student understands the role of political parties in the U.S. system of government. The student is expected to:

(A) analyze the functions of political parties and their role in the electoral process at local, state, and national levels; and

(B) explain the two-party system and evaluate the role of third parties in the United States.; and

~~[(C) identify opportunities for citizens to participate in political party activities at local, state, and national levels.]~~

(11) ~~(12)~~ Government. The student understands the similarities and differences that exist among the U.S. system of government and other political systems. The student is expected to:

(A) compare the U.S. constitutional republic to historical and contemporary forms of government such as monarchy, a

classical republic, authoritarian, socialist, direct democracy, theocracy, tribal, and other republics; and

~~[(B) analyze advantages and disadvantages of federal, confederate, and unitary systems of government; and]~~

(B) ~~[(C)]~~ analyze advantages and disadvantages of presidential and parliamentary systems of government.

(12) ~~[(13)]~~ Citizenship. The student understands rights guaranteed by the U.S. Constitution. The student is expected to:

(A) explain ~~understand~~ the roles of limited government and the rule of law in the protection of individual rights;

(B) identify and define the unalienable rights;

(C) identify the freedoms and rights guaranteed by each amendment in the Bill of Rights;

(D) examine the reasons the Founding Fathers protected religious freedom in America and guaranteed its free exercise by saying that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof," and compare this to the phrase "separation of church and state;"

(E) ~~[(D)]~~ analyze U.S. Supreme Court interpretations of rights guaranteed by the U.S. Constitution in selected cases, including Engel v. Vitale, Schenck v. United States, Texas v. Johnson, Miranda v. Arizona, Gideon v. Wainwright, Mapp v. Ohio, and Roe v. Wade;

(F) ~~[(E)]~~ explain the importance of due process rights to the protection of individual rights and in limiting the powers of government; and

(G) ~~[(F)]~~ recall the conditions that produced the 14th Amendment and describe subsequent efforts to selectively extend some of the Bill of Rights to the states through; ~~including the Blaine Amendment and~~ U.S. Supreme Court rulings; and analyze the impact on the scope of fundamental rights and federalism.

(13) ~~[(14)]~~ Citizenship. The student understands the difference between personal and civic responsibilities. The student is expected to:

(A) describe scenarios where good citizenship may require the subordination of personal desire for the sake of the public good;

~~[(A) explain the difference between personal and civic responsibilities;]~~

~~[(B) evaluate whether and/or when the obligation of citizenship requires that personal desires and interests be subordinated to the public good;]~~

(B) ~~[(C)]~~ explain ~~understand~~ the responsibilities, duties, and obligations of citizenship such as being well informed about civic affairs, serving in the military, voting, serving on a jury, observing the laws, paying taxes, and serving the public good; and

(C) ~~[(D)]~~ describe ~~understand~~ the voter registration process and the criteria for voting in elections.

(14) ~~[(15)]~~ Citizenship. The student understands the importance of voluntary individual participation in the U.S. constitutional republic. The student is expected to:

(A) analyze the effectiveness of various methods of participation in the political process at local, state, and national levels;

(B) analyze historical and contemporary examples of citizen movements to bring about political change or to maintain continuity; and



(C) describe [understand] the factors that influence an individual's political attitudes and actions.

(15) [(16)] Citizenship. The student understands the importance of the expression of different points of view in a constitutional republic. The student is expected to:

(A) examine different points of view of political parties and interest groups such as the League of United Latin American Citizens (LULAC), the National Rifle Association (NRA), and the National Association for the Advancement of Colored People (NAACP) on important contemporary issues; and

(B) analyze the importance of the First Amendment rights of petition, assembly, speech, and press and the Second Amendment right to keep and bear arms.

(16) [(17)] Culture. The student understands the relationship between government policies and the culture of the United States. The student is expected to:

(A) evaluate a U.S. government policy or court decision that has affected a particular racial, ethnic, or religious group such as the Civil Rights Act of 1964 and the U.S. Supreme Court cases of *Hernandez v. Texas* and *Grutter v. Bollinger*; and

(B) explain changes in American culture brought about by government policies such as voting rights, the Servicemen's Readjustment Act of 1944 (GI Bill of Rights), the Immigration and Nationality Act of 1965, the Immigration Reform and Control Act of 1986, affirmative action, and racial integration.

(17) [(18)] Science, technology, and society. The student understands the role the government plays in developing policies and establishing conditions that influence scientific discoveries and technological innovations. The student is expected to:

(A) explain [understand] how U.S. constitutional protections such as patents have fostered competition and entrepreneurship; and

(B) identify examples of government-assisted research that, when shared with the private sector, have resulted in improved consumer products such as computer and communication technologies.

(18) [(19)] Science, technology, and society. The student understands the impact of advances in science and technology on government [and society]. The student is expected to:

(A) describe [understand] the potential impact [on society] of recent scientific discoveries and technological innovations on government policy; and

(B) evaluate the impact of the Internet and other electronic information on the political process.

(19) [(20)] Social studies skills. The student applies critical-thinking skills to organize and use information acquired through established research methodologies from a variety of valid sources, including [electronic] technology. The student is expected to:

(A) analyze information by sequencing, categorizing, identifying cause-and-effect relationships, comparing, contrasting, finding the main idea, summarizing, making generalizations and predictions, and drawing inferences and conclusions;

(B) create a product on a contemporary government issue or topic using critical methods of inquiry;

(C) analyze and defend a point of view on a current political issue;

(D) analyze and evaluate the validity of information, arguments, and counterarguments from primary and secondary sources for bias, propaganda, point of view, and frame of reference; and

(E) evaluate government data using charts, tables, graphs, and maps; and

[(F) use appropriate mathematical skills to interpret social studies information such as maps and graphs.]

(20) [(21)] Social studies skills. The student communicates in written, oral, and visual forms. The student is expected to:

(A) use social studies terminology correctly; and

[(B) use standard grammar, spelling, sentence structure, and punctuation;]

[(C) transfer information from one medium to another, including written to visual and statistical to written or visual; using computer software as appropriate; and]

(B) [(D)] create written, oral, and visual presentations of social studies information using effective communication skills, including proper citations and avoiding plagiarism.

(21) [(22)] Social studies skills. The student uses problem-solving and decision-making skills, working independently and with others; in a variety of settings]. The student is expected to:[]

[(A)] use [a] problem-solving and decision-making processes [process] to identify a problem, gather information, list and consider options, consider advantages and disadvantages, choose and implement a solution, and evaluate the effectiveness of the solution.[] and]

[(B) use a decision-making process to identify a situation that requires a decision, gather information, identify options, predict consequences, and take action to implement a decision.]

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

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### 19 TAC §113.40

STATUTORY AUTHORITY. The repeal is proposed under the Texas Education Code (TEC), §7.102(c)(4), which requires the State Board of Education (SBOE) to establish curriculum and graduation requirements; TEC, §28.002, which identifies the subjects of the required curriculum and requires the SBOE by rule to identify the essential knowledge and skills of each subject in the required curriculum that all students should be able to demonstrate and that will be used in evaluating instructional materials and addressed on the state assessment instruments; and TEC, §28.025, which requires the SBOE by rule to determine the curriculum requirements for the foundation high school graduation program that are consistent with the required curriculum under the TEC, §28.002.

CROSS REFERENCE TO STATUTE. The repeal implements the Texas Education Code, §§7.102(c)(4), 28.002, and 28.025.

§113.40. *Implementation of Texas Essential Knowledge and Skills for Social Studies, High School, Beginning with School Year 2011-2012.*

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. OTHER SOCIAL STUDIES COURSES

### 19 TAC §§113.51, 113.76 - 113.80

STATUTORY AUTHORITY. The amendment and new sections are proposed under the Texas Education Code (TEC), §7.102(c)(4), which requires the State Board of Education (SBOE) to establish curriculum and graduation requirements; TEC, §28.002, which identifies the subjects of the required curriculum and requires the SBOE by rule to identify the essential knowledge and skills of each subject in the required curriculum that all students should be able to demonstrate and that will be used in evaluating instructional materials and addressed on the state assessment instruments; and TEC, §28.025, which requires the SBOE by rule to determine the curriculum requirements for the foundation high school graduation program that are consistent with the required curriculum under the TEC, §28.002.

CROSS REFERENCE TO STATUTE. The amendment and new sections implement the Texas Education Code, §§7.102(c)(4), 28.002, and 28.025.

§113.51. *Implementation of Texas Essential Knowledge and Skills for Social Studies, Other Social Studies Courses.*

(a) The provisions of §§113.52-113.75 of this subchapter shall be implemented by school districts beginning September 1, 1998.

(b) The provisions of §§113.76-113.80 of this subchapter shall be implemented by school districts beginning with the 2019-2020 school year.

§113.76. *Economics Advanced Studies (One-Half Credit).*

(a) General requirements. Students may take this course with different course content for a maximum of one credit. Students who are pursuing the Distinguished Achievement Program may take Economics Advanced Studies to earn state credit for developing, researching, and presenting their mentorship or independent study advanced measure.

(b) Introduction. In Economics Advanced Studies, an elective course, students conduct in-depth research, prepare a product of professional quality, and present their findings to appropriate audiences. Students, working independently or in collaboration with a mentor, investigate a problem, issue, or concern; research the topic using a variety

of technologies; and present a product of professional quality to an appropriate audience.

#### (c) Knowledge and skills.

(1) The student will investigate, independently or collaboratively, a problem, issue, or concern within a selected profession or discipline. The student is expected to:

(A) analyze the relationship between his or her interests and career/discipline;

(B) review literature from varied sources from the selected career or discipline;

(C) identify a problem, issue, or concern;

(D) survey and/or interview professionals to determine the appropriateness of a project; and

(E) develop a proposal that includes well-defined questions, goals and objectives, rationale, and procedures for the project.

(2) The student will demonstrate understanding of the research methods and/or technologies used in a selected profession or discipline. The student is expected to:

(A) develop an understanding of the requirements and practices of the profession in the selected career or discipline through observation;

(B) simulate the methods and/or technologies used in the research process particular to the selected field or discipline; and

(C) review and revise the original proposal to reflect changes needed based upon preliminary research and practices.

(3) The student will develop products that meet standards recognized by the selected profession or discipline. The student is expected to:

(A) collaborate with the appropriate professionals to define the product;

(B) develop a plan for product completion;

(C) develop assessment criteria for successful completion of the project;

(D) establish the appropriateness of the product for the intended audience;

(E) implement the plan for product completion; and

(F) maintain a journal to document all phases of the implementation of the plan and reflections on learning experiences and processes.

(4) The student will demonstrate an understanding of the selected problem, issue, or concern by explaining or justifying findings to an appropriate audience for public comment or professional response. The student is expected to:

(A) review and revise the plan to present the findings;

(B) make arrangements for the presentation of findings to an appropriate audience;

(C) present findings, simulating the skills used by professionals;

(D) consider feedback received from the audience;

(E) reflect on the study and its potential for impact on the field; and

(F) reflect on personal learning experiences of the study.

§113.77. Advanced Placement (AP) Microeconomics (One-Half Credit).

(a) General requirements. This course may be used to meet required course requirements for state graduation. If Microeconomics is used to meet the required course requirement for state graduation, Macroeconomics may be used as a state-approved elective.

(b) Content requirements. Content requirements for Advanced Placement (AP) Microeconomics are prescribed in the College Board Publication *Advanced Placement Course in Microeconomics* published by The College Board.

§113.78. Advanced Placement (AP) Macroeconomics (One-Half Credit).

(a) General requirements. This course may be used to meet required course requirements for state graduation. If Macroeconomics is used to meet the required course requirement for state graduation, Microeconomics may be used as a state-approved elective.

(b) Content requirements. Content requirements for Advanced Placement (AP) Macroeconomics are prescribed in the College Board Publication *Advanced Placement Course in Macroeconomics* published by The College Board.

§113.79. International Baccalaureate (IB) Economics Standard Level (SL) (Two Credits).

(a) General requirements. One-half credit may be used to meet the course requirement in Economics for state graduation and one and one-half credits may be used to meet only elective course requirements for state graduation.

(b) Content requirements. Content requirements for IB Economics SL are prescribed by the International Baccalaureate Organization. Subject guides may be obtained from International Baccalaureate of North America.

§113.80. International Baccalaureate (IB) Economics Higher Level (HL) (Two Credits).

(a) General requirements. One-half credit may be used to meet the course requirement in Economics for state graduation and one and one-half credits may be used to meet only elective course requirements for state graduation.

(b) Content requirements. Content requirements for IB Economics HL are prescribed by the International Baccalaureate Organization. Subject guides may be obtained from International Baccalaureate of North America.

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 118. TEXAS ESSENTIAL  
KNOWLEDGE AND SKILLS FOR ECONOMICS

WITH EMPHASIS ON THE FREE ENTERPRISE  
SYSTEM AND ITS BENEFITS

The State Board of Education (SBOE) proposes the repeal of §§118.3, 118.4, and 118.11 - 118.17, concerning Texas Essential Knowledge and Skills (TEKS) for Economics with Emphasis on the Free Enterprise System and Its Benefits. The proposed repeals would remove rules that are outdated and no longer necessary.

In 2011, Senate Bill (SB) 6, 82nd Texas Legislature, First Called Session, amended the required curriculum to include economics, with emphasis on the free enterprise system and its benefits, as part of the subjects that constitute social studies rather than as a separate subject area. As a result of this change, the TEKS for economics would be moved to 19 TAC Chapter 113 as part of the streamlined social studies TEKS. Additionally, proposed new 19 TAC Chapter 113, Subchapter D, §§113.76 - 113.80, reflect the move of other economics courses from Chapter 118, Subchapter B. The proposed revisions to 19 TAC Chapter 113 can be found in the Proposed Rules section of this issue.

The SBOE approved the repeals for first reading and filing authorization at its September 14, 2018 meeting.

The proposed repeals would have no new procedural and reporting requirements. The proposed repeals would have no new locally maintained paperwork requirements.

FISCAL NOTE. Monica Martinez, associate commissioner for standards and support services, has determined that for the first five-year period the proposed repeals are in effect there will be no additional costs to state or local government as a result of enforcing or administering the proposed repeals.

There is no effect on local economy for the first five years that the proposed repeals are in effect; therefore, no local employment impact statement is required under Texas Government Code, §2001.022. The proposed repeals do not impose a cost on regulated persons, another state agency, a special district, or a local government and, therefore, are not subject to Texas Government Code, §2001.0045.

GOVERNMENT GROWTH IMPACT. TEA staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. During the first five years the proposed rulemaking would be in effect, it would not create or eliminate a government program; would not require the creation of new employee positions or elimination of existing employee positions; would not require an increase or decrease in future legislative appropriations to the agency; would not require an increase or decrease in fees paid to the agency; would not create a new regulation; would not expand, limit, or repeal an existing regulation; would not increase or decrease the number of individuals subject to its applicability; and would not positively or adversely affect the state's economy.

PUBLIC BENEFIT/COST NOTE. Ms. Martinez has determined that for each year of the first five years the proposed repeals are in effect, the public benefit anticipated as a result of enforcing the repeals will be to implement SB 6, 82nd Texas Legislature, First Called Session, 2011; better align the TEKS; and streamline the standards to ensure they can be reasonably taught within the amount of time typically allotted for the subject or course. There is no anticipated economic cost to persons who are required to comply with the proposed repeals.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS FOR SMALL BUSINESSES, MICROBUSINESSES, AND RURAL COMMUNITIES. There is no direct adverse economic impact for small businesses, microbusinesses, and rural communities; therefore, no regulatory flexibility analysis, specified in Texas Government Code, §2006.002, is required.

REQUEST FOR PUBLIC COMMENT. A form for submitting public comments is available on the TEA website at [https://tea.texas.gov/About\\_TEA/Laws\\_and\\_Rules/SBOE\\_Rules\\_\(TAC\)/Proposed\\_State\\_Board\\_of\\_Education\\_Rules/](https://tea.texas.gov/About_TEA/Laws_and_Rules/SBOE_Rules_(TAC)/Proposed_State_Board_of_Education_Rules/). Comments on the proposal may also be submitted to Cristina De La Fuente-Valadez, Rulemaking, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701. A request for a public hearing on the proposed repeals submitted under the Administrative Procedure Act must be received by the commissioner of education not more than 14 calendar days after notice of the proposal has been published in the *Texas Register*.

## SUBCHAPTER A. HIGH SCHOOL

### 19 TAC §118.3, §118.4

STATUTORY AUTHORITY. The repeals are proposed under the Texas Education Code (TEC), §7.102(c)(4), which requires the State Board of Education (SBOE) to establish curriculum and graduation requirements; TEC, §28.002, which identifies the subjects of the required curriculum and requires the SBOE by rule to identify the essential knowledge and skills of each subject in the required curriculum that all students should be able to demonstrate and that will be used in evaluating instructional materials and addressed on the state assessment instruments; and TEC, §28.025, which requires the SBOE by rule to determine the curriculum requirements for the foundation high school graduation program that are consistent with the required curriculum under the TEC, §28.002.

CROSS REFERENCE TO STATUTE. The repeals implement the Texas Education Code, §§7.102(c)(4), 28.002, and 28.025.

§118.3. *Implementation of Texas Essential Knowledge and Skills for Economics with Emphasis on the Free Enterprise System and Its Benefits, High School, Beginning with School Year 2011-2012.*

§118.4. *Economics with Emphasis on the Free Enterprise System and Its Benefits, High School (One-Half Credit), Beginning with School Year 2011-2012.*

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. OTHER ECONOMICS COURSES

### 19 TAC §§118.11 - 118.17

STATUTORY AUTHORITY. The repeals are proposed under the Texas Education Code (TEC), §7.102(c)(4), which requires the State Board of Education (SBOE) to establish curriculum and graduation requirements; TEC, §28.002, which identifies the subjects of the required curriculum and requires the SBOE by rule to identify the essential knowledge and skills of each subject in the required curriculum that all students should be able to demonstrate and that will be used in evaluating instructional materials and addressed on the state assessment instruments; and TEC, §28.025, which requires the SBOE by rule to determine the curriculum requirements for the foundation high school graduation program that are consistent with the required curriculum under the TEC, §28.002.

CROSS REFERENCE TO STATUTE. The repeals implement the Texas Education Code, §§7.102(c)(4), 28.002, and 28.025.

§118.11. *Implementation of Texas Essential Knowledge and Skills for Economics with Emphasis on the Free Enterprise System and Its Benefits, Other Economics Courses.*

§118.12. *Economics Advanced Studies (One-Half Credit).*

§118.13. *Advanced Placement (AP) Microeconomics (One-Half Credit).*

§118.14. *Advanced Placement (AP) Macroeconomics (One-Half Credit).*

§118.15. *International Baccalaureate (IB) Economics Standard Level (SL) (Two Credits).*

§118.16. *International Baccalaureate (IB) Economics Higher Level (HL) (Two Credits).*

§118.17. *Concurrent Enrollment in College Courses (One-Half Credit Per Semester).*

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

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## TITLE 22. EXAMINING BOARDS

### PART 8. TEXAS APPRAISER LICENSING AND CERTIFICATION BOARD

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

##### 22 TAC §§153.5, 153.18, 153.40, 153.41

The Texas Appraiser Licensing and Certification Board (TALCB) proposes amendments to 22 TAC §153.5, Fees; and §153.18,

Appraiser Continuing Education (ACE); and new §153.40, Approval of Continuing Education Providers and Courses; and §153.41, ACE Providers: Compliance and Enforcement. The proposed amendments and new rules would create processes for TALCB to approve continuing education providers and courses for appraisers and collect fees for these processes as authorized by the Legislature in Texas Occupations Code §1103.153, §1103.156 and Chapter 1105, Texas Occupations Code. The proposed amendments and new rules would allow TALCB to approve continuing education providers and courses without relying on other states or the Appraiser Qualifications Board (AQB) to do so. The proposed amendments also clarify that continuing education providers need not provide a copy of the Uniform Standards of Professional Appraisal Practice (USPAP) to students enrolled in a 7-hour USPAP Update course, but must ensure that students have access to an electronic or paper copy of the current version of USPAP.

Section 1103.051, Texas Occupations Code, established TALCB as an independent subdivision of the Texas Real Estate Commission (TREC). Chapter 1105, Texas Occupations Code, grants self-directed, semi-independent (SDSI) status to TALCB and TREC. As an SDSI agency, Chapter 1105 removes TALCB from the legislative appropriations process and requires TALCB to be responsible for all direct and indirect costs of TALCB's existence and operations. Thus, TALCB must generate sufficient revenue through the collection of fees to fund its budget and operations. The fees to be collected under the proposed amendments will help TALCB to recover and fund only a portion of its operational costs to approve continuing education providers and courses.

Kristen Worman, General Counsel, has determined that for the first five-year period the proposed amendments and new rules are in effect, there will be fiscal implications for the state, but not for units of local government, as a result of enforcing or administering the proposed amendments and new rules. Jennifer Wheeler, Education Manager, has determined there are 19 education providers who may apply to become a continuing education provider under the proposed amendments and new rules, which would generate \$3,800 of revenue over a two-year period. These education providers currently offer over 275 continuing education courses for appraisers. If education providers sought to register or obtain approval of these continuing education courses under the proposed amendments and new rules, the expected revenue would be \$17,825 over a two-year period, which brings the total expected revenue generated by the fees to be collected under the proposed amendments and rules over a two-year period to \$21,625. TALCB estimates its operational costs to approve continuing education providers and courses over a two-year period to be \$60,192.

Ms. Worman has also determined there will be no anticipated impact on local or state employment or rural communities as a result of implementing the proposed amendments and new rules; however, there may be an impact on small businesses or micro-businesses. As noted above, there are currently 19 education providers who may seek approval to offer continuing education courses to appraisers under the proposed amendments and new rules, and these providers may register or seek to approve more than 275 continuing education courses. Approximately one-third of these education providers are small businesses or micro-businesses. The anticipated economic impact on these small businesses or micro-businesses will be negative due to the increased filing and new provider and course approval fees.

Under §2006.002, Texas Government Code, an agency must consider alternative regulatory methods only if such alternative methods are consistent with the health, safety, environmental and economic welfare of the state. TALCB proposes these amendments and rules to comply with the statutory requirements in Chapter 1105, Texas Occupations Code, that TALCB fund all of its direct and indirect operational costs through the collection of fees. Any variance from this legislative mandate would be inconsistent with the health, safety, environmental and economic welfare of the state. Because the proposed amendments and rules will not generate sufficient revenue to cover TALCB's operational costs, no additional alternative regulatory methods have been considered.

Ms. Worman has also determined that for each year of the first five years the proposed amendments and new rules are in effect the public benefits anticipated as a result of enforcing the proposed amendments and new rules will be providing consistent processes for approval of continuing education providers and courses for appraisers in Texas at an equal or lower cost for obtaining the same or similar approvals from the AQB or another state. In addition, TALCB will raise sufficient revenue to recover and fund a portion of its operational costs as required under Chapter 1105, Texas Occupations Code.

Growth Impact Statement:

For each year of the first five years the proposed amendments and new rules are in effect the amendments and new rules will not:

- create or eliminate a government program;
- require the creation of new employee positions or the elimination of existing employee positions; or
- require an increase or decrease in future legislative appropriations to the agency.

For each year of the first five years the proposed amendments and new rules are in effect the amendments and new rules will:

- increase the number of individuals subject to the rule's applicability because the proposed amendments and new rules will now require education providers to become approved to offer continuing education courses;
- require an increase of fees paid to the agency because the proposed rules establish fees for the approval of continuing education providers and courses; and
- create new regulations or expand existing regulations to establish the processes for approving continuing education providers and courses.

For each year of the first five years the proposed amendments and new rules are in effect, there will be a positive impact on the state's economy because the proposed amendments and new rules will provide an opportunity to become an approved continuing education provider and obtain approval of continuing education courses for those continuing education providers who seek to offer continuing education courses to Texas appraisers at a cost equal to or lower than the costs of obtaining the same or similar approvals from other states or the AQB. These lower costs will encourage education providers to register and seek approval of continuing education courses in Texas.

Comments on the proposed amendments may be submitted to Kristen Worman, General Counsel, Texas Appraiser Licensing and Certification Board, P.O. Box 12188, Austin, Texas

78711-2188 or emailed to: [general.counsel@talcb.texas.gov](mailto:general.counsel@talcb.texas.gov). The deadline for comments is 30 days after publication in the *Texas Register*.

The amendments and new rules are proposed under Texas Occupations Code §1103.153, which authorizes TALCB to adopt rules relating to the requirements for approval of continuing education providers and courses, and §1103.156, which authorizes TALCB to establish reasonable fees to administer Chapter 1103, Texas Occupations Code.

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

§153.5. *Fees.*

(a) The Board shall charge and the Commissioner shall collect the following fees:

- (1) a fee of \$400 for an application for a certified general appraiser license;
- (2) a fee of \$350 for an application for a certified residential appraiser license;
- (3) a fee of \$325 for an application for a licensed residential appraiser license;
- (4) a fee of \$300 for an application for an appraiser trainee license;
- (5) a fee of \$360 for a timely renewal of a certified general appraiser license;
- (6) a fee of \$310 for a timely renewal of a certified residential appraiser license;
- (7) a fee of \$290 for a timely renewal of a licensed residential appraiser license;
- (8) a fee of \$250 for a timely renewal of an appraiser trainee license;
- (9) a fee equal to 1-1/2 times the timely renewal fee for the late renewal of a license within 90 days of expiration;
- (10) a fee equal to two times the timely renewal fee for the late renewal of a license more than 90 days but less than six months after expiration;
- (11) a fee of \$250 for nonresident license;
- (12) the national registry fee in the amount charged by the Appraisal Subcommittee;
- (13) an application fee for licensure by reciprocity in the same amount as the fee charged for a similar license issued to a Texas resident;
- (14) a fee of \$40 for preparing a certificate of licensure history, active licensure, or supervision;
- (15) a fee of \$20 for an addition or termination of sponsorship of an appraiser trainee;
- (16) a fee of \$20 for replacing a lost or destroyed license;
- (17) a fee for a returned check equal to that charged for a returned check by the Texas Real Estate Commission;
- (18) a fee of \$200 for an extension of time to complete required continuing education;
- (19) a fee of \$25 to request a license be placed on inactive status;

- (20) a fee of \$50 to request a return to active status;
- (21) a fee of \$50 for evaluation of an applicant's moral character;
- (22) an examination fee as provided in the Board's current examination administration agreement;
- (23) a fee of \$20 per certification when providing certified copies of documents;
- (24) a fee of \$75 to request a voluntary appraiser trainee experience review;
- (25) the fee charged by the Federal Bureau of Investigation, the Texas Department of Public Safety or other authorized entity for fingerprinting or other service for a national or state criminal history check in connection with a license application or renewal;
- (26) a base fee of \$50 for approval of an ACE course;
- (27) a content review fee of \$5 per classroom hour for approval of an ACE course;
- (28) a course approval fee of \$50 for approval of an ACE course currently approved by the AQB or another state appraiser regulatory agency;
- (29) a one-time offering course approval fee of \$25 for approval of a 2-hour ACE course to be offered in-person only one time;
- (30) a fee of \$200 for an application for an ACE provider approval or subsequent approval;
- (31) [(26)] a fee of \$20 for filing any application, renewal, change request, or other record on paper when the person may otherwise file electronically by accessing the Board's website and entering the required information online; and
- (32) [(27)] any fee required by the Department of Information Resources for establishing and maintaining online applications.

(b) Fees must be submitted in U.S. funds payable to the order of the Texas Appraiser Licensing and Certification Board. Fees are not refundable once an application has been accepted for filing. Persons who have submitted a check which has been returned, and who have not made good on that check within thirty days, for whatever reason, shall submit all future fees in the form of a cashier's check or money order.

(c) Licensing fees are waived for members of the Board staff who must maintain a license for employment with the Board only and are not also using the license for outside employment.

§153.18. *Appraiser Continuing Education (ACE).*

(a) The purpose of ACE is to ensure that license holders participate in programs that maintain and increase their skill, knowledge, and competency in real estate appraising.

(b) To renew a license, a license holder must successfully complete the equivalent of at least 28 classroom hours of ACE courses approved by the Board, including the 7-hour National USPAP Update course during the license holder's continuing education cycle. The courses must comply with the requirements set out in subsection (d) of this section.

(c) Until August 31, 2019, the [The] Board will base its review and approval of ACE courses upon the appraiser qualifications criteria of the AQB.

(d) The following types of courses may be accepted for ACE:

- (1) A course that meets the requirements for licensing also may be accepted for ACE if:

(A) The course is devoted to one or more of the appraisal related topics of the appraiser qualifications criteria of the AQB for continuing education;

(B) the course was not repeated within the license holder's continuing education cycle; and

(C) the course is at least two hours in length.

(2) The Board will accept as ACE any continuing education course that has been approved by the AQB course approval process or by another state appraiser licensing and certification board.

(A) Until August 31, 2019, course [Course] providers may obtain prior approval of ACE courses by filing forms approved by the Board and submitting a letter indicating that the course has been approved by the AQB under its course approval process or by another state appraiser licensing and certification board.

(B) Until August 31, 2019, approval [Approval] of a course based on AQB approval expires on the date the AQB approval expires and is automatically revoked upon revocation of the AQB approval.

(C) Until August 31, 2019, approval [Approval] of a course based on another state licensing and certification board shall expire on the earlier of the expiration date in the other state, if applicable, or two years from Board approval and is automatically revoked upon revocation of the other state board's approval.

(3) Until August 31, 2019, distance [Distance] education courses may be accepted as ACE if:

(A) The course is:

(i) Approved by the Board;

(ii) Presented by an accredited college or university that offers distance education programs in other disciplines; or

(iii) Approved by the AQB under its course approval process; and

(B) The student successfully completes a written examination proctored by an official approved by the presenting college, university, or sponsoring organization consistent with the requirements of the course accreditation; and

(C) A minimum number of hours equal to the hours of course credit have elapsed between the time of course enrollment and completion.

(e) Until August 31, 2019, to [To] satisfy the USPAP ACE requirement, a course must:

(1) be the 7-hour National USPAP Update Course or its equivalent, as determined by the AQB;

(2) use the current edition of the USPAP;

(3) ensure each student has access to [provide each student with] his or her own paper or electronic copy of the current USPAP; and

(4) be taught by at least one instructor who is an AQB-certified USPAP instructor and also licensed as a certified general or certified residential appraiser.

(f) Until August 31, 2019, providers [Providers] of USPAP ACE courses may include up to one additional hour of supplemental Texas specific information. This may include topics such as the Act, Board Rules, processes and procedures, enforcement issues, or other topics deemed appropriate by the Board.

(g) Up to one half of a license holder's ACE requirements may be satisfied through participation other than as a student, in real estate appraisal educational processes and programs. Examples of activities for which credit may be granted are teaching an ACE course, educational program development, authorship of real estate appraisal textbooks, or similar activities that are determined by the Board to be equivalent to obtaining ACE.

(h) The following types of courses or activities may not be counted toward ACE requirements:

(1) Teaching the same ACE course more than once per license renewal cycle;

(2) "In house" education or training; or

(3) Appraisal experience.

(i) ACE credit for attending a Board meeting.

(1) The Board may award a minimum of two hours and up to a maximum of 4 hours of ACE credit to a current license holder for attending the Board meeting held in February of an even numbered year.

(2) The hours of ACE credit to be awarded will depend on the actual length of the Board meeting.

(3) ACE credit will only be awarded in whole hour increments. For example, if the Board meeting is 2 and one half hours long, only 2 hours of ACE credit will be awarded.

(4) To be eligible for ACE credit for attending a Board meeting, a license holder must:

(A) Attend the meeting in person;

(B) Attend the entire meeting, excluding breaks;

(C) Provide photo identification; and

(D) Sign in and out on the class attendance roster for the meeting.

(5) No ACE credit will be awarded to a license holder for partial attendance.

(j) ACE credit for attending presentations by current Board members or staff. As authorized by law, current members of the Board and Board staff may teach or guest lecture as part of an approved ACE course. To obtain ACE credit for attending a presentation by a current Board member or Board staff, the course provider must submit the applicable form and satisfy the requirements for ACE course approval in this section.

(k) Until August 31, 2019, if [If] the Board determines that an ACE course no longer complies with the requirements for approval, it may suspend or revoke the approval. Proceedings to suspend or revoke approval of a course shall be conducted in accordance with the Board's disciplinary provisions for licenses.

§153.40. Approval of Continuing Education Providers and Courses.

(a) This rule is effective September 1, 2019.

(b) Definitions. The following words and terms shall have the following meanings, unless the context clearly indicates otherwise.

(1) Applicant--A person seeking accreditation or approval to be an appraiser continuing education (ACE) provider or instructor.

(2) ACE--Appraiser continuing education.

(3) ACE course--Any education course for which continuing education credit may be granted by the Board to a license holder.

(4) ACE provider--Any person approved by the Board; or specifically exempt by the Act, Chapter 1103, Texas Occupation Code, or Board rule; that offers a course for which continuing education credit may be granted by the Board to a license holder.

(5) Classroom course--A course in which the instructor and students interact face to face, in real time and in the same physical location.

(6) Distance education course--A course offered in accordance with AQB criteria in which the instructor and students are geographically separated.

(c) Approval of ACE Providers.

(1) A person seeking to offer ACE courses must:

(A) file an application on the appropriate form approved by the Board, with all required documentation;

(B) pay the required fees under §153.5 of this title; and

(C) maintain a fixed office in the state of Texas or designate a resident of this state as attorney-in-fact to accept service of process and act as custodian of any records in Texas which the continuing education provider is required to maintain by this subchapter.

(2) The Board may:

(A) request additional information be provided to the Board relating to an application; and

(B) terminate an application without further notice if the applicant fails to provide the additional information within 60 days from the Board's request.

(3) Standards for approval. To be approved by the Board to offer ACE courses, an applicant must satisfy the Board as to the applicant's ability to administer courses with competency, honesty trustworthiness and integrity. If an applicant proposes to employ another person to manage the operation of the applicant, that person must meet this standard as if that person were the applicant.

(4) Approval notice. An applicant shall not act as or represent itself to be an approved ACE provider until the applicant has received written notice of the approval from the Board.

(5) Period of initial approval. The initial approval of a CE provider is valid for two years.

(6) Disapproval.

(A) If the Board determines that an applicant does not meet the standards for approval, the Board will provide written notice of disapproval to the applicant.

(B) The disapproval notice, applicant's request for a hearing on the disapproval, and any hearing are governed by the Administrative Procedure Act, Chapter 2001, Government Code, and Chapter 157 of this title. Venue for any hearing conducted under this section shall be in Travis County.

(7) Subsequent approval.

(A) Not earlier than 90 days before the expiration of its current approval, an approved provider may apply for subsequent approval for another two year period.

(B) Approval or disapproval of a subsequent application shall be subject to the standards for initial applications for approval set out in this section.

(d) Application for approval of ACE courses. This subsection applies to appraiser education providers seeking to offer ACE courses.

(1) For each ACE course an applicant intends to offer, the applicant must:

(A) file an application on the appropriate form approved by the Board, with all required documentation; and

(B) pay the fees required by §153.5 of this title, including the:

(i) base fee; and

(ii) content review fee.

(2) An ACE provider may file a single application for an ACE course offered through multiple delivery methods.

(3) An ACE provider who seeks approval of a new delivery method for a currently approved ACE course must submit a new application and pay all required fees.

(4) The Board may:

(A) request additional information be provided to the Board relating to an application; and

(B) terminate an application without further notice if the applicant fails to provide the additional information within 60 days from the Board's request.

(5) Standards for ACE course approval.

(A) To be approved as an ACE course by the Board, the course must:

(i) cover subject matter appropriate for appraiser continuing education as defined by the AQB;

(ii) submit a statement describing the objective of the course and the acceptable AQB topics covered;

(iii) be current and accurate; and

(iv) be at least two hours long.

(B) The course must be presented in full hourly units.

(C) The course must be delivered by one of the following delivery methods:

(i) classroom delivery; or

(ii) distance education.

(D) The course design and delivery mechanism for all distance education courses must be approved by an AQB approved organization.

(6) Approval notice.

(A) An ACE provider cannot offer an ACE course until the provider has received written notice of the approval from the Board.

(B) An ACE course expires two years from the date of approval. ACE providers must reapply and meet all current requirements of this section to offer the course for another two years.

(e) Approval of currently approved ACE course for a secondary provider.

(1) If an ACE provider wants to offer an ACE course currently approved for another provider, the secondary provider must:

(A) file an application on the appropriate form approved by the Board, with all required documentation;

(B) submit written authorization to the Board from the author or provider for whom the course was initially approved granting permission for the secondary provider to offer the course; and



(C) pay the fees required by §153.5 of this title, including:

- (i) base fee; and
- (ii) content review fee.

(2) If approved to offer the currently approved course, the secondary provider must:

- (A) offer the course as originally approved;
- (B) assume the original expiration date;
- (C) include any approved revisions;
- (D) use all materials required for the course; and
- (E) meet the requirements of subsection (j) of this section.

(f) Approval of ACE courses currently approved by the AQB or another state appraiser regulatory agency.

(1) To obtain Board approval of an ACE course currently approved by the AQB or another state appraiser regulatory agency, an ACE provider must:

- (A) be currently approved by the Board as an ACE provider;
- (B) file an application on the appropriate form approved by the Board, with all required documentation; and
- (C) pay the course approval fee required by §153.5 of this title.

(2) If approved to offer the ACE course, the ACE provider must offer the course as approved by the AQB or other state appraiser regulatory agency, using all materials required for the course.

(3) Any course approval issued under this subsection expires the earlier of two years from the date of Board approval or the remaining term of approval granted by the AQB or other state appraiser regulatory agency.

(g) Approval of ACE courses for a 2-hour in-person one-time offering.

(1) To obtain Board approval of a 2-hour ACE course for an in-person one-time offering, an ACE provider must:

- (A) be currently approved by the Board as an ACE provider;
- (B) file an application on the appropriate form approved by the Board, with all required documentation; and
- (C) pay the one-time offering course approval fee required by §153.5 of this title.

(2) Any course approved under this subsection is limited to the scheduled presentation date stated on the written notice of course approval issued by the Board.

(h) Application for approval to offer a 7-Hour National USPAP Update course.

(1) To obtain approval to offer a 7-Hour National USPAP Update course, the provider must:

- (A) be approved by the Board as an ACE provider;
- (B) file an application on the appropriate form approved by the Board, with all required documentation;

(C) submit written documentation to the Board demonstrating that the course and instructor are currently approved by the AQB;

(D) pay the course approval fee required by §153.5 of this title;

(E) use the current version of the USPAP; and

(F) ensure each student has access to his or her own electronic or paper copy of the current version of USPAP.

(2) Approved ACE providers of the 7-Hour National USPAP Update course may include up to one additional classroom credit hour of supplemental Texas specific information. This may include topics such as the Act, Board rules, processes and procedures, enforcement issues or other topics deemed appropriate by the Board.

(i) Application for ACE course approval for a presentation by current Board members or staff. As authorized by law, current members of the Board and Board staff may teach or guest lecture as part of an approved ACE course. To obtain ACE course approval for a presentation by a Board member or staff, the provider must:

(1) file an application on the appropriate form approved by the Board, with all required documentation; and

(2) pay the fees required by §153.5 of this title.

(j) Responsibilities and Operations of ACE providers.

(1) ACE course examinations:

(A) are required for ACE distance education courses;

and

(B) must comply with AQB requirements.

(2) Course evaluations. A provider shall provide each student enrolled in an ACE course a course evaluation form approved by the Board and a link to an online version of the evaluation form that a student may complete and submit to the provider after course completion.

(3) Course completion rosters.

(A) Classroom courses. Upon successful completion of an ACE classroom course, a provider shall submit to the Board a course completion roster in a format approved by the Board no later than the 10th day after the date a course is completed. The roster shall include:

(i) the provider's name and license number;

(ii) the instructor's name;

(iii) the course title;

(iv) the course approval number;

(v) the number of credit hours;

(vi) the date of issuance;

(vii) the date the student registered for, started and completed the course; and

(viii) the signature of an authorized representative of the provider who was in attendance and for whom an authorized signature is on file with the Board.

(B) Distance education courses. A provider shall maintain a Distance Education Reporting Form and submit information contained in that form by electronic means acceptable to the Board for each student completing the course not earlier than the number of hours for course credit after a student starts the course and not later than the 10th day after the student completes the course.

(C) The Board will not accept unsigned course completion rosters.

(4) An ACE provider may withhold any official course completion documentation required by this subsection from a student until the student has fulfilled all financial obligations to the provider.

(5) Security and Maintenance of Records.

(A) An ACE provider shall maintain:

(i) adequate security against forgery for official completion documentation required by this subsection;

(ii) records of each student enrolled in a course for a minimum of four years following completion of the course, including course and instructor evaluations and student enrollment agreements; and

(iii) any comments made by the provider's management relevant to instructor or course evaluations with the provider's records.

(B) All records may be maintained electronically but must be in a common format that is legible and easily printed or viewed without additional manipulation or special software.

(C) Upon request, an ACE provider shall produce instructor and course evaluation forms for inspection by Board staff.

(6) Changes in Ownership or Operation of an approved ACE provider.

(A) An approved ACE provider shall obtain approval of the Board at least 30 days in advance of any material change in the operation of the provider, including but not limited to changes in:

(i) ownership;

(ii) management; and

(iii) the location of main office and any other locations where courses are offered.

(B) An approved provider requesting approval of a change in ownership shall provide a Principal Application Form for each proposed new owner who would hold at least a 10% interest in the provider to the Board.

(k) Non-compliance.

(1) If the Board determines that an ACE course or provider no longer complies with the requirements for approval, the Board may suspend or revoke approval for the ACE course or provider.

(2) Proceedings to suspend or revoke approval of an ACE course or provider shall be conducted in accordance with §153.41 of this title.

§153.41. ACE Providers: Compliance and Enforcement.

(a) This rule is effective September 1, 2019.

(b) Audits.

(1) Board staff may:

(A) conduct on-site audits without prior notice to a provider; and

(B) enroll and attend a course without identifying themselves as employees of the Board for purposes of auditing a course.

(2) An audit report indicating noncompliance with AQB requirements, the Act, or Board Rules is treated as a written complaint against the provider concerned.

(c) Complaints, investigations and hearings.

(1) The Board will investigate complaints against providers or that allege violations of the AQB requirements, the Act, or Board Rules.

(2) Complaints must be in writing, and the Board may not initiate an investigation, or take action against a provider, based on an anonymous complaint.

(3) Board staff may initiate a complaint for any violation of AQB requirements, the Act, or Board Rules, including a complaint against a provider, if a document submitted to the Board provides reasonable cause to believe a violation occurred.

(4) The Board shall provide a copy of the complaint the provider named in the complaint.

(5) Proceedings against a provider will be conducted in the manner required by the Act, the Administrative Procedure Act, Chapter 2001, Government Code, and Chapter 157 of this title. Venue for any hearing or proceeding conducted under this section will be in Travis County.

(d) Cooperation with audit or complaint investigation. A provider shall provide records in his or her possession for examination by the Board or provide such information requested by the Board not later than the 20th day after the date of receiving a request for examination of records or information.

(e) Grounds for disciplinary action against an approved provider.

(1) The following acts committed by a provider are grounds for disciplinary action by the Board:

(A) procuring or attempting to procure approval for a provider or course by fraud, misrepresentation or deceit, or by making a material misrepresentation of fact in an application filed with the Board;

(B) making a false representation to the Board, either intentionally or negligently, that a person attended a course or a portion of a course for which credit was awarded, that a person completed an examination, or that a person completed any other requirement for course credit;

(C) aiding or abetting a person to circumvent the requirements for attendance established by the Board, the completion of any examination, or any other requirement for course credit;

(D) failing to provide, not later than the 20th day after the date of a request, information requested by the Board as a result of a complaint alleging a violation of AQB requirements, the Act, or Board Rules;

(E) making a materially false statement to the Board in response to a request from the Board for information relating to a complaint against the provider; or

(F) disregarding or violating an AQB requirement or provision of the Act or Board Rules.

(2) The Board may initiate a complaint against a provider if the Board receives a complaint, or is presented with other evidence acceptable to the Board alleging that a provider has failed to:

(A) teach the curriculum standards required by the AQB or Board Rules; or

(B) meet the course delivery requirements required by the AQB or Board Rules.

(3) If after an investigation the Board determines that a provider engaged in any of the acts listed in this subsection, or failed to follow the curriculum standards or course delivery requirements of the AQB or Board Rules, the Board may take one or more of the following disciplinary actions against a provider:

(A) reprimand;

(B) impose an administrative penalty; or

(C) suspend or revoke approval of a provider or an ACE course offered by the provider.

(f) Probation. The Board may probate an order of suspension or revocation issued under this section upon reasonable terms and conditions.

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

Filed with the Office of the Secretary of State on September 17, 2018.

TRD-201804023

Kristen Worman

General Counsel

Texas Appraiser Licensing and Certification Board

Earliest possible date of adoption: November 4, 2018

For further information, please call: (512) 936-3652



## PART 9. TEXAS MEDICAL BOARD

### CHAPTER 175. FEES AND PENALTIES

#### 22 TAC §175.5

The Texas Medical Board (Board) proposes amendments to §175.5, concerning Payment of Fees or Penalties.

The amendment to §175.5 adds language in subsection (c)(6) that requires a request for refund from the spouse or personal representative of a licensee or applicant who dies within 90 days of having paid a licensure fee. The amendment makes clear that a refund is not automatically processed by the Board upon a licensee or applicant's death.

The amendment also adds language to subsection (c)(7) giving some discretion to the Executive Director as to whether to a licensure fee should be fully refunded if it was paid more than 90 days before the licensee's or applicant's death. The amendment makes it possible for the Board to issue a full refund in a unique situation, such as when a licensee or applicant has paid a fee more than 90 days before his or her death, but has not yet received the license or registration.

Scott Freshour, General Counsel for the Board, has determined that for each year of the first five years the section as proposed is in effect the public benefit anticipated as a result of enforcing this proposal will be simplification and uniformity of refund procedures in the case of a licensee death.

Mr. Freshour has also determined that for the first five-year period the section is in effect there will be no probable economic cost to individuals required to comply with these rules as proposed.

Pursuant to Texas Government Code §2006.002, the agency provides the following economic impact statement for the proposed rule amendment and determined that for each year of the first five years the proposed amendment will be in effect:

(1) there will be no effect on small businesses, micro businesses, or rural communities; and

(2) the agency has considered alternative methods of achieving the purpose of the proposed rule amendments and found none.

Pursuant to Texas Government Code §2001.024(a)(4), Mr. Freshour certifies that this proposal has been reviewed and the agency has determined that for each year of the first five years the rule amendment, as proposed, is in effect:

(1) the additional estimated cost to the state and to local governments expected as a result of enforcing or administering the rule is *de minimis*;

(2) the estimated reductions in costs to the state and to local governments as a result of enforcing or administering the rule is *de minimis*;

(3) the estimated loss or increase in revenue to the state or to local governments as a result of enforcing or administering the rule is *de minimis*; and

(4) there are *de minimis* foreseeable implications relating to cost or revenues of the state or local governments with regard to enforcing or administering the rule.

Pursuant to Texas Government Code §2001.024(a)(6) and §2001.022, the agency has determined that for each year of the first five years the proposed amendment will be in effect, there will be no effect on local economy and no effect on local employment.

Pursuant to Government Code §2001.0221, the agency provides the following Government Growth Impact Statement for the proposed rule amendment. For each year of the first five years the proposed amendment will be in effect, Mr. Freshour has determined the following:

(1) The proposed rule does not create or eliminate a government program.

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

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

(4) The proposed rule does not require an increase or decrease in fees paid to the agency.

(5) The proposed rule does not create new regulations.

(6) The proposed rule does not expand or limit existing regulations.

(7) The proposed rule does not increase or decrease the number of individuals subject to the rules' applicability.

(8) The proposed rule does not positively or adversely affect this state's economy.

Comments on the proposal may be submitted to Rita Chapin, P.O. Box 2018, Austin, Texas 78768-2018, or email comments to: rules.development@tmb.state.tx.us. A public hearing will be held at a later date.

The amendment is proposed under the authority of the Texas Occupations Code Annotated §153.001, which provides authority for the Board to recommend rules necessary to administer and enforce Title 3, Subtitle B of the Texas Occupations Code. The amendment is also proposed under the authority of the Texas Occupations Code Annotated §153.051, which provides authority for the board to establish fees.

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

§175.5. *Payment of Fees or Penalties.*

(a) - (b) No change.

(c) Refunds. Refunds of fees may be granted under the following circumstances:

(1) Administrative error by the Board;

(2) Licensure applicants who timely withdraw their applications and do not appear before the Licensure Committee and request a refund within 30 days of being notified by board staff that they are ineligible for licensure;

(3) Applicants who withdraw a licensure application after applying for multiple types of licensure at the same time but then either elect to pursue only one type of license or the Board approves one type of license before completing the review of the other applications;

(4) Applicants who apply for temporary licenses but do not receive a temporary license due to the issuance of full licensure;

(5) Licensees who retire or request cancellation of their licenses within 90 days of paying the renewal/registration fee;

(6) Applicants or licensees who die within 90 days of having paid a fee, when a spouse or personal representative submits a written request for a refund;

(7) Subject to the discretion of the Executive Director, an [If the] applicant or licensee who has died more than 90 days after having paid a fee and a spouse or personal representative has submitted a written request for a refund demonstrating good cause for a pro-rated or full refund; or

(8) Applicants who withdraw their applications within 45 days of initial application.

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

Filed with the Office of the Secretary of State on September 20, 2018.

TRD-201804095

Scott M. Freshour

General Counsel

Texas Medical Board

Earliest possible date of adoption: November 4, 2018

For further information, please call: (512) 305-7016



## PART 10. TEXAS FUNERAL SERVICE COMMISSION

### CHAPTER 203. LICENSING AND ENFORCEMENT--SPECIFIC SUBSTANTIVE RULES

## SUBCHAPTER A. LICENSING

### 22 TAC §203.16

The Texas Funeral Service Commission (Commission) proposes to amend 22 Texas Admin. Code §203.16, concerning Consequences of Criminal Conviction. The rule currently outlines the policy and procedure the Commission takes when determining whether a criminal conviction will impact a license status or application for licensure.

The 85th Regular Session of the Texas Legislature (85 (R) HB 91) directed the agency to review its eligibility requirements relating to criminal history and make a recommendation regarding whether the requirements should be retained, modified, or repealed. This amendment is in direct response to the agency's review.

The amendments ensure the agency is in compliance with Occupations Code, Chapter 53, by ensuring the agency notifies licensees/applicants of decisions in writing, by defining what types of convictions relate to the occupations of funeral director/embalmer and defining how deferred adjudication should be considered.

The agency has redefined which crimes will be considered directly related to the profession of funeral directing and embalming. Specifically, it repeals the language stating all violations of Penal Code, Titles 4, 5, 7, 9, and 10, directly relate to the profession and instead adds certain crimes found in those titles to the list outlined in §203.16(h). It does provide the Commission may consider any crime not listed if the offense was committed less than five years before the person applies for the license.

FISCAL NOTE: Janice McCoy, Executive Director, has determined for the first five-year period the proposed amended rule is in effect there will be no fiscal implication for state or local governments, or local economies.

PUBLIC BENEFIT/COST NOTE. Ms. McCoy has determined that, for each year of the first five years the proposed amended rule will be in effect, the public benefit is that the criminal history review of all licensees/applicants is done in accordance with statute.

ADVERSE IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES. The agency has determined that there will be no economic effect on small or micro-businesses or rural communities.

GOVERNMENT GROWTH IMPACT STATEMENT. Ms. McCoy also has determined that, for the first five years the rule would be in effect: 1. The proposed rule does not create or eliminate a government program; 2. The proposed rule will not require a change in the number of employees of the agency; 3. The proposed rule will not require additional future legislative appropriations; 4. The proposed rule will not require an increase in fees paid to the agency; 5. The proposed rule will not create a new regulation; 6. The proposed rule will not expand, limit, or repeal an existing regulation; 7. The proposed rule will not increase or decrease the number of individuals subject to the rule's applicability as all applicants are subject to a criminal background check prior to licensure; and 8. The proposed rule will neither positively nor negatively affect this state's economy. This rule only updates the agency's policy and procedure for criminal history reviews.

ONE-FOR-ONE REQUIREMENT FOR RULES WITH A FISCAL IMPACT. Under Texas Government Code §2001.0045, a state agency may not adopt a proposed rule if the fiscal note states

that the rule imposes a cost on regulated persons, including another state agency, a special district, or a local government, unless the state agency: (a) repeals a rule that imposes a total cost on regulated persons that is equal to or greater than the total cost imposed on regulated persons by the proposed rule; or (b) amends a rule to decrease the total cost imposed on regulated persons by an amount that is equal to or greater than the cost imposed on the persons by the rule. There are exceptions for certain types of rules under §2001.0045(c). The proposed amended rule does not have a fiscal note that imposes a cost on regulated persons, including another state agency, a special district, or a local government because this rule only updates the agency's policy and procedure for criminal history reviews. Therefore, the agency is not required to take any further action under Texas Government Code §2001.0045(c).

The agency has determined Chapter 2007 of the Texas Government Code does not apply to this proposal. Accordingly, the agency is not required to complete a takings impact assessment regarding this proposal.

Comments on the proposal may be submitted in writing to Mr. Kyle Smith at Texas Funeral Service Commission, 333 Guadalupe, Suite 2-110, Austin, Texas 78701, (512) 479-5064 (fax) or electronically to [info@tfsc.texas.gov](mailto:info@tfsc.texas.gov). Comments must be received no later than thirty (30) days from the date of publication of this proposal.

This proposal is made pursuant to Texas Occupations Code §651.152, which authorizes the Texas Funeral Service Commission to adopt rules considered necessary for carrying out the Commission's work, and Chapter 53, Occupations Code, which outlines the provisions relating to licensing and the consequences of criminal convictions.

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

*§203.16. Consequences of Criminal Conviction.*

(a) The Commission may suspend or revoke a license or deny a person from receiving a license on the grounds that the person has been convicted of a felony or misdemeanor that directly relates to the duties and responsibilities of an occupation required to be licensed by Occupations Code, Chapter 651 (Chapter 651). The Commission may consider an offense not listed as directly related to the occupations of funeral directing and/or embalming that was committed less than five years before the person applies for the license.

(b) The Commissioners may place an applicant or licensee who has been convicted of an offense [as outlined in subsection (h)] on probation by authorizing the Executive Director to enter into an Agreed Order with the licensee. The Agreed Order shall specify the terms of the probation and the consequences of violating the Order.

(c) If the Commissioners suspend or revoke a license or deny a person from getting a license, the Commission must notify the person of the decision in writing and notify the licensee or applicant he or she has the right to [may] appeal that decision to SOAH.

(d) The Commission shall immediately revoke the license of a person who is imprisoned following a felony conviction, felony community supervision revocation, revocation of parole, or revocation of mandatory supervision. A person in prison is ineligible for licensure. Revocation or denial of licensure under this subsection is not subject to appeal at SOAH. [Revocations under this subsection are not subject to appeal at SOAH.]

~~[(e) A person in prison is ineligible for licensure. Revocation or denial of licensure under this subsection is not subject to appeal at SOAH.]~~

~~(e) [(f)]~~ The Commission shall consider the following factors in determining whether a criminal conviction directly relates to an occupation required to be licensed by Chapter 651:

- (1) the nature and seriousness of the crime;
- (2) the relationship of the crime to the purposes for requiring a license to engage in the occupations of funeral directing and/or embalming [~~occupation~~];
- (3) the extent to which a license might offer an opportunity to engage in further criminal activity of the same type as that in which the person previously had been involved; and
- (4) the relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the responsibilities of the licensed occupation.

~~(f) [(g)]~~ If a person has been convicted of a crime, the Commission shall consider the following in determining a person's fitness to perform the duties and discharge the responsibilities of a Chapter 651 occupation:

- (1) the extent and nature of the person's past criminal activity;
- (2) the age of the person when the crime was committed;
- (3) the amount of time that has elapsed since the person's last criminal activity;
- (4) the conduct and work activity of the person before and after the criminal activity;
- (5) evidence of the person's rehabilitation or rehabilitative effort while incarcerated or after release; and
- (6) letters of recommendation from:

(A) prosecutors and law enforcement and correctional officers who prosecuted, arrested, or had custodial responsibility for the person;

(B) the sheriff or chief of police in the community where the person resides; and

(C) any other person in contact with the convicted person[; and]

~~(g) [(7)]~~ The applicant may be asked to furnish proof [evidene] ] that the applicant has:

- (1) [~~(A)~~] maintained a record of steady employment;
- (2) [~~(B)~~] supported the applicant's dependents;
- (3) [~~(C)~~] maintained a record of good conduct; and
- (4) [~~(D)~~] paid all outstanding court costs, supervision fees, fines, and restitution ordered in any criminal case in which the applicant has been convicted.

(h) The following crimes are related to the occupations of funeral directing or embalming:

(1) Class B misdemeanors classified by Occupations Code §651.602:

(A) acting or holding oneself out as a funeral director, embalmer, or provisional license holder without being licensed under Chapter 651 and the Rules of the Commission;

(B) making a first call in a manner that violates Occupations Code §651.401;

(C) engaging in a funeral practice that violates Chapter 651 or the Rules of the Commission; or

(D) violating Finance Code, Chapter 154, or a rule adopted under that chapter, regardless of whether the Texas Department of Banking or another governmental agency takes action relating to the violation;[-]

(2) The commission of acts within the definition of Abuse of Corpse under Penal Code, §42.08, because those acts indicate a lack of respect for the dead;[-]

(3) an offense listed in Article 42A.054, Code of Criminal Procedure as provided by Occupations Code §53.021(3);

(4) a sexually violent offense, as defined by Article 62.001, Code of Criminal Procedure as provided by Occupations Code §53.021(4);

(5) ~~[(3)]~~ The following crimes because these acts indicate [the commission of each reflects] a lack of respect for human life and dignity ~~[or a lack of fitness to practice the occupations]:~~

(A) Murder;

(B) Assault;

(C) Sexual Assault;

(D) Kidnapping

(E) Injury to a Child;

(F) Injury to an Elderly Person;

(G) Child Abuse;

(H) Harassment; or

(I) Arson;

~~[(A) a misdemeanor or felony offense involving;]~~

~~[(i) murder;]~~

~~[(ii) assault;]~~

~~[(iii) burglary;]~~

~~[(iv) robbery;]~~

~~[(v) theft;]~~

~~[(vi) sexual assault;]~~

~~[(vii) injury to a child;]~~

~~[(viii) injury to an elderly person;]~~

~~[(ix) child abuse or neglect;]~~

~~[(x) tampering with a governmental record;]~~

~~[(xi) forgery;]~~

~~[(xii) perjury;]~~

~~[(xiii) bribery;]~~

~~[(xiv) harassment;]~~

~~[(xv) insurance claim fraud; or]~~

~~[(xvi) mail fraud;]~~

(6) the following crimes because these acts indicate a lack of principles needed to practice funeral directing and/or embalming:

(A) Robbery;

(B) Theft;

(C) Burglary;

(D) Forgery;

(E) Perjury;

(F) Bribery;

(G) Tampering with a governmental record; or

(H) Insurance claim fraud; and

(7) the following crimes because those acts indicate a lack of fitness to practice funeral directing and/or embalming:

(A) ~~[(B)]~~ delivery, possession, manufacture, or use of or the illegal dispensing [or prescribing] of a controlled substance, dangerous drug, or narcotic; or

(B) multiple (more than two) convictions for driving while intoxicated or driving under the influence.

~~[(C) violations of the Penal Code, Titles 4, 5, 7, 9, and 10, which indicate an inability or tendency for the person to be unable to perform as a licensee or to be unfit for licensure or registration.]~~

(i) Multiple violations of any criminal statute shall be reviewed by the Commission because multiple violations may reflect a pattern of behavior that renders the applicant unfit to hold a funeral directors and/or embalmers license.

(j) The Commission may not consider a person to be convicted of an offense if the judge deferred further proceedings without entering an adjudication of guilt, placed the person on community supervision, and dismissed the proceedings at the end of the community supervision. However, if the Commission determines that the licensure of the person as a funeral director and/or embalmer would create a situation in which the person has the opportunity to repeat the prohibited conduct, the Commission shall consider a person to have been convicted regardless of whether the proceedings were dismissed after a period of deferred adjudication if:

(1) the person was charged with any offense described by Article 62.001(5) Code of Criminal Procedure;

(2) the person has not completed the term of community supervision or the person completed the period of supervision less than five years before the date of application; or

(3) a conviction of the offense would make the person ineligible for the license by operation of law.

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

Filed with the Office of the Secretary of State on September 21, 2018.

TRD-201804115

Janice McCoy

Executive Director

Texas Funeral Service Commission

Earliest possible date of adoption: November 4, 2018

For further information, please call: (512) 936-2469

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PART 15. TEXAS STATE BOARD OF  
PHARMACY

CHAPTER 281. ADMINISTRATIVE PRACTICE  
AND PROCEDURES  
SUBCHAPTER C. DISCIPLINARY  
GUIDELINES

22 TAC §281.62

The Texas State Board of Pharmacy proposes amendments to §281.62, concerning Aggravating and Mitigating Factors. The amendments, if adopted, update the factors which may merit an increase or decrease in the severity of disciplinary action imposed by the Board.

Allison Vordenbaumen Benz, R.Ph., M.S., Executive Director/Secretary, has determined that, for the first five-year period the proposed amendments are in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the rule. Ms. Benz has determined that, for each year of the first five-year period the proposed amendments will be in effect, the public benefit anticipated as a result of enforcing the amendments will be to provide clear guidance regarding the factors the Board may consider in determining whether to increase or decrease the severity of disciplinary action to be imposed. There is no anticipated 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, Ms. Benz has determined the following:

- (1) The proposed rule does not create or eliminate a government program;
- (2) Implementation of the proposed rule does not require the creation of new employee positions or the elimination of existing employee positions;
- (3) Implementation of the proposed rule does not require an increase or decrease in the future legislative appropriations to the agency;
- (4) The proposed rule does not require an increase or decrease in fees paid to the agency;
- (5) The proposed rule does not create a new regulation;
- (6) The proposed rule limits and expands an existing regulation;
- (7) The proposed rule does not increase or decrease the number of individuals subject to the rule's applicability; and
- (8) The proposed rule does not positively or adversely affect this state's economy.

Written comments on the amendments may be submitted to Megan G. Holloway, Assistant General Counsel, Texas State Board of Pharmacy, 333 Guadalupe Street, Suite 3-500, Austin, Texas, 78701, FAX (512) 305-8061. Comments must be received by 5:00 p.m., November 3, 2018.

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.

§281.62. *Aggravating and Mitigating Factors.*

The following factors may be considered in determining the disciplinary sanctions imposed by the board if the factors are applicable to the factual situation alleged. The factors are not applicable in situations involving criminal actions (in which case §281.63 of this title (relating to Considerations for Criminal Offenses) applies).

(1) Aggravation. The following may be considered as aggravating factors so as to merit an increase in the severity of disciplinary sanction(s) to be imposed: [more severe or more restrictive action by the board:]

(A) extent and gravity of personal, economic, or public damage or harm;

(B) vulnerability of the patient(s);

(C) willful or reckless conduct, or as a result of a knowingly made professional omission, as opposed to negligent conduct;

(D) pattern of misconduct that serves as a basis of discipline;

(E) prior disciplinary action(s);

(F) attempted concealment of the conduct which serves as a basis for disciplinary action under the Act; and

(G) violation of a board order.

~~[(A) patient harm and the severity of patient harm;]~~

~~[(B) economic harm to any individual, entity, or the environment, and the severity of such harm;]~~

~~[(C) increased potential for harm to the public;]~~

~~[(D) attempted concealment of the conduct which serves as a basis for disciplinary action under the Act;]~~

~~[(E) premeditated conduct which serves as a basis for disciplinary action under the Act;]~~

~~[(F) intentional conduct which serves as a basis for disciplinary action under the Act;]~~

~~[(G) motive for conduct which serves as a basis for disciplinary action under the Act;]~~

~~[(H) prior conduct of a similar or related nature;]~~

~~[(I) disciplinary actions taken by any regulatory agency of the federal government or any state;]~~

~~[(J) prior written warnings or written admonishments from any government agency or official regarding statutes or regulations pertaining to the conduct which serves as a basis for disciplinary action under the Act;]~~

~~[(K) violation of a board order;]~~

~~[(L) failure to implement remedial measures to correct or mitigate harm from the conduct which serves as a basis for disciplinary action under the Act;]~~

~~[(M) lack of rehabilitative potential or likelihood for future conduct of a similar nature;]~~

~~[(N) relevant circumstances increasing the seriousness of the conduct which serves as a basis for disciplinary action under the Act; and]~~

~~[(O) circumstances indicating intoxication due to ingestion of alcohol and/or drugs.]~~

(2) Extenuation and Mitigation. The following may be considered as extenuating and mitigating factors so as to merit a reduction in the severity of disciplinary sanction(s) to be imposed: ~~[less severe or less restrictive action by the board.]~~

~~(A) isolated incident that serves as a basis for disciplinary action;~~

~~(B) remorse for conduct;~~

~~(C) interim implementation of remedial measures to correct or mitigate harm from the conduct which serves as a basis for disciplinary action under the Act;~~

~~(D) remoteness of misconduct, when not based on delay attributable to actions by the respondent;~~

~~(E) extent to which respondent cooperated with board investigation;~~

~~(F) treatment and/or monitoring of an impairment;~~

~~(G) self-reported and voluntary admissions of the conduct which serves as a basis for disciplinary action under section 565.001(a)(4) and (7) of the Act; and~~

~~(H) if acting as pharmacist-in-charge, respondent did not personally engage, either directly or indirectly, in the conduct that serves as the basis for disciplinary action; did not permit or encourage, either by professional oversight or extreme negligence, the conduct that serves as the basis for disciplinary action; promptly reported the conduct to the board or other state or federal regulatory authorities or law enforcement upon identifying the conduct that serves as the basis for disciplinary action; and took all reasonable steps to mitigate or remediate the conduct that serves as the basis for disciplinary action.~~

~~[(A) absence of potential harm to the public;]~~

~~[(B) self-reported and voluntary admissions of the conduct which serves as a basis for disciplinary action under the Act;]~~

~~[(C) absence of premeditation to commit the conduct which serves as a basis for disciplinary action under the Act;]~~

~~[(D) absence of intent to commit the conduct which serves as a basis for disciplinary action under the Act;]~~

~~[(E) absence of prior conduct of a similar or related nature;]~~

~~[(F) absence of disciplinary actions taken by any regulatory agency of the federal government or any state;]~~

~~[(G) implementation of remedial measures to correct or mitigate harm from the conduct which serves as a basis for disciplinary action under the Act;]~~

~~[(H) rehabilitative potential;]~~

~~[(I) prior community service and present value to the community;]~~

~~[(J) relevant circumstances reducing the seriousness of the conduct which serves as a basis for disciplinary action under the Act;]~~

~~[(K) relevant circumstances lessening responsibility for the conduct which serves as a basis for disciplinary action under the Act; and]~~

~~[(L) treatment and/or monitoring of an impairment.]~~

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

Filed with the Office of the Secretary of State on September 21, 2018.

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Allison Vordenbaumen Benz, R.Ph., M.S.

Executive Director

Texas State Board of Pharmacy

Earliest possible date of adoption: November 4, 2018

For further information, please call: (512) 305-8010



## 22 TAC §281.65

The Texas State Board of Pharmacy proposes amendments to §281.65, concerning Schedule of Administrative Penalties. The amendments, if adopted, update the administrative penalties the Board may assess in certain disciplinary matters.

Allison Vordenbaumen Benz, R.Ph., M.S., Executive Director/Secretary, has determined that, for the first five-year period the rule is in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the rule. Ms. Benz 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 updated consideration of and greater transparency in the schedule of administrative penalties that may be assessed for certain violations. There is no anticipated 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, Ms. Benz has determined the following:

(1) The proposed rule does not create or eliminate a government program;

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

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

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

(5) The proposed rule does not create a new regulation;

(6) The proposed rule limits and expands an existing regulation;

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

(8) The proposed rule does not positively or adversely affect this state's economy.

Written comments on the amendments may be submitted to Megan G. Holloway, Assistant General Counsel, Texas State Board of Pharmacy, 333 Guadalupe Street, Suite 3-500, Austin, Texas, 78701, FAX (512) 305-8061. Comments must be received by 5:00 p.m., November 3, 2018.



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.

§281.65. *Schedule of Administrative Penalties.*

The board has determined that the assessment of an administrative penalty promotes the intent of §551.002 of the Act. In disciplinary matters, the board may assess an administrative penalty in addition to any other disciplinary action in the circumstances and amounts as follows:

(1) The following violations by a pharmacist may be appropriate for disposition with an administrative penalty with or without additional sanctions or restrictions:

- (A) failing to provide patient counseling: \$1,000;
- (B) failing to conduct a drug regimen review or inappropriate drug regimen reviews provided by §291.33(c)(2)(A): \$1,000;
- (C) failing to clarify a prescription with the prescriber: \$1,000;
- (D) failing to properly supervise or improperly delegating a duty to a pharmacy technician: \$1,000;
- (E) failing to identify the dispensing pharmacist on required pharmacy records: \$500;
- (F) failing to maintain records of prescriptions: \$500;
- (G) failing to respond or failing to provide all requested records within the time specified in a board audit of continuing education records: \$100 per hour of continuing education credit not provided;
- (H) failing to provide or providing false or fraudulent information on any application, notification, or other document required under this Act, the Dangerous Drug Act, or Controlled Substances Act, or rules adopted pursuant to those Acts: \$1,000;
- ~~(I)~~ following an accountability audit, shortages of prescription drugs: up to \$5,000;
- (I) ~~(J)~~ dispensing a prescription drug pursuant to a forged, altered, or fraudulent prescription: up to \$5,000;
- (J) ~~(K)~~ dispensing unauthorized prescriptions: up to \$5,000;
- (K) ~~(L)~~ dispensing controlled substances or dangerous drugs to an individual or individuals in quantities, dosages, or for periods of time which grossly exceed standards of practice, approved labeling of the federal Food and Drug Administration, or the guidelines published in professional literature: up to \$5,000;
- (L) ~~(M)~~ violating a disciplinary order of the Board or a contract under the program to aid impaired pharmacists or pharmacy students under Chapter 564 of the Act: \$500[- \$1,000];
- (M) ~~(N)~~ failing to report or to assure the report of a malpractice claim: ~~up to~~ \$1,000;
- ~~(O)~~ failing to respond within the time specified on a warning notice to such warning notice issued as a result of a compliance

inspection or responding to a warning notice as a result of a compliance inspection in a manner that is false or misleading: up to \$1,000;

(N) ~~(P)~~ practicing pharmacy with a delinquent license: \$500~~[\$250 - \$1,000]~~;

(O) ~~(Q)~~ operating a pharmacy with a delinquent license: \$1,000 [- \$5,000];

(P) ~~(R)~~ allowing an individual to perform the duties of a pharmacy technician without a valid registration: \$1,000~~[\$500 - \$2,000]~~;

~~(S)~~ failing to comply with the requirements of the Official Prescription Program: up to \$1,000;

(Q) ~~(T)~~ aiding and abetting the unlicensed practice of pharmacy, if the pharmacist knew or reasonably should have known that the person was unlicensed at the time: \$2,500~~up to \$5,000]~~;

~~(U)~~ receiving a conviction or deferred adjudication for a misdemeanor or felony, which serves as a ground for discipline under the Act: up to \$5,000;

(R) ~~(V)~~ unauthorized substitutions: \$1,000;

(S) ~~(W)~~ submitting false or fraudulent claims to third parties for reimbursement of pharmacy services: \$1,000~~up to \$5,000]~~;

(T) ~~(X)~~ selling, purchasing, or trading, or offering to sell, purchase, or trade of misbranded prescription drugs or prescription drugs beyond the manufacturer's expiration date: ~~up to~~ \$1,000;

(U) ~~(Y)~~ selling, purchasing, or trading, or offering to sell, purchase, or trade of prescription drug samples as provided by §281.7(a)(27) of this title (relating to Grounds for Discipline for a Pharmacist License): ~~up to~~ \$1,000;

(V) ~~(Z)~~ failing to keep, maintain or furnish an annual inventory as required by §291.17: \$1,000;

(W) ~~(AA)~~ failing to obtain training on the preparation of sterile pharmaceutical compounding: \$1,000;

(X) ~~(BB)~~ failing to maintain the confidentiality of prescription records: \$1,000 [- \$5,000];

(Y) ~~(CC)~~ failing to inform the board of any notification or information required to be reported by the Act or rules: ~~[\$250 - \$500]~~;

(Z) ~~(DD)~~ failing to operate a pharmacy as provided by §291.11 of this title (relating to Operation of a Pharmacy): \$1,000~~[\$2,000]~~; and

(AA) ~~(EE)~~ accessing information submitted to the Prescription Monitoring Program in violation of §481.076 of the Controlled Substances Act: \$1,000 - \$2,500~~[\$5,000]~~.

(2) The following violations by a pharmacy may be appropriate for disposition with an administrative penalty with or without additional sanctions or restrictions:

(A) failing to provide patient counseling: \$1,500;

(B) failing to conduct a drug regimen review or inappropriate drug regimen reviews provided by §291.33(c)(2)(A) of this title (relating to Operational Standards): \$1,500;

(C) failing to clarify a prescription with the prescriber: \$1,500;

(D) failing to properly supervise or improperly delegating a duty to a pharmacy technician: \$1,500;

(E) failing to identify the dispensing pharmacist on required pharmacy records: \$500;

(F) failing to maintain records of prescriptions: \$500;

(G) failing to provide or providing false or fraudulent information on any application, notification, or other document required under this Act, the Dangerous Drug Act, or Controlled Substances Act, or rules adopted pursuant to those Acts: \$1,000;

(H) following an accountability audit, shortages of prescription drugs: ~~dependent on the quantity involved with a minimum of \$1,000[up to \$5,000];~~

(I) dispensing a prescription drug pursuant to a forged, altered, or fraudulent prescription: up to \$5,000;

(J) dispensing unauthorized prescriptions: up to \$5,000;

(K) dispensing controlled substances or dangerous drugs to an individual or individuals in quantities, dosages, or for periods of time which grossly exceed standards of practice, approved labeling of the federal Food and Drug Administration, or the guidelines published in professional literature: up to \$5,000;

(L) violating a disciplinary order of the Board: \$1,000 [- \$5,000];

(M) failing to report or to assure the report of a malpractice claim: ~~\$1,500[up to \$1,000];~~

~~[(N) failing to respond within the time specified on a warning notice to such warning notice issued as a result of a compliance inspection or responding to a warning notice as a result of a compliance inspection in a manner that is false or misleading: up to \$1,000;]~~

~~[(N) [(O)]allowing a pharmacist to practice pharmacy with a delinquent license: [\$250 -] \$1,000;~~

~~[(O) [(P)]operating a pharmacy with a delinquent license: \$1,000 [- \$5,000];~~

~~[(P) [(Q)]allowing an individual to perform the duties of a pharmacy technician without a valid registration: [\$500 -] \$3,000;~~

~~[(Q) [(R)]failing to comply with the reporting requirements to the Prescription Monitoring Program: \$1,000;[requirements of the Official Prescription Program: up to \$1,000;]~~

~~[(R) [(S)]aiding and abetting the unlicensed practice of pharmacy, if an employee of the pharmacy knew or reasonably should have known that the person engaging in the practice of pharmacy was unlicensed at the time: [up to] \$5,000;~~

~~[(T) receiving a conviction or deferred adjudication for a misdemeanor or felony which serves as a ground for discipline under the Act: up to \$5,000;]~~

~~[(S) [(U)]unauthorized substitutions: \$1,000;~~

~~[(T) [(V)]submitting false or fraudulent claims to third parties for reimbursement of pharmacy services: \$1,000[up to \$5,000];~~

~~[(U) [(W)]possessing or engaging in the sale, purchase, or trade or the offer to sell, purchase, or trade of misbranded prescription drugs or prescription drugs beyond the manufacturer's expiration date: [up to] \$1,000;~~

~~[(V) [(X)]possessing or engaging in the sale, purchase, or trade or the offer to sell, purchase, or trade of prescription drug samples as provided by §281.8(b)(2) of this title (relating to Grounds for Discipline for a Pharmacy License): [up to] \$1,000;~~

~~[(W) [(Y)]failing to keep, maintain or furnish an annual inventory as required by §291.17 of this title (relating to Inventory Requirements): \$2,500[\$1,000];~~

~~[(X) [(Z)]failing to obtain training on the preparation of sterile pharmaceutical compounding: \$2,000[\$1,500];~~

~~[(Y) [(AA)]failing to maintain the confidentiality of prescription records: \$1,000 [- \$5,000];~~

~~[(Z) [(BB)]failing to inform the board of any notification or information required to be reported by the Act or rules: \$1,000[\$250 - \$500];~~

~~[(AA) [(CC)]failing to operate a pharmacy as specified in §291.11 of this title (relating to Operation of a Pharmacy): \$3,000; and~~

~~[(BB) [(DD)]operating a Class E or Class E-S pharmacy without a Texas licensed pharmacist-in-charge: \$1,000 [- \$5,000].~~

(3) The following violations by a pharmacy technician may be appropriate for disposition with an administrative penalty with or without additional sanctions or restrictions:

(A) failing to respond or failing to provide all requested records within the time specified in a board audit of continuing education records: \$30 per hour of continuing education credit not provided;

(B) failing to provide or providing false or fraudulent information on any application, notification, or other document required under this Act, the Dangerous Drug Act, or Controlled Substances Act, or rules adopted pursuant to those Acts: \$500;

~~[(C) following an accountability audit, shortages of prescription drugs: up to \$5,000;]~~

~~[(C) [(D)]violating a disciplinary Order of the Board: \$250 [- \$500];~~

~~[(E) failing to report or to assure the report of a malpractice claim: up to \$500;]~~

~~[(D) [(F)]performing the duties of a pharmacy technician without a valid registration: \$250[- \$1,000];~~

~~[(G) receiving a conviction or deferred adjudication for a misdemeanor or felony, which serves as a ground for discipline under the Act: up to \$5,000;~~

~~[(H) submitting false or fraudulent claims to third parties for reimbursement of pharmacy services: up to \$5,000;]~~

~~[(E) [(I)]failing to obtain training on the preparation of sterile pharmaceutical compounding: \$500[\$1,000];~~

~~[(F) [(J)]failing to maintain the confidentiality of prescription records: \$500[\$1,000 - \$5,000];~~

~~[(G) [(K)]failing to inform the board of any notification or information required to be reported by the Act or rules: [\$100 -] \$250; and~~

~~[(H) [(L)]accessing information submitted to the Prescription Monitoring Program in violation of §481.076 of the Controlled Substances Act: \$500 - \$2,000[\$1,000 - \$5,000].~~

(4) Any of the violations listed in this section may be appropriate for disposition by the administrative penalties in this section in conjunction with any other penalties in §281.61 of this title [chapter].

(5) Each day a violation continues or occurs is a separate violation for purposes of imposing a penalty or fine.

(6) The amount, to the extent possible, shall be based on:

(A) the seriousness of the violation, including the nature, circumstances, extent, and gravity of any prohibited act, and the hazard or potential hazard created to the health, safety, or economic welfare of the public;

(B) the aggravating and mitigating factors in §281.62 of this chapter; [the economic harm to property or the environment caused by the violation;]

(C) the history of previous violations;

(D) [(D)]the amount necessary to deter a future violation; and

[(E) efforts to correct the violation; and]

(F) [(F)]any[and] other matter that justice may require.

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

Filed with the Office of the Secretary of State on September 21, 2018.

TRD-201804121

Allison Vordenbaumen Benz, R.Ph., M.S.

Executive Director

Texas State Board of Pharmacy

Earliest possible date of adoption: November 4, 2018

For further information, please call: (512) 305-8010



## CHAPTER 291. PHARMACIES

### SUBCHAPTER A. ALL CLASSES OF PHARMACIES

#### 22 TAC §291.17

The Texas State Board of Pharmacy proposes amendments to §291.17, concerning Inventory Requirements. The amendments, if adopted, clarify the requirements for taking inventories upon change of ownership and closure of pharmacies, and correct grammatical errors.

Allison Vordenbaumen Benz, R.Ph., M.S., 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. Ms. Benz 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 clear requirements for pharmacies taking change of ownership or closing inventories. There is no anticipated impact on large, small or micro-businesses (pharmacies), rural communities, or local or state employment. Therefore, an economic impact statement and regulatory flexibility analysis is not required.

For each year of the first five years the proposed amendment will be in effect, Ms. Benz has determined the following:

(1) The proposed rule does not create or eliminate a government program;

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

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

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

(5) The proposed rule does not create a new regulation;

(6) The proposed rule does not limit or expand an existing regulation;

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

(8) The proposed rule does not positively or adversely affect this state's economy.

Written comments on the amendments may be submitted to Megan G. Holloway, Assistant General Counsel, Texas State Board of Pharmacy, 333 Guadalupe Street, Suite 3-500, Austin, Texas, 78701, FAX (512) 305-8061. Comments must be received by 5:00 p.m., November 3, 2018.

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.

#### §291.17. Inventory Requirements.

##### (a) General requirements.

(1) The pharmacist-in-charge shall be responsible for taking all required inventories, but may delegate the performance of the inventory to another person(s).

(2) The inventory shall be maintained in a written, typewritten, or printed form. An inventory taken by use of an oral recording device must be promptly transcribed.

(3) The inventory shall be kept in the pharmacy and shall be available for inspection for two years.

(4) The inventory shall be filed separately from all other records.

(5) The inventory shall be in a written, typewritten, or printed form and include all stocks of all controlled substances on hand on the date of the inventory (including any which are out-of-date).

(6) The inventory may be taken either as of the opening of business or as of the close of business on the inventory date.

(7) The inventory record shall indicate whether the inventory is taken as of the opening of business or as of the close of business on the inventory date. If the pharmacy is open 24 hours a day, the inventory record shall indicate the time that the inventory was taken.

(8) The person(s) taking the inventory shall make an exact count or measure of all controlled substances listed in Schedule II.

(9) The person(s) taking the inventory shall make an estimated count or measure of all controlled substances listed in Schedules [Schedule] III, IV, and V, unless the container holds more than 1,000 tablets or capsules in which case, an exact count of the contents must be made.

(10) The inventory of Schedule II controlled substances shall be listed separately from the inventory of Schedules [Schedule] III, IV, and V controlled substances.

(11) If the pharmacy maintains a perpetual inventory of any of the drugs required to be inventoried, the perpetual inventory shall be reconciled on the date of the inventory.

(b) Initial inventory.

(1) A new Class A, Class A-S, Class C, Class C-S, or Class F pharmacy shall take an inventory on the opening day of business. Such inventory shall include all stocks of all controlled substances (including any out-of-date drugs).

(2) In the event the Class A, Class A-S, Class C, Class C-S, or Class F pharmacy commences business with no controlled substances on hand, the pharmacy shall record this fact as the initial inventory.

(3) The initial inventory shall serve as the pharmacy's inventory until the next May 1, or until the pharmacy's regular general physical inventory date, at which time the Class A, Class A-S, Class C, Class C-S, or Class F pharmacy shall take an annual inventory as specified in subsection (c) of this section.

(c) Annual inventory.

(1) A Class A, Class A-S, Class C, Class C-S, or Class F pharmacy shall take an inventory on May 1 of each year, or on the pharmacy's regular general physical inventory date. Such inventory may be taken within four days of the specified inventory date and shall include all stocks of all controlled substances (including out-of-date drugs).

(2) A Class A, Class A-S, Class C, Class C-S, or Class F pharmacy applying for renewal of a pharmacy license shall include as a part of the pharmacy license renewal application a statement attesting that an annual inventory has been conducted, the date of the inventory, and the name of the person(s) [person] taking the inventory.

(3) The person(s) taking the annual inventory and the pharmacist-in-charge shall indicate the time the inventory was taken (as specified in subsection (a)(7) of this section) and shall sign and date the inventory with the date the inventory was taken. The signature of the pharmacist-in-charge and the date of the inventory shall be notarized within three days after the day the inventory is completed, excluding Saturdays, Sundays, and federal holidays.

(d) Change of ownership.

(1) A Class A, Class A-S, Class C, Class C-S, or Class F pharmacy that changes ownership shall take an inventory [of all of the following drugs] on the date of the change of ownership. Such inventory shall include all stocks of all controlled substances (including any out-of-date drugs).

(2) Such inventory shall constitute, for the purpose of this section, the closing inventory for the seller and the initial inventory for the buyer.

(3) Transfer of any controlled substances listed in Schedule II shall require the use of official DEA order forms (Form 222).

(4) The person(s) taking the [annual] inventory and the pharmacist-in-charge shall indicate the time the inventory was taken (as specified in subsection (a)(7) of this section) and shall sign and date the inventory with the date the inventory was taken. The signature of the pharmacist-in-charge and the date of the inventory shall be notarized within three days after the day the inventory is completed, excluding Saturdays, Sundays, and federal holidays.

(e) Closed pharmacies.

(1) The pharmacist-in-charge of a Class A, Class A-S, Class C, Class C-S, or Class F pharmacy that ceases to operate as a pharmacy shall forward to the board, within 10 days of the cessation of operation, a statement attesting that an inventory of all controlled substances on hand has been conducted, the date of closing, and a statement attesting the manner by which the dangerous drugs and controlled substances possessed by such pharmacy were transferred or disposed.

(2) The person(s) taking the [annual] inventory and the pharmacist-in-charge shall indicate the time the inventory was taken (as specified in subsection (a)(7) of this section) and shall sign and date the inventory with the date the inventory was taken. The signature of the pharmacist-in-charge and the date of the inventory shall be notarized within three days after the day the inventory is completed, excluding Saturdays, Sundays, and federal holidays.

(f) Additional requirements for Class C and Class C-S pharmacies.

(1) Perpetual inventory.

(A) A Class C or Class C-S pharmacy shall maintain a perpetual inventory of all Schedule II controlled substances.

(B) The perpetual inventory shall be reconciled on the date of the annual inventory.

(2) Annual inventory. The inventory of the Class C or Class C-S pharmacy shall be maintained in the pharmacy; if an inventory is conducted in other departments within the institution, the inventory of the pharmacy shall be listed separately, as follows:

(A) the inventory of drugs on hand in the pharmacy shall be listed separately from the inventory of drugs on hand in the other areas of the institution; and

(B) the inventory of drugs on hand in all other departments shall be identified by department.

(g) Change of pharmacist-in-charge of a pharmacy.

(1) On the date of the change of the pharmacist-in-charge of a Class A, Class A-S, Class C, Class C-S, or Class F pharmacy, an inventory shall be taken. Such inventory shall include all stocks of all controlled substances (including any out-of-date drugs).

(2) This inventory shall constitute, for the purpose of this section, the closing inventory of the departing pharmacist-in-charge and the beginning inventory of the incoming pharmacist-in-charge.

(3) If the departing and the incoming pharmacists-in-charge are unable to conduct the inventory together, a closing inventory shall be conducted by the departing pharmacist-in-charge and a new and separate beginning inventory shall be conducted by the incoming pharmacist-in-charge.

(4) The incoming pharmacist-in-charge shall be responsible for notifying the board within 10 days, as specified in §291.3 of this title (relating to Notifications), that a change of pharmacist-in-charge has occurred.

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

Filed with the Office of the Secretary of State on September 21, 2018.

TRD-201804122

Allison Vordenbaumen Benz, R.Ph., M.S.  
Executive Director  
Texas State Board of Pharmacy  
Earliest possible date of adoption: November 4, 2018  
For further information, please call: (512) 305-8010



## 22 TAC §291.28

The Texas State Board of Pharmacy proposes amendments to §291.28, concerning Access to Confidential Records. The amendments, if adopted, update the time frame in which a pharmacy must respond to a request for confidential records and the format in which the records may be provided to be consistent with §181.102 of the Health and Safety Code.

Allison Vordenbaumen Benz, R.Ph., M.S., Executive Director/Secretary, has determined that, for the first five-year period the proposed amendments are in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the rule. Ms. Benz has determined that, for each year of the first five-year period the proposed amendments will be in effect, the public benefit anticipated as a result of enforcing the amendments will be to provide a consistent regulatory framework for pharmacies with regard to responding to requests for patients' records. There is no anticipated 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, Ms. Benz has determined the following:

- (1) The proposed rule does not create or eliminate a government program;
- (2) Implementation of the proposed rule does not require the creation of new employee positions or the elimination of existing employee positions;
- (3) Implementation of the proposed rule does not require an increase or decrease in the future legislative appropriations to the agency;
- (4) The proposed rule does not require an increase or decrease in fees paid to the agency;
- (5) The proposed rule does not create a new regulation;
- (6) The proposed rule does limit and expand an existing regulation to be consistent with state law;
- (7) The proposed rule does not increase or decrease the number of individuals subject to the rule's applicability; and
- (8) The proposed rule does not positively or adversely affect this state's economy.

Written comments on the amendments may be submitted to Megan G. Holloway, Assistant General Counsel, Texas State Board of Pharmacy, 333 Guadalupe Street, Suite 3-500, Austin, Texas, 78701, Fax (512) 305-8061. Comments must be received by 5:00 p.m., November 3, 2018.

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.

### §291.28. Access to Confidential Records.

(a) Access to confidential records. A pharmacy shall comply with the request of a patient or a patient's agent to inspect or obtain a copy of the patient's confidential records maintained by the pharmacy, as defined in §551.003(10) of the Act. A pharmacy shall comply with all relevant state and federal laws regarding release of confidential records to third party requestors.

(b) Form of request. The pharmacy may require a patient or a patient's agent or any authorized third party to make requests for confidential records in writing, provided such a requirement has been communicated to the requestor.

(c) Timely action by pharmacy. The pharmacy must respond to a request for confidential records in a timely manner.

(1) The pharmacy must respond to a request for confidential records no later than fifteen ~~thirty~~ days after receipt of the request by providing a copy of the records or, with the consent of the requestor, a summary or explanation of such information. ~~[If the pharmacy is unable to take such action within thirty days of receiving the request, the pharmacy may extend the time for such action by no more than thirty days; provided that:]~~

~~[(A) the pharmacy provides the requestor with a written statement of the reasons for the delay and the date by which the pharmacy will respond to the request; and]~~

~~[(B) the pharmacy shall have only one such extension of time.]~~

(2) The pharmacy must provide confidential records as requested in a mutually agreed upon format. ~~[by either:]~~

~~[(A) mailing a copy of the records; or]~~

~~[(B) with the consent of the requestor arranging for a convenient time and place for the individual to inspect or obtain a copy of the records.]~~

(3) Access to confidential records may be expedited at the request of a patient or a patient's agent if there is a medical emergency. The pharmacy must respond to a request for expedited access to confidential records within 24 hours if the records are maintained at the pharmacy or within 72 hours if the records are stored off-site. The pharmacy may charge a reasonable fee, in addition to the fees outlined in subsection (d) of this section, of no more than \$25.00 for expediting a request for access to confidential records.

(d) Fees. The pharmacy may charge a reasonable, cost-based fee for providing a copy of confidential records or a summary or explanation of such information.

(1) A reasonable fee shall be a charge of no more than \$50.00 for the first twenty pages and \$0.50 per page for every page thereafter. A reasonable fee shall include only the cost of:

(A) copying, including the cost of supplies for and labor of copying;

(B) postage, when the individual has requested the records be mailed; and

(C) preparing an explanation or summary of the protected health information, if appropriate and consented to by the patient or patient's agent.

(2) If an affidavit is requested certifying that the information is a true and correct copy of the records, a reasonable fee of no more than \$15.00 may be charged for executing the affidavit.

(3) If an affidavit or questionnaire accompanies the request, the pharmacy may charge a reasonable fee of no more than \$50.00 to complete the written response.

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

Filed with the Office of the Secretary of State on September 21, 2018.

TRD-201804123

Allison Vordenbaumen Benz, R.Ph., M.S.

Executive Director

Texas State Board of Pharmacy

Earliest possible date of adoption: November 4, 2018

For further information, please call: (512) 305-8010



## SUBCHAPTER B. COMMUNITY PHARMACY (CLASS A)

### 22 TAC §291.34

The Texas State Board of Pharmacy proposes amendments to §291.34, concerning Records. The amendments, if adopted, clarify that a rubber stamp may not be used as the signature of a practitioner on written prescription drug orders, allow the utilization of and specify recordkeeping requirements for prescription drug orders dispensed for patients institutionalized in licensed health care institutions, as authorized in Title 40, Part 1, Chapter 19 of the Texas Administrative Code, allow a pharmacist to dispense a quantity less than indicated on the original prescription at the request of the patient or patient's agent, and correct grammatical errors.

Allison Vordenbaumen Benz, R.Ph., M.S., Executive Director/Secretary, has determined that, for the first five-year period the rule is in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the rule. Ms. Benz 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 clarify the existing regulatory framework regarding the requirements for practitioner signatures, provide a regulatory framework for pharmacists for utilizing drug orders to dispense prescription drugs for patients institutionalized in licensed health care institutions, allow patients to determine if they wish to receive a lesser quantity of a prescription in response to financial or insurance considerations, and provide grammatically correct rules. There is no anticipated 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, Ms. Benz has determined the following:

- (1) The proposed rule does not create or eliminate a government program;
- (2) Implementation of the proposed rule does not require the creation of new employee positions or the elimination of existing employee positions;
- (3) Implementation of the proposed rule does not require an increase or decrease in the future legislative appropriations to the agency;
- (4) The proposed rule does not require an increase or decrease in fees paid to the agency;
- (5) The proposed rule does not create a new regulation;
- (6) The proposed rule expands and limits an existing regulation;
- (7) The proposed rule does not increase or decrease the number of individuals subject to the rule's applicability; and
- (8) The proposed rule could potentially positively affect this state's economy.

Written comments on the amendments may be submitted to Megan G. Holloway, Assistant General Counsel, Texas State Board of Pharmacy, 333 Guadalupe Street, Suite 3-500, Austin, Texas, 78701, FAX (512) 305-8061. Comments must be received by 5:00 p.m., November 3, 2018.

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.

#### §291.34. *Records.*

(a) (No change.)

(b) Prescriptions.

(1) Professional responsibility.

(A) 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.

(B) 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 unless the pharmacist complies with the requirements of §562.056 and §562.112 of the Act, and §291.29 of this title (relating to Professional Responsibility of Pharmacists).

(C) Subparagraph (B) 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).

(D) The owner of a Class A pharmacy shall have responsibility for ensuring its agents and employees engage in appropriate decisions regarding dispensing of valid prescriptions as set forth in §562.112 of the Act.

(2) Written prescription drug orders.

(A) Practitioner's signature.

(i) Dangerous drug prescription orders. Written prescription drug orders shall be:

(I) manually signed by the practitioner; or

(II) electronically signed by the practitioner using a system that electronically replicates the practitioner's manual signature on the written prescription, provided:

(-a-) that security features of the system require the practitioner to authorize each use; and

(-b-) the prescription is printed on paper that is designed to prevent unauthorized copying of a completed prescription and to prevent the erasure or modification of information written on the prescription by the prescribing practitioner. (For example, the paper contains security provisions against copying that results in some indication on the copy that it is a copy and therefore render the prescription null and void.)

(ii) Controlled substance prescription orders. Prescription drug orders for Schedules [~~Schedule~~] II, III, IV, or V controlled substances shall be manually signed by the practitioner. Prescription drug orders for Schedule II controlled substances shall be issued on an official prescription form as required by the Texas Controlled Substances Act, §481.075.

(iii) Other provisions for a practitioner's signature.

(I) A practitioner may sign a prescription drug order in the same manner as he would sign a check or legal document, e.g., J.H. Smith or John H. Smith.

(II) Rubber stamped signatures may not be used. [~~or otherwise reproduced signatures may not be used except as authorized in clause (i) of this subparagraph.~~]

(III) The prescription drug order may not be signed by a practitioner's agent but may be prepared by an agent for the signature of a practitioner. However, the prescribing practitioner is responsible in case the prescription drug order does not conform in all essential respects to the law and regulations.

(B) Prescription drug orders written by practitioners in another state.

(i) Dangerous drug prescription orders. A pharmacist may dispense [a] prescription drug orders [~~order~~] for dangerous drugs issued by practitioners in a state other than Texas in the same manner as prescription drug orders for dangerous drugs issued by practitioners in Texas are dispensed.

(ii) Controlled substance prescription drug orders.

(I) A pharmacist may dispense prescription drug orders [~~order~~] for Schedule II controlled substances [~~in Schedule H~~] issued by a practitioner in another state provided:

(-a-) the prescription is dispensed as specified in §315.9 of this title (relating to Pharmacy Responsibility - Out-of-State Practitioner - Effective September 1, 2016);

(-b-) the prescription drug order is an original written prescription issued by a person practicing in another state and licensed by another state as a physician, dentist, veterinarian, or podiatrist, who has a current federal Drug Enforcement Administration (DEA) registration number, and who may legally prescribe Schedule II controlled substances in such other state; and

(-c-) the prescription drug order is not dispensed after the end of the twenty-first day after the date on which the prescription is issued.

(II) A pharmacist may dispense prescription drug orders for controlled substances in Schedules [~~Schedule~~] III,

IV, or V issued by a physician, dentist, veterinarian, or podiatrist in another state provided:

(-a-) the prescription drug order is issued by a person practicing in another state and licensed by another state as a physician, dentist, veterinarian, or podiatrist, who has a current federal DEA registration number, and who may legally prescribe Schedules [~~Schedule~~] III, IV, or V controlled substances in such other state;

(-b-) the prescription drug order is not dispensed or refilled more than six months from the initial date of issuance and may not be refilled more than five times; and

(-c-) if there are no refill instructions on the original prescription drug order (which shall be interpreted as no refills authorized) or if all refills authorized on the original prescription drug order have been dispensed, a new prescription drug order is obtained from the prescribing practitioner prior to dispensing any additional quantities of controlled substances.

(C) Prescription drug orders written by practitioners in the United Mexican States or the Dominion of Canada.

(i) Controlled substance prescription drug orders. A pharmacist may not dispense a prescription drug order for a Schedule II, III, IV, or V controlled substance issued by a practitioner in the Dominion of Canada or the United Mexican States.

(ii) Dangerous drug prescription drug orders. A pharmacist may dispense a dangerous drug prescription issued by a person licensed in the Dominion of Canada or the United Mexican States as a physician, dentist, veterinarian, or podiatrist provided:

(I) the prescription drug order is an original written prescription; and

(II) if there are no refill instructions on the original written prescription drug order (which shall be interpreted as no refills authorized) or if all refills authorized on the original written prescription drug order have been dispensed, a new written prescription drug order shall be obtained from the prescribing practitioner prior to dispensing any additional quantities of dangerous drugs.

(D) Prescription drug orders issued by an advanced practice registered nurse, physician assistant, or pharmacist.

(i) A pharmacist may dispense a prescription drug order that is:

(I) issued by an advanced practice registered nurse or physician assistant provided the advanced practice registered nurse or physician assistant is practicing in accordance with Subtitle B, Chapter 157, Occupations Code; and

(II) for a dangerous drug and signed by a pharmacist under delegated authority of a physician as specified in Subtitle B, Chapter 157, Occupations Code.

(ii) Each practitioner shall designate in writing the name of each advanced practice registered nurse or physician assistant authorized to issue a prescription drug order pursuant to Subtitle B, Chapter 157, Occupations Code. A list of the advanced practice registered nurses or physician assistants designated by the practitioner must be maintained in the practitioner's usual place of business. On request by a pharmacist, a practitioner shall furnish the pharmacist with a copy of the written authorization for a specific advanced practice registered nurse or physician assistant.

(E) Prescription drug orders for Schedule II controlled substances. No Schedule II controlled substance may be dispensed without a written prescription drug order of a practitioner on an official prescription form as required by the Texas Controlled Substances Act, §481.075.

(3) Verbal prescription drug orders.

(A) A verbal prescription drug order from a practitioner or a practitioner's designated agent may only be received by a pharmacist or a pharmacist-intern under the direct supervision of a pharmacist.

(B) A practitioner shall designate in writing the name of each agent authorized by the practitioner to communicate prescriptions verbally for the practitioner. The practitioner shall maintain at the practitioner's usual place of business a list of the designated agents. The practitioner shall provide a pharmacist with a copy of the practitioner's written authorization for a specific agent on the pharmacist's request.

(C) A pharmacist may not dispense a verbal prescription drug order for a dangerous drug or a controlled substance issued by a practitioner licensed in the Dominion of Canada or the United Mexican States unless the practitioner is also licensed in Texas.

(4) Electronic prescription drug orders.

(A) Dangerous drug prescription orders.

(i) An electronic prescription drug order for a dangerous drug may be transmitted by a practitioner or a practitioner's designated agent:

(I) directly to a pharmacy; or

(II) through the use of a data communication device provided:

(-a-) the confidential prescription information is not altered during transmission; and

(-b-) confidential patient information is not accessed or maintained by the operator of the data communication device other than for legal purposes under federal and state law.

(ii) A practitioner shall designate in writing the name of each agent authorized by the practitioner to electronically transmit prescriptions for the practitioner. The practitioner shall maintain at the practitioner's usual place of business a list of the designated agents. The practitioner shall provide a pharmacist with a copy of the practitioner's written authorization for a specific agent on the pharmacist's request.

(B) Controlled substance prescription orders. A pharmacist may only dispense an electronic prescription drug order for a Schedule II, III, IV, or V controlled substance in compliance with the federal and state laws and the rules of the Drug Enforcement Administration outlined in Part 1300 of the Code of Federal Regulations and Texas Department of Public Safety.

(C) Prescriptions issued by a practitioner licensed in the Dominion of Canada or the United Mexican States. A pharmacist may not dispense an electronic prescription drug order for a dangerous drug or controlled substance issued by a practitioner licensed in the Dominion of Canada or the United Mexican States unless the practitioner is also licensed in Texas.

(5) Facsimile (faxed) prescription drug orders.

(A) A pharmacist may dispense a prescription drug order for a dangerous drug transmitted to the pharmacy by facsimile.

(B) A pharmacist may dispense a prescription drug order for a Schedule III-V controlled substance transmitted to the pharmacy by facsimile provided the prescription is manually signed by the practitioner and not electronically signed using a system that electronically replicates the practitioner's manual signature on the prescription drug order.

(C) A pharmacist may not dispense a facsimile prescription drug order for a dangerous drug or controlled substance issued by a practitioner licensed in the Dominion of Canada or the United Mexican States unless the practitioner is also licensed in Texas.

(6) Original prescription drug order records.

(A) Original prescriptions may be dispensed only in accordance with the prescriber's authorization as indicated on the original prescription drug order including clarifications to the order given to the pharmacist by the practitioner or the practitioner's agent and recorded on the prescription.

(B) Notwithstanding subparagraph (A) of this paragraph, a pharmacist may dispense a quantity less than indicated on the original prescription drug order at the request of the patient or patient's agent.

~~(C) [(B)]~~ Original prescriptions shall be maintained by the pharmacy in numerical order and remain legible for a period of two years from the date of filling or the date of the last refill dispensed.

~~(D) [(C)]~~ If an original prescription drug order is changed, such prescription order shall be invalid and of no further force and effect; if additional drugs are to be dispensed, a new prescription drug order with a new and separate number is required. However, an original prescription drug order for a dangerous drug may be changed in accordance with paragraph (10) of this subsection relating to accelerated refills.

~~(E) [(D)]~~ Original prescriptions shall be maintained in three separate files as follows:

(i) prescriptions for controlled substances listed in Schedule II;

(ii) prescriptions for controlled substances listed in Schedules III-V; and

(iii) prescriptions for dangerous drugs and nonprescription drugs.

~~(F) [(E)]~~ Original prescription records other than prescriptions for Schedule II controlled substances may be stored in a system that is capable of producing a direct image of the original prescription record, e.g., a digitalized imaging system. If original prescription records are stored in a direct imaging system, the following is applicable:

(i) the record of refills recorded on the original prescription must also be stored in this system;

(ii) the original prescription records must be maintained in numerical order and separated in three files as specified in subparagraph (D) of this paragraph; and

(iii) the pharmacy must provide immediate access to equipment necessary to render the records easily readable.

(7) Prescription drug order information.

(A) All original prescriptions shall bear:

(i) the name of the patient, or if such drug is for an animal, the species of such animal and the name of the owner;

(ii) the address of the patient, provided, however, a prescription for a dangerous drug is not required to bear the address of the patient if such address is readily retrievable on another appropriate, uniformly maintained pharmacy record, such as medication records;

(iii) the name, address and telephone number of the practitioner at the practitioner's usual place of business, legibly printed



or stamped, and if for a controlled substance, the DEA registration number of the practitioner;

(iv) the name and strength of the drug prescribed;

(v) the quantity prescribed numerically, and if for a controlled substance:

(I) numerically, followed by the number written as a word, if the prescription is written;

(II) numerically, if the prescription is electronic;

or

(III) if the prescription is communicated orally or telephonically, as transcribed by the receiving pharmacist;

(vi) directions for use;

(vii) the intended use for the drug unless the practitioner determines the furnishing of this information is not in the best interest of the patient;

(viii) the date of issuance;

(ix) if a faxed prescription:

(I) a statement that indicates that the prescription has been faxed (e.g., Faxed to); and

(II) if transmitted by a designated agent, the name of the designated agent;

(x) if electronically transmitted:

(I) the date the prescription drug order was electronically transmitted to the pharmacy, if different from the date of issuance of the prescription; and

(II) if transmitted by a designated agent, the name of the designated agent; and

(xi) if issued by an advanced practice nurse or physician assistant in accordance with Subtitle B, Chapter 157, Occupations Code[ the]:

(I) the name, address, telephone number, and if the prescription is for a controlled substance, the DEA number of the supervising practitioner; and

(II) the address and telephone number of the clinic where the prescription drug order was carried out or signed; and

(xii) if communicated orally or telephonically:

(I) the initials or identification code of the transcribing pharmacist; and

(II) the name of the prescriber or prescriber's agent communicating the prescription information.

(B) At the time of dispensing, a pharmacist is responsible for documenting the following information on either the original hardcopy prescription or in the pharmacy's data processing system:

(i) the unique identification number of the prescription drug order;

(ii) the initials or identification code of the dispensing pharmacist;

(iii) the initials or identification code of the pharmacy technician or pharmacy technician trainee performing data entry of the prescription, if applicable;

(iv) the quantity dispensed, if different from the quantity prescribed;

(v) the date of dispensing, if different from the date of issuance; and

(vi) the brand name or manufacturer of the drug or biological product actually dispensed, if the drug was prescribed by generic name or interchangeable biological name or if a drug or interchangeable biological product other than the one prescribed was dispensed pursuant to the provisions of the Act, Chapters 562 and 563.

(C) Prescription drug orders may be utilized as authorized in Title 40, Part 1, Chapter 19 of the Texas Administrative Code.

(i) A prescription drug order is not required to bear the information specified in subparagraph (A) of this paragraph if 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). Such prescription drug orders must contain the following information:

(I) the full name of the patient;

(II) the date of issuance;

(III) the name, strength, and dosage form of the drug prescribed;

(IV) directions for use; and

(V) the signature(s) required by 40 TAC §19.1506.

(ii) Prescription drug orders for dangerous drugs shall not be dispensed following one year after the date of issuance unless the authorized prescriber renews the prescription drug order.

(iii) Controlled substances shall not be dispensed pursuant to a prescription drug order under this subparagraph.

(8) Refills.

(A) General information.

(i) Refills may be dispensed only in accordance with the prescriber's authorization as indicated on the original prescription drug order except as authorized in paragraph (10) of this subsection relating to accelerated refills.

(ii) If there are no refill instructions on the original prescription drug order (which shall be interpreted as no refills authorized) or if all refills authorized on the original prescription drug order have been dispensed, authorization from the prescribing practitioner shall be obtained prior to dispensing any refills and documented as specified in subsection (1) of this section.

(B) Refills of prescription drug orders for dangerous drugs or nonprescription drugs.

(i) Prescription drug orders for dangerous drugs or nonprescription drugs may not be refilled after one year from the date of issuance of the original prescription drug order.

(ii) If one year has expired from the date of issuance of an original prescription drug order for a dangerous drug or nonprescription drug, authorization shall be obtained from the prescribing practitioner prior to dispensing any additional quantities of the drug.

(C) Refills of prescription drug orders for Schedules III-V controlled substances.

(i) Prescription drug orders for Schedules III-V controlled substances may not be refilled more than five times or after six months from the date of issuance of the original prescription drug order, whichever [which ever] occurs first.

(ii) If a prescription drug order for a Schedule III, IV, or V controlled substance has been refilled a total of five times or if six months have [month shave] expired from the date of issuance of the original prescription drug order, whichever occurs first, a new and separate prescription drug order shall be obtained from the prescribing practitioner prior to dispensing any additional quantities of controlled substances.

(D) Pharmacist unable to contact prescribing practitioner. If a pharmacist is unable to contact the prescribing practitioner after a reasonable effort, a pharmacist may exercise his professional judgment in refilling a prescription drug order for a drug, other than a Schedule II controlled substance [~~listed in Schedule H~~], without the authorization of the prescribing practitioner, provided:

(i) failure to refill the prescription might result in an interruption of a therapeutic regimen or create patient suffering;

(ii) the quantity of prescription drug dispensed does not exceed a 72-hour supply;

(iii) the pharmacist informs the patient or the patient's agent at the time of dispensing that the refill is being provided without such authorization and that authorization of the practitioner is required for future refills;

(iv) the pharmacist informs the practitioner of the emergency refill at the earliest reasonable time;

(v) the pharmacist maintains a record of the emergency refill containing the information required to be maintained on a prescription as specified in this subsection;

(vi) the pharmacist affixes a label to the dispensing container as specified in §291.33(c)(7) of this title; and

(vii) if the prescription was initially filled at another pharmacy, the pharmacist may exercise his professional judgment in refilling the prescription provided:

(I) the patient has the prescription container, label, receipt or other documentation from the other pharmacy that contains the essential information;

(II) after a reasonable effort, the pharmacist is unable to contact the other pharmacy to transfer the remaining prescription refills or there are no refills remaining on the prescription;

(III) the pharmacist, in his professional judgment, determines that such a request for an emergency refill is appropriate and meets the requirements of clause (i) of this subparagraph; and

(IV) the pharmacist complies with the requirements of clauses (ii) - (vi) of this subparagraph.

(E) Natural or manmade disasters. If a natural or manmade disaster has occurred that prohibits the pharmacist from being able to contact the practitioner, a pharmacist may exercise his professional judgment in refilling a prescription drug order for a drug, other than a Schedule II controlled substance [~~listed in Schedule H~~], without the authorization of the prescribing practitioner, provided:

(i) failure to refill the prescription might result in an interruption of a therapeutic regimen or create patient suffering;

(ii) the quantity of prescription drug dispensed does not exceed a 30-day supply;

(iii) the governor has declared a state of disaster;

(iv) the board, through the executive director, has notified pharmacies that pharmacists may dispense up to a 30-day supply of prescription drugs;

(v) the pharmacist informs the patient or the patient's agent at the time of dispensing that the refill is being provided without such authorization and that authorization of the practitioner is required for future refills;

(vi) the pharmacist informs the practitioner of the emergency refill at the earliest reasonable time;

(vii) the pharmacist maintains a record of the emergency refill containing the information required to be maintained on a prescription as specified in this subsection;

(viii) the pharmacist affixes a label to the dispensing container as specified in §291.33(c)(7) of this title; and

(ix) if the prescription was initially filled at another pharmacy, the pharmacist may exercise his professional judgment in refilling the prescription provided:

(I) the patient has the prescription container, label, receipt or other documentation from the other pharmacy that contains the essential information;

(II) after a reasonable effort, the pharmacist is unable to contact the other pharmacy to transfer the remaining prescription refills or there are no refills remaining on the prescription;

(III) the pharmacist, in his professional judgment, determines that such a request for an emergency refill is appropriate and meets the requirements of clause (i) of this subparagraph; and

(IV) the pharmacist complies with the requirements of clauses (ii) - (viii) of this subparagraph.

(F) Auto-Refill Programs. A pharmacy may use a program that automatically refills prescriptions that have existing refills available in order to improve patient compliance with and adherence to prescribed medication therapy. The following is applicable in order to enroll patients into an auto-refill program.

(i) Notice of the availability of an auto-refill program shall be given to the patient or patient's agent, and the patient or patient's agent must affirmatively indicate that they wish to enroll in such a program and the pharmacy shall document such indication.

(ii) The patient [~~patients~~] or patient's agent shall have the option to withdraw from such a program at any time.

(iii) Auto-refill programs may be used for refills of dangerous drugs, and Schedules [~~schedule~~] IV and V controlled substances. Schedules [~~Schedule~~] II and III controlled substances may not be dispensed by an auto-refill program.

(iv) As is required for all prescriptions, a drug regimen review shall be completed on all prescriptions filled as a result of the auto-refill program. Special attention shall be noted for drug regimen review warnings of duplication of therapy and all such conflicts shall be resolved with the prescribing practitioner prior to refilling the prescription.

(9) Records Relating to Dispensing Errors. If a dispensing error occurs, the following is applicable.

(A) Original prescription drug orders:

(i) shall not be destroyed and must be maintained in accordance with subsection (a) of this section; and

(ii) shall not be altered. Altering includes placing a label or any other item over any of the information on the prescription drug order (e.g., a dispensing tag or label that is affixed to back of a prescription drug order must not be affixed on top of another dispensing tag or label in such a manner as to obliterate the information relating to the error).

(B) Prescription drug order records maintained in a data processing system:

(i) shall not be deleted and must be maintained in accordance with subsection (a) of this section;

(ii) may be changed only in compliance with subsection (e)(2)(B) of this section; and

(iii) if the error involved incorrect data entry into the pharmacy's data processing system, this record must be either voided or cancelled in the data processing system, so that the incorrectly entered prescription drug order may not be dispensed, or the data processing system must be capable of maintaining an audit trail showing any changes made to the data in the system.

(10) Accelerated refills. In accordance with §562.0545 of the Act, a pharmacist may dispense up to a 90-day supply of a dangerous drug pursuant to a valid prescription that specifies the dispensing of a lesser amount followed by periodic refills of that amount if:

(A) the total quantity of dosage units dispensed does not exceed the total quantity of dosage units authorized by the prescriber on the original prescription, including refills;

(B) the patient consents to the dispensing of up to a 90-day supply and the physician has been notified electronically or by telephone;

(C) the physician has not specified on the prescription that dispensing the prescription in an initial amount followed by periodic refills is medically necessary;

(D) the dangerous drug is not a psychotropic drug used to treat mental or psychiatric conditions; and

(E) the patient is at least 18 years of age.

(c) - (l) (No change.)

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

Filed with the Office of the Secretary of State on September 21, 2018.

TRD-201804124

Allison Vordenbaumen Benz, R.Ph., M.S.

Executive Director

Texas State Board of Pharmacy

Earliest possible date of adoption: November 4, 2018

For further information, please call: (512) 305-8010



## SUBCHAPTER D. INSTITUTIONAL PHARMACY (CLASS C)

### 22 TAC §291.74

The Texas State Board of Pharmacy proposes amendments to §291.74, concerning Operational Standards. The amendments,

if adopted, update the requirements for drug regimen review as authorized by §562.1011(i) of the Texas Pharmacy Act.

Allison Vordenbaumen Benz, R.Ph., M.S., 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. Ms. Benz 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 better promote the health, safety, and welfare of patients by ensuring drug regimen reviews are conducted in a timely manner by pharmacists for medication drug orders in Class C pharmacies. The Texas Organization of Rural & Community Hospitals stated the organization does not believe that there will be a fiscal impact on hospitals. There is no anticipated 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 amendment will be in effect, Ms. Benz has determined the following:

(1) The proposed rule does not create or eliminate a government program;

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

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

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

(5) The proposed rule does not create a new regulation;

(6) The proposed rule expands an existing regulation;

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

(8) The proposed rule does not positively or adversely affect this state's economy.

Written comments on the amendments may be submitted to Megan G. Holloway, Assistant General Counsel, Texas State Board of Pharmacy, 333 Guadalupe Street, Suite 3-500, Austin, Texas, 78701, FAX (512) 305-8061. Comments must be received by 5:00 p.m., November 3, 2018.

The amendments are proposed under §§551.002, 554.051, and 562.1011 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 Board interprets §562.1011 as authorizing the agency to adopt rules for prospective and retrospective drug use review for new medication orders.

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

§291.74. *Operational Standards.*

(a) Licensing requirements.

(1) A Class C pharmacy shall register annually or biennially 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) A Class C pharmacy which changes ownership shall notify the board within 10 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 C pharmacy which changes location and/or name shall notify the board of the change as specified in §291.3 of this title.

(4) A Class C 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 10 days of the change following the procedures in §291.3 of this title.

(5) A Class C pharmacy shall notify the board in writing within 10 days of closing, following the procedures in §291.5 of this title (relating to Closing a Pharmacy).

(6) 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.

(7) A separate license is required for each principal place of business and only one pharmacy license may be issued to a specific location.

(8) A Class C pharmacy, licensed under the Act, §560.051(a)(3), which also operates another type of pharmacy which would otherwise be required to be licensed under the Act, §560.051(a)(1) (Community Pharmacy (Class A)) or the Act, §560.051(a)(2) (Nuclear Pharmacy (Class B)), is not required to secure a license for the such other type of pharmacy; provided, however, such licensee is required to 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 Records), contained in Community Pharmacy (Class A), or §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.

(9) A Class C 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) Class C pharmacy personnel shall not compound sterile preparations unless the pharmacy has applied for and obtained a Class C-S pharmacy.

(11) A Class C 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) A Class C 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).

(13) A Class C pharmacy with an ongoing clinical pharmacy program that proposes to allow a pharmacy technician to verify

the accuracy of work performed by another pharmacy technician relating to the filling of floor stock and unit dose distribution systems for a patient admitted to the hospital if the patient's orders have previously been reviewed and approved by a pharmacist shall make application to the board as follows.

(A) The pharmacist-in-charge must submit an application on a form provided by the board, containing the following information:

- (i) name, address, and pharmacy license number;
- (ii) name and license number of the pharmacist-in-charge;
- (iii) name and registration numbers of the pharmacy technicians;
- (iv) anticipated date the pharmacy plans to begin allowing a pharmacy technician to verify the accuracy of work performed by another pharmacy technician;
- (v) documentation that the pharmacy has an ongoing clinical pharmacy program; and
- (vi) any other information specified on the application.

(B) The pharmacy may not allow a pharmacy technician to check the work of another pharmacy technician until the board has reviewed and approved the application and issued an amended license to the pharmacy.

(C) Every two years, in connection with the application for renewal of the pharmacy license, the pharmacy shall provide updated documentation that the pharmacy continues to have an ongoing clinical pharmacy program as specified in subparagraph (A)(v) of this paragraph.

(14) A rural hospital that wishes to allow a pharmacy technician to perform the duties specified in §291.73(e)(2)(D) of this title (relating to Personnel), shall make application to the board as follows.

(A) Prior to allowing a pharmacy technician to perform the duties specified in §291.73(e)(2)(D) of this title, the pharmacist-in-charge must submit an application on a form provided by the board, containing the following information:

- (i) name, address, and pharmacy license number;
- (ii) name and license number of the pharmacist-in-charge;
- (iii) name and registration number of the pharmacy technicians;
- (iv) proposed date the pharmacy wishes to start allowing pharmacy technicians to perform the duties specified in §291.73(e)(2)(D) of this title;
- (v) documentation that the hospital is a rural hospital with 75 or fewer beds and that the rural hospital is either:
  - (I) located in a county with a population of 50,000 or less as defined by the United States Census Bureau in the most recent U.S. census; or
  - (II) designated by the Centers for Medicare and Medicaid Services as a critical access hospital, rural referral center, or sole community hospital; and
- (vi) any other information specified on the application.

(B) A rural hospital may not allow a pharmacy technician to perform the duties specified in §291.73(e)(2)(D) of this title until the board has reviewed and approved the application and issued an amended license to the pharmacy.

(C) Every two years in conjunction with the application for renewal of the pharmacy license, the pharmacist-in-charge shall update the application for pharmacy technicians to perform the duties specified in §291.73(e)(2)(D) of this title.

(b) Environment.

(1) General requirements.

(A) The institutional pharmacy shall have adequate space necessary for the storage, compounding, labeling, dispensing, and sterile preparation of drugs prepared in the pharmacy, and additional space, depending on the size and scope of pharmaceutical services.

(B) The institutional pharmacy shall be arranged in an orderly fashion and shall be kept clean. All required equipment shall be clean and in good operating condition.

(C) A sink with hot and cold running water exclusive of restroom facilities shall be available to all pharmacy personnel and shall be maintained in a sanitary condition at all times.

(D) The institutional pharmacy shall be properly lighted and ventilated.

(E) The temperature of the institutional pharmacy shall be maintained within a range compatible with the proper storage of drugs. The temperature of the refrigerator and/or freezer shall be maintained within a range compatible with the proper storage of drugs.

(F) If the institutional 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.

(G) The institutional pharmacy shall store antiseptics, other drugs for external use, and disinfectants separately from internal and injectable medications.

(2) Security requirements.

(A) The institutional pharmacy shall be enclosed and capable of being locked by key, combination or other mechanical or electronic means, so as to prohibit access by unauthorized individuals. Only individuals authorized by the pharmacist-in-charge shall enter the pharmacy.

(B) Each pharmacist on duty shall be responsible for the security of the institutional pharmacy, including provisions for adequate safeguards against theft or diversion of dangerous drugs, controlled substances, and records for such drugs.

(C) The institutional pharmacy shall have locked storage for Schedule II controlled substances and other drugs requiring additional security.

(c) Equipment and supplies. Institutional pharmacies distributing medication orders shall have the following equipment:

(1) data processing system including a printer or comparable equipment; and

(2) refrigerator and/or freezer and a system or device (e.g., thermometer) to monitor the temperature to ensure that proper storage requirements are met.

(d) Library. A reference library shall be maintained that includes the following in hard-copy or electronic format and that pharmacy personnel shall be capable of accessing at all times:

(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 regulations;

and

(D) Federal Controlled Substances Act and regulations (or official publication describing the requirements of the Federal Controlled Substances Act and regulations);

(2) at least one current or updated reference from each of the following categories:

(A) drug interactions. A reference text on drug interactions, such as Drug Interaction Facts. A separate reference is not required if other references maintained by the pharmacy contain drug interaction information including information needed to determine severity or significance of the interaction and appropriate recommendations or actions to be taken;

(B) a general information reference text;

(3) a current or updated reference on injectable drug products;

(4) basic antidote information and the telephone number of the nearest regional poison control center;

(5) metric-apothecary weight and measure conversion charts.

(e) Absence of a pharmacist.

(1) Medication orders.

(A) In facilities with a full-time pharmacist, if a practitioner orders a drug for administration to a bona fide patient of the facility when the pharmacy is closed, the following is applicable:[-]

(i) Prescription drugs and devices only in sufficient quantities for immediate therapeutic needs may be removed from the institutional pharmacy;[-]

(ii) Only a designated licensed nurse or practitioner may remove such drugs and devices;[-]

(iii) A record shall be made at the time of withdrawal by the authorized person removing the drugs and devices. The record shall contain the following information:

(I) name of patient;

(II) name of device or drug, strength, and dosage

form;

(III) dose prescribed;

(IV) quantity taken;

(V) time and date; and

(VI) signature (first initial and last name or full signature) or electronic signature of person making withdrawal;[-]

(iv) The original or direct copy of the medication order may substitute for such record, providing the medication order meets all the requirements of clause (iii) of this subparagraph; and[-]

(v) The pharmacist shall verify the withdrawal of drugs from the pharmacy and perform a drug regimen review as spec-

ified in subsection (g)(1)(B) of this section as soon as practical, but in no event more than 72 hours from the time of such withdrawal.

(B) In facilities with a part-time or consultant pharmacist, if a practitioner orders a drug for administration to a bona fide patient of the facility when the pharmacist is not on duty, or when the pharmacy is closed, the following is applicable:[:]

(i) Prescription drugs and devices only in sufficient quantities for therapeutic needs may be removed from the institutional pharmacy;[:]

(ii) Only a designated licensed nurse or practitioner may remove such drugs and devices;[:]

(iii) A record shall be made at the time of withdrawal by the authorized person removing the drugs and devices; the record shall meet the same requirements as specified in subparagraph (A)(iii) and (iv) of this paragraph;[:]

(iv) The pharmacist shall verify the withdrawal of drugs from the pharmacy ~~and perform a drug regimen review as specified in subsection (g)(1)(B) of this section~~ after a reasonable interval, but in no event may such interval exceed seven days; and[:]

(v) The pharmacist shall perform a drug regimen review as specified in subsection (g)(1)(B) of this section as follows:

(I) If the facility has an average daily inpatient census of ten or less, the pharmacist shall perform the drug review after a reasonable interval, but in no event may such interval exceed seven (7) days; or

(II) If the facility has an average inpatient daily census above ten, the pharmacist shall perform the drug review after a reasonable interval, but in no event may such interval exceed 96 hours.

(III) The average daily inpatient census shall be calculated by hospitals annually immediately following the submission of the hospital's Medicare Cost Report and the number used for purposes of subparagraphs (B)(v)(I) and (II) of this paragraph shall be the average of the inpatient daily census in the report and the previous two reports for a three year period.

(2) Floor stock. In facilities using a floor stock method of drug distribution, the following is applicable: [:]

(A) Prescription drugs and devices may be removed from the pharmacy only in the original manufacturer's container or prepackaged container.

(B) Only a designated licensed nurse or practitioner may remove such drugs and devices.

(C) A record shall be made at the time of withdrawal by the authorized person removing the drug or device; the record shall contain the following information:

(i) name of the drug, strength, and dosage form;

(ii) quantity removed;

(iii) location of floor stock;

(iv) date and time; and

(v) signature (first initial and last name or full signature) or electronic signature of person making the withdrawal.

(D) The pharmacist shall verify the withdrawal of drugs from the pharmacy after a reasonable interval, but in no event may such interval exceed seven days.

(3) Rural hospitals. In rural hospitals when a pharmacy technician performs the duties listed in §291.73(e)(2)(D) of this title, the following is applicable:

(A) the pharmacy technician shall make a record of all drugs distributed from the pharmacy. The record shall be maintained in the pharmacy for two years and contain the following information:

(i) name of patient or location where floor stock is distributed;

(ii) name of device or drug, strength, and dosage form;

(iii) dose prescribed or ordered;

(iv) quantity distributed;

(v) time and date of the distribution; and

(vi) signature (first initial and last name or full signature) or electronic signature of nurse or practitioner that verified the actions of the pharmacy technician.

(B) The original or direct copy of the medication order may substitute for the record specified in subparagraph (A) of this paragraph, provided the medication order meets all the requirements of subparagraph (A) of this paragraph.

(C) The pharmacist shall:

(i) verify and document the verification of all distributions made from the pharmacy in the absence of a pharmacist as soon as practical, but in no event more than seven (7) days from the time of such distribution;

(ii) perform a drug regimen review for all medication orders as specified in subsection (g)(1)(B) of this section and document such verification including any discrepancies noted by the pharmacist as follows:

(I) If the facility has an average daily inpatient census of ten or less, the pharmacist shall perform the drug review as soon as practical, but in no event more than seven (7) days from the time of such distribution; or

(II) If the facility has an average daily inpatient census above ten, the pharmacist shall perform the drug review after a reasonable interval, but in no event may such interval exceed 96 hours;

(III) The average daily inpatient census shall be calculated by hospitals annually immediately following the submission of the hospital's Medicare Cost Report and the number used for purposes of subparagraphs (C)(ii)(I) and (II) of this paragraph shall be the average of the inpatient daily census in the report and the previous two reports for a three year period;

~~{(ii) perform a drug regimen review for all medication orders as specified in subsection (g)(1)(B) of this section as soon as practical, but in no event more than seven (7) days from the time of such distribution and document such verification including any discrepancies noted by the pharmacist;}~~

(iii) review any discrepancy noted by the pharmacist with the pharmacy technician(s) and make any change in procedures or processes necessary to prevent future problems; and

(iv) report any adverse events that have a potential for harm to a patient to the appropriate committee of the hospital that reviews adverse events.

(f) Drugs.

(1) Procurement, preparation 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 of the facility, relative to such responsibility.

(B) The pharmacist-in-charge shall have the responsibility for determining specifications of all drugs procured by the facility.

(C) Institutional 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).

(D) All drugs shall be stored at the proper temperatures, as defined in the USP/NF and in §291.15 of this title (relating to Storage of Drugs).

(E) Any drug bearing an expiration date may not be distributed beyond the expiration date of the drug.

(F) Outdated and other unusable drugs shall be removed from stock and shall be quarantined together until such drugs are disposed of properly.

(2) Formulary.

(A) A formulary shall be developed by the facility committee performing the pharmacy and therapeutics function for the facility. For the purpose of this section, a formulary is a compilation of pharmaceuticals that reflects the current clinical judgment of a facility's medical staff.

(B) The pharmacist-in-charge or pharmacist designated by the pharmacist-in-charge shall be a full voting member of the committee performing the pharmacy and therapeutics function for the facility, when such committee is performing the pharmacy and therapeutics function.

(C) A practitioner may grant approval for pharmacists at the facility to interchange, in accordance with the facility's formulary, for the prescribed drugs on the practitioner's medication orders provided:

(i) the pharmacy and therapeutics committee has developed a formulary;

(ii) the formulary has been approved by the medical staff committee of the facility;

(iii) there is a reasonable method for the practitioner to override any interchange; and

(iv) the practitioner authorizes pharmacists in the facility to interchange on his/her medication orders in accordance with the facility's formulary through his/her written agreement to abide by the policies and procedures of the medical staff and facility.

(3) Prepackaging of drugs.

(A) Distribution within a facility.

(i) Drugs may be prepackaged in quantities suitable for internal distribution by a pharmacist or by pharmacy technicians or pharmacy technician trainees under the direction and direct supervision of a pharmacist.

(ii) The label of a prepackaged unit 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) facility's unique lot number;

(III) expiration date based on currently available literature; and

(IV) quantity of the drug, if the quantity is greater than one.

(iii) Records of prepackaging shall be maintained to show:

(I) name of the drug, strength, and dosage form;

(II) facility's unique lot number;

(III) manufacturer or distributor;

(IV) manufacturer's lot number;

(V) expiration date;

(VI) quantity per prepackaged unit;

(VII) number of prepackaged units;

(VIII) date packaged;

(IX) name, initials, or electronic signature of the packer; and

(X) name, initials, or electronic signature of the responsible pharmacist.

(iv) Stock packages, prepackaged units, and control records shall be quarantined together until checked/released by the pharmacist.

(B) Distribution to other Class C (Institutional) pharmacies under common ownership.

(i) Drugs may be prepackaged in quantities suitable for distribution to other Class C (Institutional) pharmacies under common ownership by a pharmacist or by pharmacy technicians or pharmacy technician trainees under the direction and direct supervision of a pharmacist.

(ii) The label of a prepackaged unit 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) facility's unique lot number;

(III) expiration date based on currently available literature;

(IV) quantity of the drug, if the quantity is greater than one; and

(V) name of the facility responsible for prepackaging the drug.

(iii) Records of prepackaging shall be maintained to show:

(I) name of the drug, strength, and dosage form;

(II) facility's unique lot number;

(III) manufacturer or distributor;

(IV) manufacturer's lot number;

(V) expiration date;

(VI) quantity per prepackaged unit;

(VII) number of prepackaged units;

(VIII) date packaged;

(IX) name, initials, or electronic signature of the prepacker;

(X) name, initials, or electronic signature of the responsible pharmacist; and

(XI) name of the facility receiving the prepackaged drug.

(iv) Stock packages, prepackaged units, and control records shall be quarantined together until checked/released by the pharmacist.

(v) The pharmacy shall have written procedure for the recall of any drug prepackaged for another Class C Pharmacy under common ownership. The recall procedures shall require:

(I) notification to the pharmacy to which the prepackaged drug was distributed;

(II) quarantine of the product if there is a suspicion of harm to a patient;

(III) a mandatory recall if there is confirmed or probable harm to a patient; and

(IV) notification to the board if a mandatory recall is instituted.

(4) Sterile preparations prepared in a location other than the pharmacy. A distinctive supplementary label shall be affixed to the container of any admixture. The label shall bear at a minimum:

(A) patient's name and location, if not immediately administered;

(B) name and amount of drug(s) added;

(C) name of the basic solution;

(D) name or identifying code of person who prepared admixture; and

(E) expiration date of solution.

(5) Distribution.

(A) Medication orders.

(i) Drugs may be given to patients in facilities only on the order of a practitioner. No change in the order for drugs may be made without the approval of a practitioner except as authorized by the practitioner in compliance with paragraph (2)(C) of this subsection.

(ii) Drugs may be distributed only from the original or a direct copy of the practitioner's medication order.

(iii) Pharmacy technicians and pharmacy technician trainees may not receive verbal medication orders.

(iv) Institutional pharmacies shall be exempt from the labeling provisions and patient notification requirements of §562.006 and §562.009 of the Act, as respects drugs distributed pursuant to medication orders.

(B) Procedures.

(i) Written policies and procedures for a drug distribution system (best suited for the particular institutional pharmacy) shall be developed and implemented by the pharmacist-in-charge, with the advice of the committee performing the pharmacy and therapeutics function for the facility.

(ii) The written policies and procedures for the drug distribution system shall include, but not be limited to, procedures regarding the following:

(I) pharmaceutical care services;

(II) handling, storage and disposal of cytotoxic drugs and waste;

(III) disposal of unusable drugs and supplies;

(IV) security;

(V) equipment;

(VI) sanitation;

(VII) reference materials;

(VIII) drug selection and procurement;

(IX) drug storage;

(X) controlled substances;

(XI) investigational drugs, including the obtaining of protocols from the principal investigator;

(XII) prepackaging and manufacturing;

(XIII) stop orders;

(XIV) reporting of medication errors, adverse drug reactions/events, and drug product defects;

(XV) physician orders;

(XVI) floor stocks;

(XVII) drugs brought into the facility;

(XVIII) furlough medications;

(XIX) self-administration;

(XX) emergency drug supply;

(XXI) formulary;

(XXII) monthly inspections of nursing stations and other areas where drugs are stored, distributed, administered or dispensed;

(XXIII) control of drug samples;

(XXIV) outdated and other unusable drugs;

(XXV) routine distribution of patient medication;

(XXVI) preparation and distribution of sterile preparations;

(XXVII) handling of medication orders when a pharmacist is not on duty;

(XXVIII) use of automated compounding or counting devices;

(XXIX) use of data processing and direct imaging systems;

(XXX) drug administration to include infusion devices and drug delivery systems;

(XXXI) drug labeling;

(XXXII) recordkeeping;

(XXXIII) quality assurance/quality control;

(XXXIV) duties and education and training of professional and nonprofessional staff;



(XXXV) procedures for a pharmacy technician to verify the accuracy of work performed by another pharmacy technician, if applicable;

(XXXVI) operation of the pharmacy when a pharmacist is not on-site; and

(XXXVII) emergency preparedness plan, to include continuity of patient therapy and public safety.

(6) Discharge Prescriptions. Discharge prescriptions must be dispensed and labeled in accordance with §291.33 of this title (relating to Operational Standards) except that certain medications packaged in unit-of-use containers, such as metered-dose inhalers, insulin pens, topical creams or ointments, or ophthalmic or otic preparation that are administered to the patient during the time the patient was a patient in the hospital, may be provided to the patient upon discharge provided the pharmacy receives a discharge order and the product bears a label containing the following information:

- (A) name of the patient;
- (B) name and strength of the medication;
- (C) name of the prescribing or attending practitioner;
- (D) directions for use;
- (E) duration of therapy (if applicable); and
- (F) name and telephone number of the pharmacy.

(g) Pharmaceutical care services.

(1) The pharmacist-in-charge shall assure that at least the following pharmaceutical care services are provided to patients of the facility.

(A) Drug utilization review. A systematic ongoing process of drug utilization review shall be developed in conjunction with the medical staff to increase the probability of desired patient outcomes and decrease the probability of undesired outcomes from drug therapy.

(B) Drug regimen review.

(i) For the purpose of promoting therapeutic appropriateness, a pharmacist shall evaluate medication orders and patient medication records for:

- (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;
- (X) proper utilization, including overutilization or underutilization; and

(XI) clinical laboratory or clinical monitoring methods to monitor and evaluate drug effectiveness, side effects, toxicity, or adverse effects, and appropriateness to continued use of the drug in its current regimen.

(ii) The drug regimen review shall be conducted on a prospective basis when a pharmacist is on duty, except for an emergency order, and on a retrospective basis as specified in subsection (e)(1) or (e)(3) of this section when a pharmacist is not on duty.

(iii) Any questions regarding the order must be resolved with the prescriber and a written notation of these discussions made and maintained.

(iv) The drug regimen review may be conducted by remotely accessing the pharmacy's electronic data base from outside the pharmacy by 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.

(C) Education. The pharmacist-in-charge in cooperation with appropriate multi-disciplinary staff of the facility shall develop policies that assure that:

(i) the patient and/or patient's caregiver receives information regarding drugs and their safe and appropriate use; and

(ii) health care providers are provided with patient specific drug information.

(D) Patient monitoring. The pharmacist-in-charge in cooperation with appropriate multi-disciplinary staff of the facility shall develop policies to ensure that the patient's response to drug therapy is monitored and conveyed to the appropriate health care provider.

(2) Other pharmaceutical care services which may be provided by pharmacists in the facility include, but are not limited to, the following:

(A) managing drug therapy as delegated by a practitioner as allowed under the provisions of the Medical Practice Act;

(B) administering immunizations and vaccinations under written protocol of a physician;

(C) managing patient compliance programs;

(D) providing preventative health care services; and

(E) 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.

(h) Emergency rooms.

(1) During the times a pharmacist is on duty in the facility any prescription drugs supplied to an outpatient, including emergency department patients, may only be dispensed by a pharmacist.

(2) When a pharmacist is not on duty in the facility, the following is applicable for supplying prescription drugs to be taken home by the patient for self-administration from the emergency room. If the patient has been admitted to the emergency room and assessed by a practitioner at the hospital, the following procedures shall be observed in supplying prescription drugs from the emergency room.

(A) Dangerous drugs and/or controlled substances may only be supplied in accordance with the system of control and accountability for dangerous drugs and/or controlled substances administered or supplied from the emergency room; such system shall be developed and supervised by the pharmacist-in-charge or staff pharmacist designated by the pharmacist-in-charge.

(B) Only dangerous drugs and/or controlled substances listed on the emergency room drug list may be supplied; such list shall be developed by the pharmacist-in-charge and the facility's emergency

department committee (or like group or person responsible for policy in that department) and shall consist of dangerous drugs and/or controlled substances of the nature and type to meet the immediate needs of emergency room patients.

(C) Dangerous drugs and/or controlled substances may only be supplied in prepackaged quantities not to exceed a 72-hour supply in suitable containers and appropriately prelabeled (including necessary auxiliary labels) by the institutional pharmacy.

(D) At the time of delivery of the dangerous drugs and/or controlled substances, the practitioner or licensed nurse under the supervision of a practitioner shall appropriately complete the label with at least the following information:

- (i) name, address, and phone number of the facility;
- (ii) date supplied;
- (iii) name of practitioner;
- (iv) name of patient;
- (v) directions for use;
- (vi) brand name and strength of the dangerous drug or controlled substance; or if no brand name, then the generic name, strength, and the name of the manufacturer or distributor of the dangerous drug or controlled substance;
- (vii) quantity supplied; and
- (viii) unique identification number.

(E) The practitioner, or a licensed nurse under the supervision of the practitioner, shall give the appropriately labeled, prepackaged drug to the patient and explain the correct use of the drug.

(F) A perpetual record of dangerous drugs and/or controlled substances supplied from the emergency room shall be maintained in the emergency room. Such record shall include the following:

- (i) date supplied;
- (ii) practitioner's name;
- (iii) patient's name;
- (iv) brand name and strength of the dangerous drug or controlled substance; or if no brand name, then the generic name, strength, and the name of the manufacturer or distributor of the dangerous drug or controlled substance;
- (v) quantity supplied; and
- (vi) unique identification number.

(G) The pharmacist-in-charge, or staff pharmacist designated by the pharmacist-in-charge, shall verify the correctness of this record at least once every seven days.

(i) Radiology departments.

(1) During the times a pharmacist is on duty, any prescription drugs dispensed to an outpatient, including radiology department patients, may only be dispensed by a pharmacist.

(2) When a pharmacist is not on duty, the following procedures shall be observed in supplying prescription drugs from the radiology department.

(A) Prescription drugs may only be supplied to patients who have been scheduled for an x-ray examination at the facility.

(B) Prescription drugs may only be supplied in accordance with the system of control and accountability for prescription

drugs administered or supplied from the radiology department and supervised by the pharmacist-in-charge or staff pharmacist designated by the pharmacist-in-charge.

(C) Only prescription drugs listed on the radiology drug list may be supplied; such list shall be developed by the pharmacist-in-charge and the facility's radiology committee (or like group or persons responsible for policy in that department) and shall consist of drugs for the preparation of a patient for a radiological procedure.

(D) Prescription drugs may only be supplied in prepackaged quantities in suitable containers and prelabeled by the institutional pharmacy with the following information:

- (i) name and address of the facility;
- (ii) directions for use;
- (iii) name and strength of the prescription drug--if generic name, the name of the manufacturer or distributor of the prescription drug;
- (iv) quantity;
- (v) facility's lot number and expiration date; and
- (vi) appropriate ancillary label(s).

(E) At the time of delivery of the prescription drug, the practitioner or practitioner's agent shall complete the label with the following information:

- (i) date supplied;
- (ii) name of physician;
- (iii) name of patient; and
- (iv) unique identification number.

(F) The practitioner or practitioner's agent shall give the appropriately labeled, prepackaged prescription drug to the patient.

(G) A perpetual record of prescription drugs supplied from the radiology department shall be maintained in the radiology department. Such records shall include the following:

- (i) date supplied;
- (ii) practitioner's name;
- (iii) patient's name;
- (iv) brand name and strength of the prescription drug; or if no brand name, then the generic name, strength, dosage form, and the name of the manufacturer or distributor of the prescription drug;
- (v) quantity supplied; and
- (vi) unique identification number.

(H) The pharmacist-in-charge, or a pharmacist designated by the pharmacist-in-charge, shall verify the correctness of this record at least once every seven days.

(j) Automated devices and systems.

(1) Automated compounding or counting devices. If a pharmacy uses automated compounding or counting devices:

(A) the pharmacy shall have a method to calibrate and verify the accuracy of the automated compounding or counting device and document the calibration and verification on a routine basis;

(B) the devices may be loaded with unlabeled 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 compounding or counting device container shall indicate the brand name and strength of the drug; or if no brand name, then the generic name, strength, and name of the manufacturer or distributor;

(D) records of loading unlabeled drugs into an automated compounding or 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 compounding or counting device; and

(vii) signature or electronic signature of the responsible pharmacist; and

(E) the automated compounding or counting device shall not be used until a pharmacist verifies that the system is properly loaded and affixes his or her signature to the record specified in subparagraph (D) of this paragraph.

(2) Automated medication supply systems.

(A) Authority to use automated medication supply systems. A pharmacy may use an automated medication supply system to fill medication orders provided that:

(i) the pharmacist-in-charge is responsible for the supervision of the operation of the system;

(ii) the automated medication supply 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 medication supply system available for inspection by the board for the purpose of validating the accuracy of the system.

(B) Quality assurance program. A pharmacy which uses an automated medication supply system to fill medication orders shall operate according to a written program for quality assurance of the automated medication supply system which:

(i) requires continuous monitoring of the automated medication supply system; and

(ii) establishes mechanisms and procedures to test the accuracy of the automated medication supply system at least every six months and whenever any upgrade or change is made to the system and documents each such activity.

(C) Policies and procedures of operation.

(i) When an automated medication supply system is used to store or distribute medications for administration pursuant to medication orders, it shall be operated according to written policies and procedures of operation. The policies and procedures of operation shall establish requirements for operation of the automated medication supply system and shall describe policies and procedures that:

(I) include a description of the policies and procedures of operation;

(II) provide for a pharmacist's review and approval of each original or new medication order prior to withdrawal from the automated medication supply system:

(-a-) before the order is filled when a pharmacist is on duty except for an emergency order;

(-b-) retrospectively within 72 hours in a facility with a full-time pharmacist when a pharmacist is not on duty at the time the order is made; or

(-c-) retrospectively within 7 days in a facility with a part-time or consultant pharmacist when a pharmacist is not on duty at the time the order is made;

(III) provide for access to the automated medication supply system for stocking and retrieval of medications which is limited to licensed healthcare professionals, pharmacy technicians, or pharmacy technician trainees acting under the supervision of a pharmacist;

(IV) provide that a pharmacist is responsible for the accuracy of the restocking of the system. The actual restocking may be performed by a pharmacy technician or pharmacy technician trainee;

(V) provide for an accountability record to be maintained which documents all transactions relative to stocking and removing medications from the automated medication supply system;

(VI) require a prospective or retrospective drug regimen review is conducted as specified in subsection (g) of this section; and

(VII) establish and make provisions for documentation of a preventative maintenance program for the automated medication supply system.

(ii) A pharmacy which uses an automated medication supply system to fill medication orders shall, at least annually, review its written policies and procedures, revise them if necessary, and document the review.

(D) Automated medication supply systems used for storage and recordkeeping of medications located outside of the pharmacy department (e.g., Pyxis). A pharmacy technician or pharmacy technician trainee may restock an automated medication supply system located outside of the pharmacy department with prescription drugs provided:

(i) prior to distribution of the prescription drugs a pharmacist verifies that the prescription drugs pulled to stock the automated supply system match the list of prescription drugs generated by the automated medication supply system except as specified in §291.73(e)(2)(C)(ii) of this title; or

(ii) all of the following occur:

(I) the prescription drugs to restock the system are labeled and verified with a machine readable product identifier, such as a barcode;

(II) either:

(-a-) the drugs are in tamper evident product packaging, packaged by an FDA registered repackager or manufacturer, that is shipped to the pharmacy; or

(-b-) if any manipulation of the product occurs in the pharmacy prior to restocking, such as repackaging or extemporaneous compounding, the product must be checked by a pharmacist; and

(III) quality assurance audits are conducted according to established policies and procedures to ensure accuracy of the process.

(E) Recovery Plan. A pharmacy which uses an automated medication supply system to store or distribute medications for administration pursuant to medication orders shall maintain a written plan for recovery from a disaster or any other situation which interrupts the ability of the automated medication supply system 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 medication supply system is experiencing downtime;

(ii) procedures for response when an automated medication supply system is experiencing downtime;

(iii) procedures for the maintenance and testing of the written plan for recovery; and

(iv) procedures for notification of the Board and other appropriate agencies whenever an automated medication supply system experiences downtime for more than two days of operation or a period of time which significantly limits the pharmacy's ability to provide pharmacy services.

(3) Verification of medication orders prepared by the pharmacy department through the use of an automated medication supply system. A pharmacist must check drugs prepared pursuant to medication orders to ensure that the drug is prepared for distribution accurately as prescribed. This paragraph does not apply to automated medication supply systems used for storage and recordkeeping of medications located outside of the pharmacy department.

(A) This check shall be considered accomplished if:

(i) a check of the final product is conducted by a pharmacist after the automated system has completed preparation of the medication order and prior to delivery to the patient; or

(ii) the following checks are conducted by a pharmacist:

(I) if the automated medication supply system contains unlabeled stock drugs, a pharmacist verifies that those drugs have been accurately stocked; and

(II) a pharmacist checks the accuracy of the data entry of each original or new medication order entered into the automated medication supply system before the order is filled.

(B) If the final check is accomplished as specified in subparagraph (A)(ii) of this paragraph, the following additional requirements must be met.

(i) The medication order preparation process must be fully automated from the time the pharmacist releases the medication order to the automated system until a completed medication order, 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 medication supply system dispenses accurately as specified in paragraph (2)(A) and (B) of this subsection.

(iii) The automated medication supply system documents and maintains:

(I) the name(s), initials, or identification code(s) of each pharmacist responsible for the checks outlined in subparagraph (A)(ii) of this paragraph; and

(II) the name(s), initials, or identification code(s) and specific activity(ies) of each pharmacist or pharmacy technician or pharmacy technician trainee who performs any other portion of the medication order preparation process.

(iv) The pharmacy establishes mechanisms and procedures to test the accuracy of the automated medication supply system at least every month rather than every six months as specified in paragraph (2)(B) of this subsection.

(4) Automated checking device.

(A) For the purpose of this subsection, an automated checking device is a fully automated device which confirms, after a drug is prepared for distribution but prior to delivery to the patient, that the correct drug and strength has been labeled with the correct label for the correct patient.

(B) The final check of a drug prepared pursuant to a medication order shall be considered accomplished using an automated checking device provided:

(i) a check of the final product is conducted by a pharmacist prior to delivery to the patient or the following checks are performed by a pharmacist:

(I) the prepackaged drug used to fill the order is checked by a pharmacist who verifies that the drug is labeled and packaged accurately; and

(II) a pharmacist checks the accuracy of each original or new medication order.

(ii) the medication order is prepared, labeled, and made ready for delivery to the patient in compliance with Class C (Institutional) Pharmacy rules; and

(iii) prior to delivery to the patient:

(I) the automated checking device confirms that the correct drug and strength has been labeled with the correct label for the correct patient; and

(II) a pharmacist performs all other duties required to ensure that the medication order has been prepared safely and accurately as prescribed.

(C) If the final check is accomplished as specified in subparagraph (B) 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 (B)(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 medication order preparation process.

(iii) The pharmacy establishes mechanisms and procedures to test the accuracy of the automated checking device at least monthly.

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

Filed with the Office of the Secretary of State on September 21, 2018.

TRD-201804125

Allison Vordenbaumen Benz, R.Ph., M.S.

Executive Director

Texas State Board of Pharmacy

Earliest possible date of adoption: November 4, 2018

For further information, please call: (512) 305-8010



## 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, update the time period to report required prescription information from a Class E pharmacy to the Texas Prescription Monitoring Program, to be consistent with section 481.074(q) of the Texas Controlled Substances Act (Chapter 481, Health and Safety Code) and correct grammatical errors.

Allison Vordenbaumen Benz, R.Ph., M.S., Executive Director/Secretary, has determined that, for the first five-year period the proposed amendments are in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the rule. Ms. Benz has determined that, for each year of the first five-year period the proposed amendments 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 reporting requirements to the Texas Prescription Monitoring Program. There is no anticipated impact on large, small or micro-businesses (pharmacies), rural communities, or local or state employment.

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

- (1) The proposed rule does not create or eliminate a government program;
- (2) Implementation of the proposed rule does not require the creation of new employee positions or the elimination of existing employee positions;
- (3) Implementation of the proposed rule does not require an increase or decrease in the future legislative appropriations to the agency;
- (4) The proposed rule does not require an increase or decrease in fees paid to the agency;
- (5) The proposed rule does not create a new regulation;
- (6) The proposed rule does expand an existing regulation in order to be consistent with state law;
- (7) The proposed rule does not increase or decrease the number of individuals subject to the rule's applicability; and

(8) The proposed rule does not positively or adversely affect this state's economy.

Written comments on the amendments may be submitted to Megan G. Holloway, Assistant General Counsel, Texas State Board of Pharmacy, 333 Guadalupe Street, Suite 3-500, Austin, Texas, 78701, FAX (512) 305-8061. Comments must be received by 5:00 p.m., November 3, 2018.

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) - (e) (No change.)

(f) Prescriptions for Schedules [Schedule] 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 [Schedule] 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 - Effective September 1, 2016) not later than the next business day after the prescription is dispensed. [~~within 7 days of dispensing.~~]

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

Filed with the Office of the Secretary of State on September 21, 2018.

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Allison Vordenbaumen Benz, R.Ph., M.S.

Executive Director

Texas State Board of Pharmacy

Earliest possible date of adoption: November 4, 2018

For further information, please call: (512) 305-8010



## SUBCHAPTER G. SERVICES PROVIDED BY PHARMACIES

### 22 TAC §291.129

The Texas State Board of Pharmacy proposes amendments to §291.129, concerning Satellite Pharmacy. The amendments, if adopted, update the application requirements for Class A and Class C pharmacies to remove certain notarization requirements, and correct grammatical and punctuation errors.

Allison Vordenbaumen Benz, R.Ph., M.S., Executive Director/Secretary, has determined that, for the first five-year period the proposed amendments are in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the rule. Ms. Benz has determined that, for each year of the first five-year period the proposed amendments will be in effect, the public benefit anticipated as a result of

enforcing the amendments will be to provide more efficiency in the application process for satellite pharmacies by removing unnecessary administrative burdens and by providing grammatically correct rules. There is no anticipated 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, Ms. Benz has determined the following:

- (1) The proposed rule does not create or eliminate a government program;
- (2) Implementation of the proposed rule does not require the creation of new employee positions or the elimination of existing employee positions;
- (3) Implementation of the proposed rule does not require an increase or decrease in the future legislative appropriations to the agency;
- (4) The proposed rule does not require an increase or decrease in fees paid to the agency;
- (5) The proposed rule does not create a new regulation;
- (6) The proposed rule does limit an existing regulation by removing certain application requirements;
- (7) The proposed rule does not increase or decrease the number of individuals subject to the rule's applicability; and
- (8) The proposed rule does not positively or adversely affect this state's economy.

Written comments on the amendments may be submitted to Megan G. Holloway, Assistant General Counsel, Texas State Board of Pharmacy, 333 Guadalupe Street, Suite 3-500, Austin, Texas, 78701, FAX (512) 305-8061. Comments must be received by 5:00 p.m., November 3, 2018.

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.

§291.129. *Satellite Pharmacy.*

(a) Purpose. The purpose of this section is to create a new class of pharmacy for the provision of pharmacy services by a Class A or Class C pharmacy in a location that is not at the same location as the [a] Class A or Class C pharmacy through a satellite pharmacy and to provide standards for the operation of this class of pharmacy established under §560.053 of the Texas Pharmacy Act.

(b) Definitions. The following words and terms, when used in this [the] section, shall have the following meanings, unless the context clearly indicates otherwise. All other words and terms shall have the meanings as defined in the Act or in §291.31 of this title.

- (1) Provider pharmacy--The Class A or Class C pharmacy providing satellite pharmacy services.
- (2) Satellite pharmacy--A facility not located at the same location as a Class A or Class C pharmacy at which satellite pharmacy services are provided.

(3) Satellite pharmacy services--The provision of pharmacy services, including the storage and delivery of prescription drugs, in an alternate location.

(c) General requirements.

(1) A Class A or Class C provider pharmacy may establish a satellite pharmacy in a location that is not at the same location as the [a] Class A or Class C pharmacy.

(2) The pharmacist-in-charge of the provider pharmacy is responsible for all pharmacy operations involving the satellite pharmacy including supervision of satellite pharmacy personnel and compliance with this section.

(3) A satellite pharmacy may not store bulk drugs and may only store prescription medications that have been previously verified and dispensed by the provider pharmacy.

(4) A Class C pharmacy that is a provider pharmacy dispensing outpatient prescriptions for a satellite pharmacy shall comply with the provisions of §§291.31 - 291.34 of this title (relating to Definitions, Personnel, Operational Standards, and Records for Class A (Community) pharmacies) and this section.

(5) The provider pharmacy and the satellite pharmacy must have:

(A) the same owner; and

(B) share a common electronic file or have appropriate technology to allow access to sufficient information necessary or required to process a non-dispensing function.

(d) Personnel.

(1) All individuals working at the satellite pharmacy shall be employees of the provider pharmacy and must report their employment to the board as such.

(2) A satellite pharmacy shall have sufficient pharmacists on duty to operate the satellite pharmacy competently, safely, and adequately to meet the needs of the patients of the pharmacy.

(3) Pharmacists are solely responsible for the direct supervision of pharmacy technicians and pharmacy technician trainees and for designating and delegating duties, other than those listed in paragraph (7) of this subsection, to pharmacy technicians and pharmacy technician trainees. Each pharmacist:

(A) shall verify the accuracy of all acts, tasks, and functions performed by pharmacy technicians and pharmacy technician trainees; and

(B) shall be responsible for any delegated act performed by pharmacy technicians and pharmacy technician trainees under his or her supervision.

(4) A pharmacist shall be physically present to directly supervise a pharmacy technician or pharmacy technician trainee who is entering prescription data into the data processing system. Each prescription entered into the data processing system shall be verified at the time of data entry.

(5) All pharmacists while on duty, shall be responsible for complying with all state and federal laws or rules governing the practice of pharmacy.

(6) A pharmacist shall ensure that the drug is dispensed and delivered safely and accurately as prescribed. A pharmacist shall ensure the safety and accuracy of the portion of the process the pharmacist is performing.

(7) Duties<sup>[5]</sup> in a satellite pharmacy<sup>[5]</sup> that may only be performed by a pharmacist are as follows:

(A) receiving oral prescription drug orders and reducing these orders to writing, either manually or electronically;

(B) interpreting or clarifying prescription drug orders;

(C) communicating to the patient or patient's agent information about the prescription drug or device<sub>2</sub> which in the exercise of the pharmacist's professional judgment<sup>[5]</sup> the pharmacist deems significant, as specified in §291.33(c) of this title;

(D) communicating to the patient or the patient's agent on his or her request for information concerning any prescription drugs dispensed to the patient by the pharmacy;

(E) assuring that a reasonable effort is made to obtain, record, and maintain patient medication records;

(F) interpreting patient medication records and performing drug regimen reviews; and

(G) performing a specific act of drug therapy management for a patient when delegated to a pharmacist by a written protocol from a physician licensed in this state in compliance with the Medical Practice Act.

(8) Pharmacy technicians and pharmacy technician trainees may not perform any of the duties listed in paragraph (7) of this subsection. However, a pharmacist may delegate to pharmacy technicians and pharmacy technician trainees any nonjudgmental technical duty associated with the preparation and distribution of prescription drugs provided:

(A) a pharmacist verifies the accuracy of all acts, tasks, and functions performed by pharmacy technicians and pharmacy technician trainees; and

(B) pharmacy technicians and pharmacy technician trainees are under the direct supervision of<sub>2</sub> and responsible to<sub>2</sub> a pharmacist.

(9) Pharmacy technicians and pharmacy technician trainees<sup>[5]</sup> in a satellite pharmacy<sup>[5]</sup> may perform only nonjudgmental technical duties associated with the preparation and distribution of prescription drugs as follows:

(A) initiating and receiving refill authorization requests;

(B) entering prescription data into a data processing system; and

(C) reconstituting medications.

(10) In a satellite pharmacy, the ratio of pharmacists to pharmacy technicians/pharmacy technician trainees may be 1:3, provided at least one of the three is a pharmacy technician and not a pharmacy technician trainee.

(11) All satellite pharmacy personnel shall wear identification tags or badges that bear [bears] the person's name and identifies him or her as a pharmacist, pharmacist intern, pharmacy technician, or pharmacy technician trainee.

(e) Operational requirements.

(1) Application for permission to provide satellite pharmacy services.

(A) A Class A or Class C pharmacy shall make an application to the board to provide satellite pharmacy services. The application shall [contain an affidavit with the notarized signatures of the

pharmacist-in-charge and the person responsible for the on-site operation of the facility where the satellite pharmacy will be located and] include the following:

(i) the name, address, and license number of the provider pharmacy;

(ii) the name and address of the facility where the satellite pharmacy will be located;

(iii) the anticipated date of opening and hours of operation; and

(iv) a copy of the lease agreement or if the location of the satellite pharmacy is owned by the applicant, a notarized statement certifying such location ownership.

(B) A renewal [Such] application shall be resubmitted every two years in conjunction with the application for renewal of the provider pharmacy's license. The renewal application [petition] shall contain the documentation required in subparagraph (A) of this paragraph[except the notarized signature of the person responsible for the on-site operation of the facility where the satellite pharmacy will be located].

(C) Upon approval of the application, the provider pharmacy will be sent a certificate which must be displayed at the satellite pharmacy.

(2) Notification requirements.

(A) A provider pharmacy shall notify the board in writing within ten days of a change of location, discontinuance of service, or closure of a satellite pharmacy that is operated by the pharmacy.

(B) A provider pharmacy shall comply with appropriate federal and state controlled substance registrations for each satellite pharmacy if controlled substances [are maintained at the satellite pharmacy].

(3) Environment.

(A) The satellite pharmacy shall be arranged in an orderly fashion and kept clean. All required equipment shall be clean and in good operating condition.

(B) A satellite pharmacy shall contain an area which is suitable for confidential patient counseling.

(i) Such counseling area shall:

(I) be easily accessible to both the patient and pharmacists and not allow patient access to prescription drugs;

(II) be 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.

(C) The satellite pharmacy shall be properly lighted and ventilated.

(D) The temperature of the satellite pharmacy shall be maintained within a range compatible with the proper storage of drugs in compliance with the provisions of §291.15 of this title (relating to storage of drugs). The temperature of the refrigerator shall be maintained within a range compatible with the proper storage of drugs requiring refrigeration.

(E) 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, guide dogs accompanying disabled persons, or animals for sale to the general public in a separate area that is inspected by local health jurisdictions.

(4) Security.

(A) A satellite pharmacy shall be under the continuous, physically present supervision of a pharmacist at all times the satellite pharmacy is open to provide pharmacy services.

(B) The satellite pharmacy shall be enclosed by walls, partitions or other means of floor-to-ceiling enclosure. In addition[,] to the security requirements outlined in §291.33(b)(2) of this title, satellite pharmacies shall have adequate security and procedures to:

- (i) prohibit unauthorized access;
- (ii) comply with federal and state regulations; and
- (iii) maintain patient confidentiality.

(C) Access to the satellite pharmacy shall be limited to pharmacists, pharmacy technicians, and pharmacy technician trainees employed by the provider pharmacy and who are designated in writing by the pharmacist-in-charge.

(D) The provider pharmacy shall have procedures that specify that prescriptions may only be delivered to the satellite pharmacy by the provider pharmacy and shall:

- (i) be delivered in a sealed container with a list of the prescriptions delivered;
- (ii) be signed for on receipt by the pharmacist at the satellite pharmacy;
- (iii) be checked by personnel designated by the pharmacist-in-charge to verify that the prescriptions sent by the provider pharmacy were actually received. The designated person who checks the order shall document the verification by signing and dating the list of prescriptions delivered.

(5) Prescription dispensing and delivery. A satellite pharmacy shall comply with the requirements outlined [outlines] in §291.33(c) of this title with regard to prescription dispensing and delivery.

(6) Equipment and supplies. A satellite pharmacy shall have the following equipment and supplies:

- (A) typewriter or comparable equipment;
- (B) refrigerator, if storing drugs requiring refrigeration;
- (C) metric-apothecary weight and measure conversion charts.

(7) Library. A reference library shall be maintained by the satellite pharmacy that includes the following in hard-copy or electronic format:

(A) current copies of the following:

- (i) Texas Pharmacy Act and rules;
- (ii) Texas Dangerous Drug Act and rules;
- (iii) Texas Controlled Substances Act and rules; and
- (iv) Federal Controlled Substances Act and rules (or

official publication describing the requirements of the Federal Controlled Substances Act and rules);

(B) at least one current or updated reference from each of the following categories:

(i) patient information:

(I) United States Pharmacopeia Dispensing Information, Volume II (Advice to the Patient); or

(II) a reference text or information leaflets which provide patient information;

(ii) drug interactions: a reference text on drug interactions, such as Drug Interaction Facts. A separate reference is not required if other references maintained by the satellite pharmacy contain drug interaction information including information needed to determine severity or significance of the interaction and appropriate recommendations or actions to be taken;

(iii) a general information reference text, such as:

(I) Facts and Comparisons with current supplements;

(II) United States Pharmacopeia Dispensing Information Volume I (Drug Information for the Healthcare Provider);

(III) Clinical Pharmacology;

(IV) American Hospital Formulary Service with current supplements; or

(V) Remington's Pharmaceutical Sciences; and

(C) basic antidote information and the telephone number of the nearest Regional Poison Control Center.

(f) Records.

(1) Maintenance of records.

(A) Every record required to be kept under [and] §291.34 of this title and under this section shall be:[]

(i) kept by the provider pharmacy and be available, for at least two years from the date of such inventory or record, for inspecting and copying by the board or its representative and to other authorized local, state, or federal law enforcement agencies; and

(ii) supplied by the provider pharmacy within 72 hours, if requested by an authorized agent of the board [Texas State Board of Pharmacy]. If the pharmacy maintains the records in an electronic format, the requested records must be provided in an electronic format if specifically requested by the board or its representative. Failure to provide the records set out in this section, either on site or within 72 hours, constitutes prima facie evidence of failure to keep and maintain records in violation of the Act.

(B) Records, except when specifically required to be maintained in original or hard-copy form, may be maintained in an alternative data retention system, such as a data processing system or direct imaging system provided:

(i) the records maintained in the alternative system contain all of the information required on the manual record; and



(ii) the data processing system is capable of producing a hard copy of the record upon the request of the board, its representative, or other authorized local, state, or federal law enforcement or regulatory agencies.

(C) Prescription drug orders shall be maintained by the provider pharmacy in the manner required by §291.34(d) or (e) of this title.

(2) Prescriptions.

(A) Prescription drug orders shall meet the requirements of §291.34(b) of this title.

(B) The provider pharmacy must maintain appropriate records to identify the name(s), initials, or identification code(s) and specific activity(ies) of each pharmacist, pharmacy technician, or pharmacy technician trainee who performed any processing at the satellite pharmacy.

(C) A provider pharmacy shall keep a record of all prescriptions sent and returned between the pharmacies separate from the records of the provider pharmacy and from any other satellite pharmacy's records.

(D) A satellite pharmacy shall keep a record of all prescriptions received and returned between the pharmacies.

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

Filed with the Office of the Secretary of State on September 21, 2018.

TRD-201804128

Allison Vordenbaumen Benz, R.Ph., M.S.

Executive Director

Texas State Board of Pharmacy

Earliest possible date of adoption: November 4, 2018

For further information, please call: (512) 305-8010



## CHAPTER 315. CONTROLLED SUBSTANCES

### 22 TAC §315.6

The Texas State Board of Pharmacy proposes amendments to §315.6, concerning Pharmacy Responsibility - Electronic Reporting - Effective September 1, 2016. The amendments, if adopted, require pharmacies to report the dispensing of prescriptions for controlled substances to the Texas Prescription Monitoring Program not later than the next business day, in accordance with §481.074(q) of the Texas Controlled Substances Act, and to correct previously submitted data within seven days of identifying errors or omissions.

Allison Vordenbaumen Benz, R.Ph., M.S., Executive Director/Secretary, has determined that, for the first five-year period the proposed amendments are in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the rule. Ms. Benz has determined that, for each year of the first five-year period the proposed amendments will be in effect, the public benefit anticipated as a result of enforcing the amendments will be to provide a consistent regulatory framework for reporting the dispensing of prescriptions for controlled substances to the Texas Prescription Monitoring Program by harmonizing Board rules with current state law,

and to improve protection of the public's health, safety and welfare by requiring pharmacies to correct data within seven days of identifying errors in data previously reported. There is no anticipated impact on large, small or micro-businesses (pharmacies), rural communities, or local or state employment. An economic impact statement and regulatory flexibility analysis are not required because the proposed amendments will not have an adverse economic effect on Texas small businesses or rural communities.

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

(1) The proposed rule does not create or eliminate a government program;

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

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

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

(5) The proposed rule does not create a new regulation;

(6) The proposed rule does expand an existing regulation;

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

(8) The proposed rule does not positively or adversely affect this state's economy.

Written comments on the amendments may be submitted to Megan G. Holloway, Assistant General Counsel, Texas State Board of Pharmacy, 333 Guadalupe Street, Suite 3-500, Austin, Texas, 78701, FAX (512) 305-8061. Comments must be received by 5:00 p.m., November 3, 2018.

The amendments are proposed under §§551.002 and 554.051 of the Texas Pharmacy Act (Chapters 551 - 569, Texas Occupations Code) and §481.003 of the Texas Controlled Substances Act (Chapter 481, Texas Health and Safety 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 Board interprets §481.003 of the Texas Controlled Substances Act as authorizing the agency to adopt rules to administer §§481.075 - 481.0766 of the Texas Controlled Substances Act.

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

*§315.6. Pharmacy Responsibility- Electronic Reporting [- Effective September 1, 2016].*

(a) Not later than the next business day [Within seven days] after the date a controlled substance prescription is dispensed, a pharmacy must electronically submit to the board the following data elements [from all dispensed controlled substance prescriptions]:

(1) the prescribing practitioner's DEA registration number including the prescriber's identifying suffix of the authorizing hospital or other institution's DEA number when applicable;

(2) the official prescription form control number if dispensed from a written official prescription form for a Schedule II

controlled substance; [; unless the prescription is electronic and meets the requirements of Code of Federal Regulations, Title 21, Part 1311;]

(3) the board's designated placeholder entered into the control number field if the prescription is electronic and meets the requirements of Code of Federal Regulations, Title 21, Part 1311;

(4) the patient's name, [age or] date of birth, and address including city, state, and zip code; or such information on the animal's owner if the prescription is for an animal [veterinarian services];

(5) the date the prescription was issued and dispensed;

(6) the NDC # of the controlled substance dispensed;

(7) the quantity of controlled substance dispensed;

(8) the pharmacy's prescription number; and

(9) the pharmacy's DEA registration number.

(b) A pharmacy must electronically correct dispensing data submitted to the board within seven business days of identifying an omission, error, or inaccuracy in previously submitted dispensing data.

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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Allison Vordenbaumen Benz, R.Ph., M.S.

Executive Director

Texas State Board of Pharmacy

Earliest possible date of adoption: November 4, 2018

For further information, please call: (512) 305-8010



## 22 TAC §315.15

The Texas State Board of Pharmacy proposes a new rule §315.15, concerning Access Requirements. The new rule, if adopted, specifies requirements for practitioners and pharmacists to consult the Texas Prescription Monitoring Program (PMP) database to review a patient's controlled substance history before prescribing or dispensing an opioid, benzodiazepine, barbiturate, or carisoprodol as provided in §481.0764 and §481.0765 of the Texas Controlled Substances Act. The new rule also clarifies that PMP information may only be accessed as authorized in §481.076 of the Texas Controlled Substances Act.

Allison Vordenbaumen Benz, R.Ph., M.S., Executive Director/Secretary, 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 rule. Ms. Benz has determined that, for each year of the first five-year period the proposed rule will be in effect, the public benefit anticipated as a result of enforcing the new rule will be to ensure informed decision-making by practitioners and pharmacists with regard to the prescribing or dispensing of opioids, benzodiazepine, barbiturates, and carisoprodol by requiring a review of a patient's controlled substance history before prescribing or dispensing those drugs. There is no anticipated impact on large, small or micro-businesses (pharmacies), rural communities, or local or state employment. An economic impact statement and regulatory flexibility analysis

are not required because the proposed rule will not have an adverse economic effect on Texas small businesses or rural communities.

For each year of the first five years the proposed rule will be in effect, Ms. Benz has determined the following:

(1) The proposed rule does not create or eliminate a government program;

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

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

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

(5) The proposed rule does create a new regulation;

(6) The proposed rule does not limit or expand an existing regulation;

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

(8) The proposed rule does not positively or adversely affect this state's economy.

Written comments on the proposed rule may be submitted to Megan G. Holloway, Assistant General Counsel, Texas State Board of Pharmacy, 333 Guadalupe Street, Suite 3-500, Austin, Texas, 78701, FAX (512) 305-8061. Comments must be received by 5:00 p.m., November 3, 2018.

The new rule is proposed under §551.002 and §554.051 of the Texas Pharmacy Act (Chapters 551 - 569, Texas Occupations Code) and §481.003 of the Texas Controlled Substances Act (Chapter 481, Texas Health and Safety 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 Board interprets §481.003 of the Texas Controlled Substances Act as authorizing the agency to adopt rules to administer §§481.075 - 481.0766 of the Texas Controlled Substances Act.

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

### §315.15. Access Requirements.

(a) Effective September 1, 2019, a practitioner before prescribing an opioid, benzodiazepine, barbiturate, or carisoprodol for a patient shall consult the Texas Prescription Monitoring Program (PMP) database to review the patient's controlled substance history.

(b) Effective September 1, 2019, a pharmacist before dispensing an opioid, benzodiazepine, barbiturate, or carisoprodol for a patient shall consult the PMP database to review the patient's controlled substance history.

(c) The duty to consult the PMP database as described in subsections (a) and (b) of this section does not apply in the following circumstances:

(1) the practitioner is a veterinarian;

(2) the patient has a diagnosis of cancer or is in hospice care and the prescriber clearly notes such diagnosis on the prescription; or

(3) the practitioner or pharmacist is unable to access the PMP after making and documenting a good faith effort to do so.

(d) If a practitioner or pharmacist uses electronic medical records that integrate data from the PMP, a review of the electronic medical records with the integrated data shall be deemed compliant with the review of the PMP database as required in subsections (a) and (b) of this section.

(e) Pharmacists, pharmacy technicians acting at the direction of a pharmacist, practitioners, and delegates acting at the direction of a practitioner may only access information contained in the PMP as authorized in §481.076 of Texas Controlled Substances Act. A person who is authorized to access the PMP may only do so utilizing that person's assigned identifier (i.e., login and password) and may not use the assigned identifier of another person. Unauthorized access of PMP information is a violation of TCSA, the Texas Pharmacy Act, and board rules.

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

Filed with the Office of the Secretary of State on September 21, 2018.

TRD-201804130

Allison Vordenbaumen Benz, R.Ph., M.S.

Executive Director

Texas State Board of Pharmacy

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For further information, please call: (512) 305-8010



## PART 22. TEXAS STATE BOARD OF PUBLIC ACCOUNTANCY

### CHAPTER 501. RULES OF PROFESSIONAL CONDUCT

#### SUBCHAPTER C. RESPONSIBILITIES TO CLIENTS

##### 22 TAC §501.76

The Texas State Board of Public Accountancy (Board) proposes an amendment to §501.76, concerning Records and Work Papers.

##### Background, Justification and Summary

The amendment to §501.76 makes it clear that if a licensee has records in a format that their client requests then the licensee should make those records available to the client. A licensee is not required to provide the client with proprietary information or intellectual property unless the licensee has reached an agreement at the outset of the engagement to provide that information.

##### Fiscal Note

William Treacy, Executive Director of the Board, has determined that for the first five-year period the proposed amendment is in effect, there will be no additional estimated cost to the state, no estimated reduction in costs to the state and to local governments, and no estimated loss or increase in revenue to the state, as a result of enforcing or administering the amendment.

##### Public Benefit

The adoption of the proposed amendment will be a clearer understanding of the records that a licensee must provide to a client.

##### Probable Economic Cost and Local Employment Impact

Mr. Treacy, Executive Director, has determined that there will be no probable economic cost to persons required to comply with the amendment and a Local Employment Impact Statement is not required because the proposed amendment will not affect a local economy.

##### Small Business, Rural Community and Micro-Business Impact Analysis

William Treacy, Executive Director, has determined that the proposed amendment will not have an adverse economic effect on small businesses, rural communities or micro-businesses because the amendment does not impose any duties or obligations upon small businesses, rural communities or micro-businesses; therefore, an Economic Impact Statement and a Regulatory Flexibility Analysis are not required.

##### Government Growth Impact Statement

William Treacy, Executive Director, has determined that for the first five-year period the amendment is in effect, the proposed rule: does not create or eliminate a government program; does not create or eliminate employee positions; does not increase or decrease future legislative appropriations to the Board; does not increase or decrease fees paid to the Board; does not create a new regulation; does not expand, limit or repeal an existing regulation; does not increase or decrease the number of individuals subject to the proposed rule's applicability; and does not positively or adversely affect the state's economy.

##### Takings Impact Assessment

No takings impact assessment is necessary because there is no proposed use of private real property as a result of the proposed rule revision.

The requirement related to a rule increasing costs to regulated persons does not apply to the Texas State Board of Public Accountancy because the rule is being proposed by a self-directed semi-independent agency. (§2001.0045(c)(8))

##### Public Comment

Written comments may be submitted to J. Randel (Jerry) Hill, General Counsel, Texas State Board of Public Accountancy, 333 Guadalupe, Tower 3, Suite 900, Austin, Texas 78701 or faxed to his attention at (512) 305-7854, no later than noon on November 5, 2018.

The Board specifically invites comments from the public on the issues of whether or not the proposed amendment will have an adverse economic effect on small businesses; if the proposed rule is believed to have an adverse effect on small businesses, estimate the number of small businesses believed to be impacted by the rule, describe and estimate the economic impact of the rule on small businesses, offer alternative methods of achieving the purpose of the rule; then explain how the Board may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rule is to be adopted; and finally describe how the health, safety, environmental and economic welfare of the state will be impacted by the various proposed methods. See Texas Government Code, §2006.002(c).

## Statutory Authority

The amendment is proposed under the Public Accountancy Act ("Act"), Texas Occupations Code, §901.151 which authorizes the Board to adopt rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by this proposed amendment.

### §501.76. *Records and Work Papers.*

#### (a) Records.

(1) A person shall return original client records to a client or former client within a reasonable time (promptly, not to exceed 10 business days) after the client or former client has made a request for those records. Original client records are those records provided to the person by the client or former client in order for the person to provide professional accounting services to the client or former client. Original client records also include those documents obtained by the person on behalf of the client or former client in order for the person to provide professional accounting services to the client or former client and do not include the electronic and hard copies of internal work papers. The person shall provide these records to the client or former client, regardless of the status of the client's or former client's account and cannot charge a fee to provide such records. Such records shall be returned to the client or former client in the same format, to the extent possible, that they were provided to the person by the client or former client. The person may make copies of such records and retain those copies.

(2) Unless the person and the client have agreed in writing to the contrary:

(A) A person's work papers, to the extent that such work papers include records which would ordinarily constitute part of the client's or former client's books and records and are not otherwise available to the client or former client, shall also be furnished to the client within a reasonable time (promptly, not to exceed 20 business days) after the client has made a request for those records. The person can charge a reasonable fee for providing such work papers.

(B) Such work papers shall be in a format that the client or former client can reasonably expect to use for the purpose of accessing such work papers. The person is not required to convert records that are not in electronic format to electronic format or to convert electronic records into a different type of electronic format. However, if the client requests records in a specific format, and the records are available in such format within the person's custody and control, the client's request shall be honored.

(C) The person is not required to provide the client with proprietary formulas.

(D) The person is not required to provide the client with other formulas (unless the formulas support the client's accounting or other records) or the person was engaged to provide such formulas as part of a completed work product.

(3) Work papers which constitute client records include, but are not limited to:

(A) documents in lieu of books of original entry such as listings and distributions of cash receipts or cash disbursements;

(B) documents in lieu of general ledger or subsidiary ledgers, such as accounts receivable, job cost and equipment ledgers, or similar depreciation records;

(C) all adjusting and closing journal entries and supporting details when the supporting details are not fully set forth in the explanation of the journal entry; and

(D) consolidating or combining journal entries and documents and supporting detail in arriving at final figures incorporated in an end product such as financial statements or tax returns.

(b) Work papers. Work papers, regardless of format, are those documents developed by the person incident to the performance of his engagement which do not constitute records that must be returned to the client in accordance with subsection (a) of this section. Work papers developed by a person during the course of a professional engagement as a basis for, and in support of, an accounting, audit, consulting, tax, or other professional report prepared by the person for a client, shall be and remain the property of the person who developed the work papers.

(c) For a reasonable charge, a person shall furnish to his client or former client, upon request from his client made within a reasonable time after original issuance of the document in question:

(1) a copy of the client's tax return; or

(2) a copy of any report or other document previously issued by the person to or for such client or former client provided that furnishing such reports to or for a client or former client would not cause the person to be in violation of the portions of §501.60 of this chapter (relating to Auditing Standards) concerning subsequent events.

(d) This rule imposes no obligation on the person who provides services to a business entity to provide documents to anyone involved with the entity except the authorized representative of the entity.

(e) Documentation or work documents required by professional standards for attest services shall be maintained in paper or electronic format by a person for a period of not less than five years from the date of any report issued in connection with the attest service, unless otherwise required by another regulatory body. Failure to maintain such documentation or work papers constitutes a violation of this section and may be deemed an admission that they do not comply with professional standards.

(f) Interpretive Comment: It is recommended that a person obtain a receipt or other written documentation of the delivery of records to a client.

(g) Interpretive Comment: For the purposes of this rule, client records include:

(1) backup or working files of commercially available software along with any passwords needed to access such files; or

(2) client files from commercially available tax return preparation software including any passwords needed to access such files.

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

Filed with the Office of the Secretary of State on September 20, 2018.

TRD-201804102

J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

Earliest possible date of adoption: November 4, 2018

For further information, please call: (512) 305-7842

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## CHAPTER 505. THE BOARD

### 22 TAC §505.9

The Texas State Board of Public Accountancy (Board) proposes an amendment to §505.9, concerning Order of Business.

#### Background, Justification and Summary

The amendment to §505.9 eliminates the need to provide the Board with 20 days written notice prior to appearing and speaking at a Board meeting.

#### Fiscal Note

William Treacy, Executive Director of the Board, has determined that for the first five-year period the proposed amendment is in effect, there will be no additional estimated cost to the state, no estimated reduction in costs to the state and to local governments, and no estimated loss or increase in revenue to the state, as a result of enforcing or administering the amendment.

#### Public Benefit

The adoption of the proposed amendment will be to allow greater accessibility to the Board by the public.

#### Probable Economic Cost and Local Employment Impact

Mr. Treacy, Executive Director, has determined that there will be no probable economic cost to persons required to comply with the amendment and a Local Employment Impact Statement is not required because the proposed amendment will not affect a local economy.

#### Small Business, Rural Community and Micro-Business Impact Analysis

William Treacy, Executive Director, has determined that the proposed amendment will not have an adverse economic effect on small businesses, rural communities or micro-businesses because the amendment does not impose any duties or obligations upon small businesses, rural communities or micro-businesses; therefore, an Economic Impact Statement and a Regulatory Flexibility Analysis are not required.

#### Government Growth Impact Statement

William Treacy, Executive Director, has determined that for the first five-year period the amendment is in effect, the proposed rule: does not create or eliminate a government program; does not create or eliminate employee positions; does not increase or decrease future legislative appropriations to the Board; does not increase or decrease fees paid to the Board; does not create a new regulation; does not expand, limit or repeal an existing regulation; does not increase or decrease the number of individuals subject to the proposed rule's applicability; and does not positively or adversely affect the state's economy.

#### Takings Impact Assessment

No takings impact assessment is necessary because there is no proposed use of private real property as a result of the proposed rule revision.

The requirement related to a rule increasing costs to regulated persons does not apply to the Texas State Board of Public Accountancy because the rule is being proposed by a self-directed semi-independent agency. (§2001.0045(c)(8))

#### Public Comment

Written comments may be submitted to J. Randel (Jerry) Hill, General Counsel, Texas State Board of Public Accountancy, 333 Guadalupe, Tower 3, Suite 900, Austin, Texas 78701 or faxed to his attention at (512) 305-7854, no later than noon on November 5, 2018.

The Board specifically invites comments from the public on the issues of whether or not the proposed amendment will have an adverse economic effect on small businesses; if the proposed rule is believed to have an adverse effect on small businesses, estimate the number of small businesses believed to be impacted by the rule, describe and estimate the economic impact of the rule on small businesses, offer alternative methods of achieving the purpose of the rule; then explain how the Board may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rule is to be adopted; and, finally, describe how the health, safety, environmental and economic welfare of the state will be impacted by the various proposed methods. See Texas Government Code, §2006.002(c).

#### Statutory Authority

The amendment is proposed under the Public Accountancy Act ("Act"), Texas Occupations Code, §901.151 which authorizes the Board to adopt rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by this proposed amendment.

#### §505.9. Order of Business.

(a) The executive director, in conjunction with the presiding officer, shall prepare a written agenda for each board meeting and distribute a copy of the agenda to each board member.

(b) Any board member may place an item on the board's agenda by written request to the presiding officer at least 20 days before the next board meeting.

(c) Conduct of board meetings shall be guided by Roberts' Rules of Order, except that no board action shall be invalidated by reason of failure to comply with those rules.

(d) Except for board enforcement actions, disciplinary actions and investigations, any person may request an appearance before the board for the purpose of making a presentation on a matter under the board's jurisdiction[; provided that at least 20 days' advance written request to appear is made to the presiding officer; however, the presiding officer may waive the 20-day notice requirement if such action would best serve the public interest]. The presiding officer may deny a request to appear based on time constraints or other reasons which, in the presiding officer's opinion, warrant such denial. When practicable, a specific date and time to appear shall be set by the presiding officer, and a time limit may also be imposed. The person requesting the appearance should state in writing in reasonable detail the request to be made of the board and the estimated time needed.

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

Filed with the Office of the Secretary of State on September 20, 2018.

TRD-201804103



## CHAPTER 515. LICENSES

### 22 TAC §515.3

The Texas State Board of Public Accountancy (Board) proposes an amendment to §515.3, concerning License Renewals for Individuals and Firm Offices.

#### Background, Justification and Summary

The amendment to §515.3 exempts military service members from any penalty or increased fee for failing to timely renew a license while serving as a military service member and an additional two years to complete any other board requirement for licensure when deployed.

#### Fiscal Note

William Treacy, Executive Director of the Board, has determined that for the first five-year period the proposed amendment is in effect, there will be no additional estimated cost to the state, no estimated reduction in costs to the state and to local governments, and no estimated loss or increase in revenue to the state, as a result of enforcing or administering the amendment.

#### Public Benefit

The adoption of the proposed amendments will be to place military service members on notice of the licensing accommodations provided them and to assist them in complying with licensing requirements in return for the service they are providing to their country.

#### Probable Economic Cost and Local Employment Impact

Mr. Treacy, Executive Director, has determined that there will be no probable economic cost to persons required to comply with the amendment and a Local Employment Impact Statement is not required because the proposed amendment will not affect a local economy.

#### Small Business, Rural Community and Micro-Business Impact Analysis

William Treacy, Executive Director, has determined that the proposed amendment will not have an adverse economic effect on small businesses, rural communities or micro-businesses because the amendment does not impose any duties or obligations upon small businesses, rural communities or micro-businesses; therefore, an Economic Impact Statement and a Regulatory Flexibility Analysis are not required.

#### Government Growth Impact Statement

William Treacy, Executive Director, has determined that for the first five-year period the amendment is in effect, the proposed rule: does not create or eliminate a government program; does not create or eliminate employee positions; does not increase or decrease future legislative appropriations to the Board; does not increase or decrease fees paid to the Board; does not create a new regulation; does not expand, limit or repeal an existing regulation; does not increase or decrease the number of individuals

subject to the proposed rule's applicability; and does not positively or adversely affect the state's economy.

#### Takings Impact Assessment

No takings impact assessment is necessary because there is no proposed use of private real property as a result of the proposed rule revision.

The requirement related to a rule increasing costs to regulated persons does not apply to the Texas State Board of Public Accountancy because the rule is being proposed by a self-directed semi-independent agency. (§2001.0045(c)(8))

#### Public Comment

Written comments may be submitted to J. Randel (Jerry) Hill, General Counsel, Texas State Board of Public Accountancy, 333 Guadalupe, Tower 3, Suite 900, Austin, Texas 78701 or faxed to his attention at (512) 305-7854, no later than noon on November 5, 2018.

The Board specifically invites comments from the public on the issues of whether or not the proposed amendment will have an adverse economic effect on small businesses; if the proposed rule is believed to have an adverse effect on small businesses, estimate the number of small businesses believed to be impacted by the rule, describe and estimate the economic impact of the rule on small businesses, offer alternative methods of achieving the purpose of the rule; then explain how the Board may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rule is to be adopted; and finally, describe how the health, safety, environmental and economic welfare of the state will be impacted by the various proposed methods. See Texas Government Code, §2006.002(c).

#### Statutory Authority

The amendment is proposed under the Public Accountancy Act ("Act"), Texas Occupations Code, §901.151 which authorizes the Board to adopt rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by this proposed amendment.

#### §515.3. License Renewals for Individuals and Firm Offices.

(a) License renewals for individuals shall be as follows:

(1) Licenses for individuals have staggered expiration dates based on the last day of the individual's birth month. The license will be issued for a 12-month period following the initial licensing period.

(2) An individual's license will not be renewed if the individual has not earned the required CPE credit hours, has not completed all required parts of the renewal or has not completed the affidavit affirming the renewal submitted is correct.

(3) At least 30 days before the expiration of an individual's license, the board shall send notice of the impending license expiration to the individual at the last known address according to board records. Failure to receive notice does not relieve the licensee from the responsibility to timely renew nor excuse, or otherwise affect the renewal deadlines imposed on the licensee.

(b) A licensee is exempt from any penalty or increased fee imposed by the board for failing to renew the license in a timely manner if the individual establishes to the satisfaction of board staff that the individual failed to renew the license because the individual was serving

as a military service member. In addition, the military service member has an additional two years to complete any other requirement related to the renewal of the military service member's license.

(c) [(b)] License renewal requirements for firm offices shall be as follows:

(1) Licenses for offices of firms have staggered expiration dates for payment of fees, which are due the last day of a board assigned renewal month. All offices of a firm will have the same renewal month. All offices of a firm will be issued a license for a 12-month period following the initial licensing period.

(2) At least 30 days before the expiration of a firm's office license, the board shall send notice of the impending license expiration to the main office of the firm at the last known address according to the records of the board. Failure to receive notice does not relieve the firm from the responsibility to timely renew nor excuse, or otherwise affect the renewal deadlines imposed on the firm.

(3) A firm's office license shall not be renewed unless the sole proprietor, each partner, officer, director, or shareholder of the firm who is listed as a member of the firm and who is certified or registered under the Act has a current individual license. This does not apply to firms providing work pursuant to the practice privilege provisions of this title.

(4) If a firm is subject to peer review, then a firm's office license shall not be renewed unless the office has met the peer review requirements as defined in Chapter 527 of this title (relating to Peer 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.

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J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

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## 22 TAC §515.5

The Texas State Board of Public Accountancy (Board) proposes an amendment to §515.5, concerning Reinstatement of a Certificate or License in the Absence of a Violation of the Board's Rules of Professional Conduct.

### Background, Justification and Summary

The amendment to §515.5 allows a military service member, the member's spouse, and military veterans to obtain a license in Texas when they have a license in another jurisdiction that has substantially equivalent requirements to Texas or if they had a license in this state anytime within the five years preceding the license application. Provides that the Executive Director may: 1) waive prerequisites to obtaining a license based upon the applicant's credentials, 2) consider other methods, not including the examination requirement, that demonstrate the applicant is qualified to be licensed in Texas, and 3) credit, other than the examination requirement, military service, training or education that is relevant toward the experience requirements.

### Fiscal Note

William Treacy, Executive Director of the Board, has determined that for the first five-year period the proposed amendment is in effect, there will be no additional estimated cost to the state, no estimated reduction in costs to the state and to local governments, and no estimated loss or increase in revenue to the state, as a result of enforcing or administering the amendment.

### Public Benefit

The adoption of the proposed amendment will be to place military service members on notice of the licensing accommodations provided them and to assist them in complying with licensing requirements in return for the service they are providing to their country.

### Probable Economic Cost and Local Employment Impact

Mr. Treacy, Executive Director, has determined that there will be no probable economic cost to persons required to comply with the amendment and a Local Employment Impact Statement is not required because the proposed amendment will not affect a local economy.

### Small Business, Rural Community and Micro-Business Impact Analysis

William Treacy, Executive Director, has determined that the proposed amendment will not have an adverse economic effect on small businesses, rural communities or micro-businesses because the amendment does not impose any duties or obligations upon small businesses, rural communities or micro-businesses; therefore, an Economic Impact Statement and a Regulatory Flexibility Analysis are not required.

### Government Growth Impact Statement

William Treacy, Executive Director, has determined that for the first five-year period the amendment is in effect, the proposed rule: does not create or eliminate a government program; does not create or eliminate employee positions; does not increase or decrease future legislative appropriations to the Board; does not increase or decrease fees paid to the Board; does not create a new regulation; does not expand, limit or repeal an existing regulation; does not increase or decrease the number of individuals subject to the proposed rule's applicability; and does not positively or adversely affect the state's economy.

### Takings Impact Assessment

No takings impact assessment is necessary because there is no proposed use of private real property as a result of the proposed rule revision.

The requirement related to a rule increasing costs to regulated persons does not apply to the Texas State Board of Public Accountancy because the rule is being proposed by a self-directed semi-independent agency. (§2001.0045(c)(8))

### Public Comment

Written comments may be submitted to J. Randel (Jerry) Hill, General Counsel, Texas State Board of Public Accountancy, 333 Guadalupe, Tower 3, Suite 900, Austin, Texas 78701 or faxed to his attention at (512) 305-7854, no later than noon on November 5, 2018.

The Board specifically invites comments from the public on the issues of whether or not the proposed amendment will have an adverse economic effect on small businesses; if the proposed rule is believed to have an adverse effect on small busi-

nesses, estimate the number of small businesses believed to be impacted by the rule, describe and estimate the economic impact of the rule on small businesses, offer alternative methods of achieving the purpose of the rule; then explain how the Board may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rule is to be adopted; and, finally, describe how the health, safety, environmental and economic welfare of the state will be impacted by the various proposed methods. See Texas Government Code, §2006.002(c).

#### Statutory Authority

The amendment is proposed under the Public Accountancy Act ("Act"), Texas Occupations Code, §901.151, which authorizes the Board to adopt rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by this proposed amendment.

#### §515.5. Reinstatement of a Certificate or License in the Absence of a Violation of the Board's Rules of Professional Conduct.

(a) An individual whose license has been expired for 90 days or less may renew the license by paying to the board a renewal fee that is equal to 1 1/2 times the normally required renewal fee.

(b) An individual whose license has been expired for more than 90 days but less than one year may renew the license by paying to the board a renewal fee that is equal to two times the normally required renewal fee.

(c) An individual whose license has been expired for at least one year but less than two years may renew the license by paying to the board a renewal fee that is equal to three times the normally required renewal fee.

(d) An individual whose license has been expired for two years or more may obtain a license by paying all renewal fees including late fees.

(e) An individual whose license has been suspended or certificate revoked for the voluntary non-payment of the annual license fees, the voluntary non-completion of the annual license renewal, or the voluntary non-completion of the board required CPE may be administratively reinstated by complying with the board's CPE requirements pursuant to Chapter 523 of this title (relating to Continuing Professional Education); and

(1) by paying all renewal fees including late fees; or

(2) upon showing of good cause, entering into an Agreed Consent Order that reinstates the certificate and permits the issuance of a conditional license with the agreement to pay all required fees by a certain date.

(f) An individual who was revoked under §901.502(3) or (4) of the Act (relating to Grounds for Disciplinary Action), has moved to another state, and is currently licensed and has been in practice in the other state for the two years preceding the date of submitting a complete application may obtain a new license without reexamination by:

(1) providing the board with a complete application including evidence of the required licensure;

(2) demonstrating that the out of state license is no more than 90 days beyond the normal expiration date of the license;

(3) paying the board a fee that is equal to two times the normally required renewal fee for the license; and

(4) meeting the other requirements for licensing.

(g) If the certificate, license, or registration was suspended, or revoked for non-payment of annual license fees, failure to complete the annual license renewal, or failure to comply with §501.94 of this title (relating to Mandatory Continuing Professional Education), upon written application the executive director will decide on an individual basis whether the renewal fees including late fees must be paid for those years and whether any fee exemption is applicable.

(h) A military service member, military veteran or military spouse may obtain a license in accordance with the provisions of §515.11 of this chapter (relating to Licensing for Military Service Members, Military Veterans, and Military Spouses).

(i) [(h)] Interpretive Comment: Effective September 1, 2015, when calculating the renewal fee provided for in subsections (a) - (d) of this section, the professional fee that was required by §901.406 and §901.407 of the Act (relating to Fee Increase and Additional Fee) will no longer be included in the renewal fee. However, when calculating any renewal fees accrued prior to September 1, 2015, the professional fee that was required by §901.406 and §901.407 of the Act will be included in the renewal fee.

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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J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

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For further information, please call: (512) 305-7842



## 22 TAC §515.11

The Texas State Board of Public Accountancy (Board) proposes new rule §515.11, concerning Licensing for Military Service Members, Military Veterans, and Military Spouses.

### Background, Justification and Summary

New rule §515.11 allows a military service member and their spouse and military veterans to obtain a license in Texas when they have a license in another jurisdiction that has substantially equivalent requirements to Texas or if they had a license in this state anytime within the five years preceding the license application. Provides that the Executive Director may: 1) waive prerequisites to obtaining a license based upon the applicant's credentials, 2) consider other methods, not including the examination requirement, that demonstrate the applicant is qualified to be licensed in Texas, and 3) credit, other than the examination requirement, military service, training or education that is relevant toward the experience requirements.

### Fiscal Note

William Treacy, Executive Director of the Board, has determined that for the first five-year period the proposed new rule is in effect, there will be no additional estimated cost to the state, no estimated reduction in costs to the state and to local governments, and no estimated loss or increase in revenue to the state, as a result of enforcing or administering the new rule.

### Public Benefit



The adoption of the new rule will be to place military service members on notice of the licensing accommodations provided them and to assist them in complying with licensing requirements in return for the service they are providing to their country.

#### Probable Economic Cost and Local Employment Impact

Mr. Treacy, Executive Director, has determined that there will be no probable economic cost to persons required to comply with the new rule and a Local Employment Impact Statement is not required because the proposed new rule will not affect a local economy.

#### Small Business, Rural Community and Micro-Business Impact Analysis

William Treacy, Executive Director, has determined that the proposed new rule will not have an adverse economic effect on small businesses, rural communities or micro-businesses because the new rule does not impose any duties or obligations upon small businesses, rural communities or micro-businesses; therefore, an Economic Impact Statement and a Regulatory Flexibility Analysis are not required.

#### Government Growth Impact Statement

William Treacy, Executive Director, has determined that for the first five-year period the new rule is in effect, the proposed new rule: does not create or eliminate a government program; does not create or eliminate employee positions; does not increase or decrease future legislative appropriations to the Board; does not increase or decrease fees paid to the Board; does not create a new regulation; does not expand, limit or repeal an existing regulation; does not increase or decrease the number of individuals subject to the proposed rule's applicability; and does not positively or adversely affect the state's economy.

#### Takings Impact Assessment

No takings impact assessment is necessary because there is no proposed use of private real property as a result of the proposed new rule.

The requirement related to a rule increasing costs to regulated persons does not apply to the Texas State Board of Public Accountancy because the rule is being proposed by a self-directed semi-independent agency. (§2001.0045(c)(8))

#### Public Comment

Written comments may be submitted to J. Randel (Jerry) Hill, General Counsel, Texas State Board of Public Accountancy, 333 Guadalupe, Tower 3, Suite 900, Austin, Texas 78701 or faxed to his attention at (512) 305-7854, no later than noon on November 5, 2018.

The Board specifically invites comments from the public on the issues of whether or not the proposed new rule will have an adverse economic effect on small businesses; if the proposed new rule is believed to have an adverse effect on small businesses, estimate the number of small businesses believed to be impacted by the rule, describe and estimate the economic impact of the rule on small businesses, offer alternative methods of achieving the purpose of the rule; then explain how the Board may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rule is to be adopted; and finally, describe how the health, safety, environmental and economic welfare of the state will be impacted by the various proposed methods. See Texas Government Code, §2006.002(c).

#### Statutory Authority

The new rule is proposed under the Public Accountancy Act ("Act"), Texas Occupations Code, §901.151 which authorizes the Board to adopt rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by this proposed new rule.

#### §515.11. Licensing for Military Service Members, Military Veterans, and Military Spouses.

(a) This section applies to all board licensing requirements, other than the examination requirement, for the issuance of a license to a military service member, military veteran or military spouse as applicable for the practice of public accountancy in this state.

(b) The following definitions apply to the licensing of service members, military veterans and military spouses.

(1) "Active duty" means current full-time military service in the armed forces of the United States or active duty military service as a member of the Texas military forces, as defined by §437.001 of the Texas Government Code (relating to Definitions), or similar military service of another state.

(2) "Armed forces of the United States" means the army, navy, air force, coast guard, or marine corps of the United States or a reserve unit of one of those branches of the armed forces.

(3) "Military service member" means a person who is on active duty.

(4) "Military spouse" means a person who is married to a military service member.

(5) "Military veteran" means a person who has served on active duty and who was discharged or released from active duty.

(c) A military service member, military veteran or military spouse may obtain a license if the applicant for licensure:

(1) holds a current license issued by another jurisdiction that has licensing requirements that are substantially equivalent to the licensing requirements in this state; or

(2) within the five years preceding the application date held a license in this state.

(d) The executive director may waive any prerequisite to obtaining a license for an applicant described in subsection (c) of this section after reviewing the applicant's credentials. The board may not give credit if the applicant holds a restricted license issued by another jurisdiction or has an unacceptable criminal history according to Chapter 53 of the Texas Occupations Code (relating to Consequences of Criminal Conviction).

(e) The board will process a license, as soon as practical, to a military service member, military veteran or military spouse and issue a non-provisional license when the board determines the applicant is qualified in accordance with board rules.

(f) The board will notify the license holder of the requirements for renewing the license in writing or by electronic means and the term of the license.

(g) In lieu of the standard method(s) provided in §511.161 of this title (relating to Qualifications for Issuance of a Certificate) for obtaining a license, a military service member, military veteran or military spouse may be licensed and the executive director may consider other methods that demonstrate the applicant is qualified to be licensed.

(h) The board, pursuant to §511.123 of this title (relating to Reporting Work Experience), requires a minimum of one year of work experience and the board shall credit verified military service, training or education that is relevant toward this experience requirement as described in §511.122(c)(3)(D) of this title (relating to Acceptable Work Experience).

(i) The board shall, with respect to a military service member or military veteran, apply credit toward the licensing requirement for verified military service, training, or education. The board may not substitute credit for the examination requirement.

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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J. Randel (Jerry) Hill

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Texas State Board of Public Accountancy

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## CHAPTER 521. FEE SCHEDULE

### 22 TAC §521.3

The Texas State Board of Public Accountancy (Board) proposes an amendment to §521.3, concerning Fee for Certification by Reciprocity.

#### Background, Justification and Summary

The amendment to §521.3 exempts military service members, their spouses, and military veterans from the reciprocity fee required of persons licensed in another jurisdiction applying to be licensed in Texas.

#### Fiscal Note

William Treacy, Executive Director of the Board, has determined that for the first five-year period the proposed amendment is in effect, there will be no additional estimated cost to the state, no estimated reduction in costs to the state and to local governments, and no estimated loss or increase in revenue to the state, as a result of enforcing or administering the amendment.

#### Public Benefit

The adoption of the proposed amendment will be to place military service members, their spouses, and military veterans on notice of their exemption from the fee for reciprocity in return for the service they are providing to their country.

#### Probable Economic Cost and Local Employment Impact

Mr. Treacy, Executive Director, has determined that there will be no probable economic cost to persons required to comply with the amendment and a Local Employment Impact Statement is not required because the proposed amendment will not affect a local economy.

#### Small Business, Rural Community and Micro-Business Impact Analysis

William Treacy, Executive Director, has determined that the proposed amendment will not have an adverse economic effect on small businesses, rural communities or micro-businesses because the amendment does not impose any duties or obligations upon small businesses, rural communities or micro-businesses; therefore, an Economic Impact Statement and a Regulatory Flexibility Analysis are not required.

#### Government Growth Impact Statement

William Treacy, Executive Director, has determined that for the first five-year period the amendment is in effect, the proposed rule: does not create or eliminate a government program; does not create or eliminate employee positions; does not increase or decrease future legislative appropriations to the Board; does not increase or decrease fees paid to the Board; does not create a new regulation; does not expand, limit or repeal an existing regulation; does not increase or decrease the number of individuals subject to the proposed rule's applicability; and does not positively or adversely affect the state's economy.

#### Takings Impact Assessment

No takings impact assessment is necessary because there is no proposed use of private real property as a result of the proposed rule revision.

The requirement related to a rule increasing costs to regulated persons does not apply to the Texas State Board of Public Accountancy because the rule is being proposed by a self-directed semi-independent agency. (§2001.0045(c)(8))

#### Public Comment

Written comments may be submitted to J. Randel (Jerry) Hill, General Counsel, Texas State Board of Public Accountancy, 333 Guadalupe, Tower 3, Suite 900, Austin, Texas 78701 or faxed to his attention at (512) 305-7854, no later than noon on November 5, 2018.

The Board specifically invites comments from the public on the issues of whether or not the proposed amendment will have an adverse economic effect on small businesses; if the proposed rule is believed to have an adverse effect on small businesses, estimate the number of small businesses believed to be impacted by the rule, describe and estimate the economic impact of the rule on small businesses, offer alternative methods of achieving the purpose of the rule; then explain how the Board may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rule is to be adopted; and, finally, describe how the health, safety, environmental and economic welfare of the state will be impacted by the various proposed methods. See Texas Government Code, §2006.002(c).

#### Statutory Authority

The amendment is proposed under the Public Accountancy Act ("Act"), Texas Occupations Code, §901.151, which authorizes the Board to adopt rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by this proposed amendment.

#### §521.3. Fee for Certification by Reciprocity.

(a) The fee for processing the issuance of a certificate as a CPA by reciprocity will be established by the board.

(b) If the application is not approved, the processing fee paid will not be refunded.

(c) A military service member, military veteran, or military spouse who holds a current license by a substantially equivalent jurisdiction is exempt from the reciprocity fee.

(d) The exemption from the reciprocity filing fee must be evidenced by an active ID, dependent ID, state-issued driver's license with a veteran designation or DD214.

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

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J. Randel (Jerry) Hill

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## 22 TAC §521.7

The Texas State Board of Public Accountancy (Board) proposes an amendment to §521.7, concerning Fee for Transfer of Credits.

### Background, Justification and Summary

The amendment to §521.7 exempts military service members and military veterans from the processing fee for the transfer of course credits earned in another licensing jurisdiction.

### Fiscal Note

William Treacy, Executive Director of the Board, has determined that for the first five-year period the proposed amendment is in effect, there will be no additional estimated cost to the state, no estimated reduction in costs to the state and to local governments, and no estimated loss or increase in revenue to the state, as a result of enforcing or administering the amendment.

### Public Benefit

The adoption of the proposed amendment will be to place military service members and veterans on notice of the licensing accommodations provided them and to assist them in complying with licensing requirements in return for the service they are providing or have provided to their country.

### Probable Economic Cost and Local Employment Impact

Mr. Treacy, Executive Director, has determined that there will be no probable economic cost to persons required to comply with the amendment, and a Local Employment Impact Statement is not required because the proposed amendment will not affect a local economy.

### Small Business, Rural Community and Micro-Business Impact Analysis

William Treacy, Executive Director, has determined that the proposed amendment will not have an adverse economic effect on small businesses, rural communities or micro-businesses because the amendment does not impose any duties or obligations upon small businesses, rural communities or micro-businesses; therefore, an Economic Impact Statement and a Regulatory Flexibility Analysis are not required.

## Government Growth Impact Statement

William Treacy, Executive Director, has determined that for the first five-year period the amendment is in effect, the proposed rule: does not create or eliminate a government program; does not create or eliminate employee positions; does not increase or decrease future legislative appropriations to the Board; does not increase or decrease fees paid to the Board; does not create a new regulation; does not expand, limit or repeal an existing regulation; does not increase or decrease the number of individuals subject to the proposed rule's applicability; and does not positively or adversely affect the state's economy.

## Takings Impact Assessment

No takings impact assessment is necessary because there is no proposed use of private real property as a result of the proposed rule revision.

The requirement related to a rule increasing costs to regulated persons does not apply to the Texas State Board of Public Accountancy because the rule is being proposed by a self-directed semi-independent agency. (§2001.0045(c)(8))

## Public Comment

Written comments may be submitted to J. Randel (Jerry) Hill, General Counsel, Texas State Board of Public Accountancy, 333 Guadalupe, Tower 3, Suite 900, Austin, Texas 78701 or faxed to his attention at (512) 305-7854, no later than noon on November 5, 2018.

The Board specifically invites comments from the public on the issues of whether or not the proposed amendment will have an adverse economic effect on small businesses; if the proposed rule is believed to have an adverse effect on small businesses, estimate the number of small businesses believed to be impacted by the rule, describe and estimate the economic impact of the rule on small businesses, offer alternative methods of achieving the purpose of the rule; then explain how the Board may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rule is to be adopted; and finally, describe how the health, safety, environmental and economic welfare of the state will be impacted by the various proposed methods. See Texas Government Code, §2006.002(c).

## Statutory Authority

The amendment is proposed under the Public Accountancy Act ("Act"), Texas Occupations Code, §901.151 which authorizes the Board to adopt rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by this proposed amendment.

### §521.7. Fee for Transfer of Credits.

(a) The processing fee for the transfer of credits earned in another licensing jurisdiction to this board will be established by the board. This is a non-refundable fee. This fee will be waived for a military service member or military veteran.

(b) The processing fee for credits earned in this state and transferred to another licensing jurisdiction will be established by the board.

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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J. Randel (Jerry) Hill

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## 22 TAC §521.9

The Texas State Board of Public Accountancy (Board) proposes an amendment to §521.9, concerning Certificate Fee.

### Background, Justification and Summary

The amendment to §521.9 exempts military service members and military veterans from the fee for certification.

### Fiscal Note

William Treacy, Executive Director of the Board, has determined that for the first five-year period the proposed amendment is in effect, there will be no additional estimated cost to the state, no estimated reduction in costs to the state and to local governments, and no estimated loss or increase in revenue to the state, as a result of enforcing or administering the amendment.

### Public Benefit

The adoption of the proposed amendment will be to make military service members and military veterans aware of their exemption from the fee for certification in return for their service to their country.

### Probable Economic Cost and Local Employment Impact

Mr. Treacy, Executive Director, has determined that there will be no probable economic cost to persons required to comply with the amendment and a Local Employment Impact Statement is not required because the proposed amendment will not affect a local economy.

### Small Business, Rural Community and Micro-Business Impact Analysis

William Treacy, Executive Director, has determined that the proposed amendment will not have an adverse economic effect on small businesses, rural communities or micro-businesses because the amendment does not impose any duties or obligations upon small businesses, rural communities or micro-businesses; therefore, an Economic Impact Statement and a Regulatory Flexibility Analysis are not required.

### Government Growth Impact Statement

William Treacy, Executive Director, has determined that for the first five-year period the amendment is in effect, the proposed rule: does not create or eliminate a government program; does not create or eliminate employee positions; does not increase or decrease future legislative appropriations to the Board; does not increase or decrease fees paid to the Board; does not create a new regulation; does not expand, limit or repeal an existing regulation; does not increase or decrease the number of individuals subject to the proposed rule's applicability; and does not positively or adversely affect the state's economy.

### Takings Impact Assessment

No takings impact assessment is necessary because there is no proposed use of private real property as a result of the proposed rule revision.

The requirement related to a rule increasing costs to regulated persons does not apply to the Texas State Board of Public Accountancy because the rule is being proposed by a self-directed semi-independent agency. (§2001.0045(c)(8))

### Public Comment

Written comments may be submitted to J. Randel (Jerry) Hill, General Counsel, Texas State Board of Public Accountancy, 333 Guadalupe, Tower 3, Suite 900, Austin, Texas 78701 or faxed to his attention at (512) 305-7854, no later than noon on November 5, 2018.

The Board specifically invites comments from the public on the issues of whether or not the proposed amendment will have an adverse economic effect on small businesses; if the proposed rule is believed to have an adverse effect on small businesses, estimate the number of small businesses believed to be impacted by the rule, describe and estimate the economic impact of the rule on small businesses, offer alternative methods of achieving the purpose of the rule; then explain how the Board may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rule is to be adopted; and finally, describe how the health, safety, environmental and economic welfare of the state will be impacted by the various proposed methods. See Texas Government Code, §2006.002(c).

### Statutory Authority

The amendment is proposed under the Public Accountancy Act ("Act"), Texas Occupations Code, §901.151 which authorizes the Board to adopt rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by this proposed amendment.

### §521.9. Certificate Fee.

(a) The fee for the initial issuance of a CPA certificate pursuant to the Act will be established by the board.

(b) A military service member or military veteran who is eligible for the issuance of the CPA certificate is exempt from this fee.

(c) The exemption from the certificate fee must be evidenced by an active ID, state-issued driver's license with a veteran designation or DD214.

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

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General Counsel

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For further information, please call: (512) 305-7842



## 22 TAC §521.12

The Texas State Board of Public Accountancy (Board) proposes an amendment to §521.12, concerning Filing Fee.

#### Background, Justification and Summary

The amendment to §521.12 exempts military service members and military veterans from the initial filing of the application of intent fee and exempts military service members and their spouses and military veterans who hold a current license from a substantially equivalent jurisdiction from the initial filing fee.

#### Fiscal Note

William Treacy, Executive Director of the Board, has determined that for the first five-year period the proposed amendment is in effect, there will be no additional estimated cost to the state, no estimated reduction in costs to the state and to local governments, and no estimated loss or increase in revenue to the state, as a result of enforcing or administering the amendment.

#### Public Benefit

The adoption of the proposed amendment will make military service members and military veterans aware of their exemption from the fee for certification in return for their service to their country.

#### Probable Economic Cost and Local Employment Impact

Mr. Treacy, Executive Director, has determined that there will be no probable economic cost to persons required to comply with the amendment, and a Local Employment Impact Statement is not required because the proposed amendment will not affect a local economy.

#### Small Business, Rural Community and Micro-Business Impact Analysis

William Treacy, Executive Director, has determined that the proposed amendment will not have an adverse economic effect on small businesses, rural communities or micro-businesses because the amendment does not impose any duties or obligations upon small businesses, rural communities or micro-businesses; therefore, an Economic Impact Statement and a Regulatory Flexibility Analysis are not required.

#### Government Growth Impact Statement

William Treacy, Executive Director, has determined that for the first five-year period the amendment is in effect, the proposed rule: does not create or eliminate a government program; does not create or eliminate employee positions; does not increase or decrease future legislative appropriations to the Board; does not increase or decrease fees paid to the Board; does not create a new regulation; does not expand, limit or repeal an existing regulation; does not increase or decrease the number of individuals subject to the proposed rule's applicability; and does not positively or adversely affect the state's economy.

#### Takings Impact Assessment

No takings impact assessment is necessary because there is no proposed use of private real property as a result of the proposed rule revision.

The requirement related to a rule increasing costs to regulated persons does not apply to the Texas State Board of Public Accountancy because the rule is being proposed by a self-directed semi-independent agency. (§2001.0045(c)(8))

#### Public Comment

Written comments may be submitted to J. Randel (Jerry) Hill, General Counsel, Texas State Board of Public Accountancy, 333 Guadalupe, Tower 3, Suite 900, Austin, Texas 78701 or faxed to his attention at (512) 305-7854, no later than noon on November 5, 2018.

The Board specifically invites comments from the public on the issues of whether or not the proposed amendment will have an adverse economic effect on small businesses; if the proposed rule is believed to have an adverse effect on small businesses, estimate the number of small businesses believed to be impacted by the rule, describe and estimate the economic impact of the rule on small businesses, offer alternative methods of achieving the purpose of the rule; then explain how the Board may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rule is to be adopted; and finally, describe how the health, safety, environmental and economic welfare of the state will be impacted by the various proposed methods. See Texas Government Code, §2006.002(c).

#### Statutory Authority

The amendment is proposed under the Public Accountancy Act ("Act"), Texas Occupations Code, §901.151 which authorizes the Board to adopt rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by this proposed amendment.

#### §521.12. Filing Fee.

(a) The filing fee for the initial filing of the application of intent to take the UCPAE will be established by the board. This is a non-refundable fee.

(b) A military service member or military veteran, who qualifies to take the UCPAE, is exempt from the initial filing of the application of intent fee.

(c) A military service member, military veteran, or military spouse who holds a current license by a substantially equivalent jurisdiction is exempt from the initial filing fee.

(d) The exemption from the initial filing fee must be evidenced by an active ID, dependent ID, state-issued driver's license with a veteran designation or DD214.

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

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TRD-201804110

J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

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For further information, please call: (512) 305-7842



#### 22 TAC §521.14

The Texas State Board of Public Accountancy (Board) proposes an amendment to §521.14, concerning Eligibility Fee.

Background, Justification and Summary

The amendment to §521.14 makes military service members and military veterans exempt from the eligibility fee required to take the CPA exam.

#### Fiscal Note

William Treacy, Executive Director of the Board, has determined that for the first five-year period the proposed amendment is in effect, there will be no additional estimated cost to the state, no estimated reduction in costs to the state and to local governments, and no estimated loss or increase in revenue to the state, as a result of enforcing or administering the amendment.

#### Public Benefit

The adoption of the proposed amendment will be to make military service members and military veterans aware of their exemption from the eligibility fee required for the taking of the CPA exam.

#### Probable Economic Cost and Local Employment Impact

Mr. Treacy, Executive Director, has determined that there will be no probable economic cost to persons required to comply with the amendment, and a Local Employment Impact Statement is not required because the proposed amendment will not affect a local economy.

#### Small Business, Rural Community and Micro-Business Impact Analysis

William Treacy, Executive Director, has determined that the proposed amendment will not have an adverse economic effect on small businesses, rural communities or micro-businesses because the amendment does not impose any duties or obligations upon small businesses, rural communities or micro-businesses; therefore, an Economic Impact Statement and a Regulatory Flexibility Analysis are not required.

#### Government Growth Impact Statement

William Treacy, Executive Director, has determined that for the first five-year period the amendment is in effect, the proposed rule: does not create or eliminate a government program; does not create or eliminate employee positions; does not increase or decrease future legislative appropriations to the Board; does not increase or decrease fees paid to the Board; does not create a new regulation; does not expand, limit or repeal an existing regulation; does not increase or decrease the number of individuals subject to the proposed rule's applicability; and does not positively or adversely affect the state's economy.

#### Takings Impact Assessment

No takings impact assessment is necessary because there is no proposed use of private real property as a result of the proposed rule revision.

The requirement related to a rule increasing costs to regulated persons does not apply to the Texas State Board of Public Accountancy because the rule is being proposed by a self-directed semi-independent agency. (§2001.0045(c)(8))

#### Public Comment

Written comments may be submitted to J. Randel (Jerry) Hill, General Counsel, Texas State Board of Public Accountancy, 333 Guadalupe, Tower 3, Suite 900, Austin, Texas 78701 or faxed to

his attention at (512) 305-7854, no later than noon on November 5, 2018.

The Board specifically invites comments from the public on the issues of whether or not the proposed amendment will have an adverse economic effect on small businesses; if the proposed rule is believed to have an adverse effect on small businesses, estimate the number of small businesses believed to be impacted by the rule, describe and estimate the economic impact of the rule on small businesses, offer alternative methods of achieving the purpose of the rule; then explain how the Board may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rule is to be adopted; and finally describe how the health, safety, environmental and economic welfare of the state will be impacted by the various proposed methods. See Texas Government Code, §2006.002(c).

#### Statutory Authority

The amendment is proposed under the Public Accountancy Act ("Act"), Texas Occupations Code, §901.151 which authorizes the Board to adopt rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by this proposed amendment.

#### §521.14. Eligibility Fee.

(a) The board shall determine the UCPAE eligibility fee for each section for which an applicant is eligible and applies.

- (1) Auditing and Attestation
- (2) Financial Accounting and Reporting
- (3) Regulation
- (4) Business Environment and Concepts

(b) The eligibility fee shall be paid to the Texas State Board of Public Accountancy. This is a non-refundable fee.

(c) The eligibility fee may be paid electronically through the Texas Online system and applicable processing fees for the use of this service will be added to the total fee paid.

(d) Upon receipt by the board of an incomplete application, an applicant has 180 days to complete the application. If the application is not completed within that time, the application is terminated, the eligibility fee is forfeited and the applicant must file a new application and pay a new eligibility fee to continue with the examination process.

(e) The fee paid shall be valid for 90 days after the board determines that an applicant is eligible for a section of the UCPAE. The board may extend the 90-day eligibility to accommodate the psychometric evaluation and performance of test questions by the test provider.

(f) A military service member or military veteran who is eligible to take the UCPAE is exempt from the eligibility fee.

(g) The exemption from the eligibility fee must be evidenced by an active ID, state-issued driver's license with a veteran designation or DD214.

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

Filed with the Office of the Secretary of State on September 20, 2018.

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J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

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For further information, please call: (512) 305-7842



## CHAPTER 523. CONTINUING PROFESSIONAL EDUCATION

### SUBCHAPTER B. CONTINUING PROFESSIONAL EDUCATION RULES FOR INDIVIDUALS

#### 22 TAC §523.113

The Texas State Board of Public Accountancy (Board) proposes an amendment to §523.113, concerning Exemptions from CPE.

#### Background, Justification and Summary

The amendment to §523.113 revises the rule to use the term "military service member" in order to be consistent with the term used in Chapter 55 of the Texas Occupations Code and the Board's rules.

#### Fiscal Note

William Treacy, Executive Director of the Board, has determined that for the first five-year period the proposed amendment is in effect, there will be no additional estimated cost to the state, no estimated reduction in costs to the state and to local governments, and no estimated loss or increase in revenue to the state, as a result of enforcing or administering the amendment.

#### Public Benefit

The adoption of the proposed amendment will be to clarify that the rule applies to military service members as that term is defined by Chapter 55 of the Texas Occupations Code and the Board's rules.

#### Probable Economic Cost and Local Employment Impact

Mr. Treacy, Executive Director, has determined that there will be no probable economic cost to persons required to comply with the amendment and a Local Employment Impact Statement is not required because the proposed amendment will not affect a local economy.

#### Small Business, Rural Community and Micro-Business Impact Analysis

William Treacy, Executive Director, has determined that the proposed amendment will not have an adverse economic effect on small businesses, rural communities or micro-businesses because the amendment does not impose any duties or obligations upon small businesses, rural communities or micro-businesses; therefore, an Economic Impact Statement and a Regulatory Flexibility Analysis is not required.

#### Government Growth Impact Statement

William Treacy, Executive Director, has determined that for the first five-year period the amendment is in effect, the proposed

rule: does not create or eliminate a government program; does not create or eliminate employee positions; does not increase or decrease future legislative appropriations to the Board; does not increase or decrease fees paid to the Board; does not create a new regulation; does not expand, limit or repeal an existing regulation; does not increase or decrease the number of individuals subject to the proposed rule's applicability; and does not positively or adversely affect the state's economy.

#### Takings Impact Assessment

No takings impact assessment is necessary because there is no proposed use of private real property as a result of the proposed rule revision.

The requirement related to a rule increasing costs to regulated persons does not apply to the Texas State Board of Public Accountancy because the rule is being proposed by a self-directed semi-independent agency. (§2001.0045(c)(8))

#### Public Comment

Written comments may be submitted to J. Randel (Jerry) Hill, General Counsel, Texas State Board of Public Accountancy, 333 Guadalupe, Tower 3, Suite 900, Austin, Texas 78701 or faxed to his attention at (512) 305-7854, no later than noon on November 5, 2018.

The Board specifically invites comments from the public on the issues of whether or not the proposed amendment will have an adverse economic effect on small businesses; if the proposed rule is believed to have an adverse effect on small businesses, estimate the number of small businesses believed to be impacted by the rule, describe and estimate the economic impact of the rule on small businesses, offer alternative methods of achieving the purpose of the rule; then explain how the Board may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rule is to be adopted; and finally, describe how the health, safety, environmental and economic welfare of the state will be impacted by the various proposed methods. See Texas Government Code, §2006.002(c).

#### Statutory Authority

The amendment is proposed under the Public Accountancy Act ("Act"), Texas Occupations Code, §901.151 which authorizes the Board to adopt rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by this proposed amendment.

#### §523.113. Exemptions from CPE.

The board shall not issue or renew a license to an individual who has not earned the required CPE credits unless an exemption has been granted by the board.

(1) The board may consider granting an exemption from the CPE requirement during the period for which the exemption is requested on a case-by-case basis if:

(A) a licensee completes and forwards to the board an affidavit indicating that the licensee is not employed; or

(B) a licensee completes and forwards to the board an affidavit indicating no association with accounting. The affidavit shall include, as a minimum, a brief description of the duties performed, job title, and verification by the licensee's immediate supervisor. For purposes of this section, the term "association with accounting" shall include the following:

(i) working, providing oversight of accounting, or supervising work performed in the areas of financial accounting and reporting; tax compliance, planning or advice; management advisory services; accounting information systems; treasury, finance, or audit; or

(ii) representing to the public, including an employer, that the licensee is a CPA or public accountant in connection with the sale of any services or products involving professional accounting services as defined in the Rules of Professional Conduct, §501.52(22) of this title (relating to Definitions), including such designation on a business card, letterhead, proxy statement, promotional brochure, advertisement, or office; or

(iii) offering testimony in a court of law purporting to have expertise in accounting and reporting, auditing, tax, or management services; or

(iv) providing instruction in accounting courses; or

(v) for purposes of making a determination as to whether the licensee fits one of the categories listed in this clause and clauses (i) - (iv) of this subparagraph, the questions shall be resolved in favor of including the work as having an association with accounting.

(C) a licensee not residing in Texas, who submits an affidavit to the board that the licensee does not serve Texas clients from out of state;

(D) a licensee shows reasons of health, certified by a medical doctor, that prevent compliance with the CPE requirement. A licensee must petition the board for the exemption and provide documentation that clearly establishes the period of disability and the resulting physical limitations;

(E) a licensee who is a military service member [~~an active military duty~~] during the period for which the exemption is requested, and files a copy of orders to active military duty with the board; or

(F) a licensee shows reason which prevents compliance that is acceptable to the board.

(2) A licensee who has been granted the retired or disability status under §515.8 of this title (relating to Retired or Disability Status) is not required to report any CPE credits.

(3) A licensee who no longer meets the eligibility requirements for an exemption under this section or no longer qualifies for retired or disability status under §515.8 of this title shall be required to report sufficient CPE credits to be in compliance with §523.112 of this chapter (relating to Required CPE Participation). CPE credits shall be earned in the technical area as described in §523.102 of this chapter (relating to CPE Purpose and Definitions) and §523.130 of this chapter (relating to Ethics Course 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.

Filed with the Office of the Secretary of State on September 20, 2018.

TRD-201804112

J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

Earliest possible date of adoption: November 4, 2018

For further information, please call: (512) 305-7842

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**PART 24. TEXAS BOARD OF  
VETERINARY MEDICAL EXAMINERS**

**CHAPTER 573. RULES OF PROFESSIONAL  
CONDUCT**

**SUBCHAPTER C. RESPONSIBILITIES TO  
CLIENTS**

**22 TAC §573.28**

The Texas Board of Veterinary Medical Examiners (Board) proposes this amendment to §573.28, concerning Observance of Confidentiality.

The purpose of the proposed amendment is to permit veterinarians to disclose information concerning the relationship between the veterinarian and a client or the veterinarian's care for an animal in certain situations that promote the public welfare.

First, the amendment would permit disclosure of information for law enforcement purposes. Currently, veterinarians may disclose information on receipt of a court order or subpoena. This amendment would expand this exception to allow disclosure to law enforcement personnel when it is not practical to obtain a court order or subpoena.

Second, the amendment would permit disclosure of information as part of a good faith effort to determine ownership of an animal. For example, the amendment would permit a veterinarian to scan a recently-found animal for a microchip and contact the registered owner.

*Fiscal Note*

John Helenberg, Executive Director, has determined that for each year of the first five years that the rule is in effect, there are no anticipated increases or reductions in costs to the state and local governments as a result of enforcing or administering the rule.

Mr. Helenberg has also determined that for each year of the first five years that the rule is in effect, there is no anticipated impact in revenue to state government as a result of enforcing or administering the rule.

*Public Benefit and Cost Note*

Mr. Helenberg has also determined that for each year of the first five years the rule is in effect, the anticipated public benefit will be that veterinarians have clear guidance on when they may disclose otherwise confidential information. Permitting veterinarians to disclose information for law enforcement purposes will promote public safety. Permitting veterinarians to disclose information as part of a good faith effort to determine ownership of an animal will promote reunification of lost or stolen animals with their rightful owners.

*Local Employment Impact Statement*

Mr. Helenberg has determined that the rule will have no impact on local employment or a local economy. Thus, the board is not required to prepare a local employment impact statement pursuant to §2001.022, Government Code.

*Economic Impact Statement and Regulatory Flexibility Analysis*



Mr. Helenberg has determined that there are no anticipated adverse economic effects on small business, micro-businesses, or rural communities as a result of the rule. Thus, the Board is not required to prepare an economic impact statement or a regulatory flexibility analysis pursuant to §2006.002, Government Code.

#### *Takings Impact Assessment*

Mr. Helenberg has determined that there are no private real property interests affected by the rule. Thus, the board is not required to prepare a takings impact assessment pursuant to §2007.043, Government Code.

#### *Government Growth Impact Statement*

For the first five years that the rule would be in effect, it is estimated that: the proposed rule would not create or eliminate a government program; implementation of the proposed rule would not require the creation of new employee positions or the elimination of existing employee positions; implementation of the proposed rule would not require an increase or decrease in future legislative appropriations to the agency; the proposed rule would not require an increase in the fees paid to the agency; the proposed rule would not create a new regulation; the proposed rule would not expand, limit, or repeal an existing regulation; the proposed rule would not increase or decrease the number of individuals subject to the rule's applicability; and the proposed rule would not positively or adversely affect the state's economy.

#### *Request for Public Comments*

The Texas Board of Veterinary Medical Examiners invites comments on the proposed amendment to the rule from any interested persons, including any member of the public. A written statement should be mailed or delivered to Valerie Mitchell, Texas Board of Veterinary Medical Examiners, 333 Guadalupe, Ste. 3-810, Austin, Texas 78701-3942, by facsimile (FAX) to (512) 305-7574, or by email to [Valerie.mitchell@veterinary.texas.gov](mailto:Valerie.mitchell@veterinary.texas.gov). Comments will be accepted for 30 days following publication in the *Texas Register*. Comments must be received within 30 days after publication of this proposal in order to be considered.

#### *Statutory Authority*

The rule is proposed under the authority of §801.151(a), Occupations Code, which states that the Board may adopt rules necessary to administer the chapter.

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

#### *§573.28. Observance of Confidentiality.*

(a) (No Change.)

(b) Except as provided in subsection (c) of this section, a veterinarian shall not disclose any information concerning the relationship between the veterinarian and the client or the veterinarian's care for an animal except:

(1) on written or oral authorization or other form of waiver executed by the client;

(2) for law enforcement purposes or on receipt by the veterinarian of an appropriate court order or subpoena; [or]

(3) as necessary to substantiate and collect on a debt incurred by a client for veterinary services; or[-]

(4) as part of a good faith effort to determine ownership of the animal.

(c) (No Change.)

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

Filed with the Office of the Secretary of State on September 21, 2018.

TRD-201804116

John Helenberg  
Executive Director

Texas Board of Veterinary Medical Examiners

Earliest possible date of adoption: November 4, 2018

For further information, please call: (512) 305-7573



## SUBCHAPTER E. PRESCRIBING AND/OR DISPENSING MEDICATION

### **22 TAC §573.44**

The Texas Board of Veterinary Medical Examiners (Board) proposes this amendment to §573.44, concerning Compounding Drugs.

The purpose of the proposed amendment is to clarify that veterinarians may administer and dispense compounded drugs in addition to prescribing compounded drugs. The amendment does not change current application or interpretation of the rule.

#### *Fiscal Note*

John Helenberg, Executive Director, has determined that for each year of the first five years that the rule is in effect, there are no anticipated increases or reductions in costs to the state and local governments as a result of enforcing or administering the rule.

Mr. Helenberg has also determined that for each year of the first five years that the rule is in effect, there is no anticipated impact in revenue to state government as a result of enforcing or administering the rule.

#### *Public Benefit and Cost Note*

Mr. Helenberg has also determined that for each year of the first five years the rule is in effect, the anticipated public benefit will be that the rule clarifies that veterinarians may administer and dispense compounded drugs.

#### *Local Employment Impact Statement*

Mr. Helenberg has determined that the rule will have no impact on local employment or a local economy. Thus, the board is not required to prepare a local employment impact statement pursuant to §2001.022, Government Code.

#### *Economic Impact Statement and Regulatory Flexibility Analysis*

Mr. Helenberg has determined that there are no anticipated adverse economic effects on small business, micro-businesses, or rural communities as a result of the rule. Thus, the Board is not required to prepare an economic impact statement or a regulatory flexibility analysis pursuant to §2006.002, Government Code.

#### *Takings Impact Assessment*

Mr. Helenberg has determined that there are no private real property interests affected by the rule. Thus, the board is not required to prepare a takings impact assessment pursuant to §2007.043, Government Code.

#### Government Growth Impact Statement

For the first five years that the rule would be in effect, it is estimated that; the proposed rule would not create or eliminate a government program; implementation of the proposed rule would not require the creation of new employee positions or the elimination of existing employee positions; implementation of the proposed rule would not require an increase or decrease in future legislative appropriations to the agency; the proposed rule would not require an increase in the fees paid to the agency; the proposed rule would not create a new regulation; the proposed rule would not expand, limit, or repeal an existing regulation; the proposed rule would not increase or decrease the number of individuals subject to the rule's applicability; and the proposed rule would not positively or adversely affect the state's economy.

#### Request for Public Comments

The Texas Board of Veterinary Medical Examiners invites comments on the proposed amendment to the rule from any interested persons, including any member of the public. A written statement should be mailed or delivered to Valerie Mitchell, Texas Board of Veterinary Medical Examiners, 333 Guadalupe, Ste. 3-810, Austin, Texas 78701-3942, by facsimile (FAX) to (512) 305-7574, or by email to [valerie.mitchell@veterinary.texas.gov](mailto:valerie.mitchell@veterinary.texas.gov). Comments will be accepted for 30 days following publication in the *Texas Register*. Comments must be received within 30 days after publication of this proposal in order to be considered.

#### Statutory Authority

The rule is proposed under the authority of §801.151(a), Occupations Code, which states that the Board may adopt rules necessary to administer the chapter.

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

#### §573.44. *Compounding Drugs.*

(a) (No Change.)

(b) A veterinarian may only prescribe, administer, or dispense compounded drugs to treat a specific occurrence of a disease or condition, which threatens the health of the animal or will cause suffering or death if left untreated, that the veterinarian has observed and diagnosed in the particular patient for whom the compounded drugs are prescribed is intended. The amount of a drug that a veterinarian compounds or orders compounded for dispensing or office use must not exceed the established need for specific compounded drugs for patients with which the veterinarian has established and maintained a valid veterinarian-client-patient relationship.

(c) - (f) (No Change.)

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

Filed with the Office of the Secretary of State on September 21, 2018.

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John Helenberg  
Executive Director  
Texas Board of Veterinary Medical Examiners  
Earliest possible date of adoption: November 4, 2018  
For further information, please call: (512) 305-7573

## CHAPTER 575. PRACTICE AND PROCEDURE

### 22 TAC §575.281

The Texas Board of Veterinary Medical Examiners (Board) proposes the repeal of §575.281, concerning Complaints--Appeals.

This repeal is necessary because the Board is simultaneously proposing a new section for adoption that allows a complainant to request that an investigation be reopened by submitting new information. The proposed new §575.281 is being published elsewhere in this issue of the *Texas Register*. The repeal is also necessary because the legislature amended the Veterinary Licensing Act in 2017 to require that all complaint dismissals be approved by the Board. Accordingly, the existing appeal process provided by the rule is duplicative.

#### *Fiscal Note*

John Helenberg, Executive Director, has determined that for each year of the first five years that the proposed repeal is in effect, there are no anticipated increases or reductions in costs to the state and local governments as a result of the proposed repeal.

Mr. Helenberg has also determined that for each year of the first five years that the proposed repeal is in effect, there is no anticipated impact in revenue to state government as a result of the proposed repeal.

#### *Public Benefit and Cost Note*

Mr. Helenberg has also determined that for each year of the first five years the proposed repeal is in effect, the anticipated public benefit will be the repeal of an unnecessary, duplicative appeals process. There are no anticipated economic costs to persons required to comply with the proposed repeal.

#### *Local Employment Impact Statement*

Mr. Helenberg has determined that the proposed repeal will have no impact on local employment or a local economy. Thus, the board is not required to prepare a local employment impact statement pursuant to §2001.022, Government Code.

#### *Economic Impact Statement and Regulatory Flexibility Analysis*

Mr. Helenberg has determined that there are no anticipated adverse economic effects on small businesses, micro-businesses or rural communities as a result of the proposed repeal. Thus, the Board is not required to prepare an economic impact statement or a regulatory flexibility analysis pursuant to §2006.002, Government Code.

#### *Takings Impact Assessment*

Mr. Helenberg has determined that there are no private real property interests affected by the proposed repeal. Thus, the board is not required to prepare a takings impact assessment pursuant to §2007.043, Government Code.

#### *Government Growth Impact Statement*

For the first five years that the repeal of the rule would be in effect, it is estimated that: the proposed repeal would not create or eliminate a government program; implementation of the proposed repeal would not require the creation of new employee positions or the elimination of existing employee positions; implementation of the proposed repeal would not require an increase or decrease in future legislative appropriations to the agency; the proposed repeal would not require an increase in the fees paid to the agency; the proposed repeal would not create a new regulation; the proposed repeal would not expand, limit, or repeal an existing regulation; the proposed repeal would not increase or decrease the number of individuals subject to the rule's applicability; and the proposed repeal would not positively or adversely affect the state's economy.

#### *Request for Public Comments*

The Texas Board of Veterinary Medical Examiners invites comments on the proposed repeal of the rule from any interested persons, including any member of the public. A written statement should be mailed or delivered to Valerie Mitchell, Texas Board of Veterinary Medical Examiners, 333 Guadalupe, Ste. 3-810, Austin, Texas 78701-3942, by facsimile (FAX) to (512) 305-7574, or by e-mail to [Valerie.mitchell@veterinary.texas.gov](mailto:Valerie.mitchell@veterinary.texas.gov). Comments will be accepted for 30 days following publication in the *Texas Register*. Comments must be received within 30 days after publication of this proposal in order to be considered.

#### *Statutory Authority*

The repeal is proposed under the authority of the Veterinary Licensing Act, Texas Occupations Code, §801.151(a), which states that the Board may adopt rules necessary to administer the chapter.

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

#### *§575.281. Complaints--Appeals.*

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

Filed with the Office of the Secretary of State on September 21, 2018.

TRD-201804118

John Helenberg

Executive Director

Texas Board of Veterinary Medical Examiners

Earliest possible date of adoption: November 4, 2018

For further information, please call: (512) 305-7573



## **22 TAC §575.281**

The Texas Board of Veterinary Medical Examiners (Board) proposes this new §575.281, concerning Complaints--Request to Reopen Investigation, simultaneously with the proposed repeal of current §575.281. The proposed repeal of current §575.281 is being published elsewhere in this issue of the *Texas Register*.

#### *Overview*

The purpose of the proposed new rule is to allow a complainant to request that an investigation be reopened by submitting new information. To prevent repeated investigations into the same matter, the information must be information that was not previously considered and could not have been obtained during the

initial investigation. Board staff will evaluate new information to determine if additional investigation is warranted and may then take appropriate action.

#### *Fiscal Note*

John Helenberg, Executive Director, has determined that for each year of the first five years that the rule is in effect, there are no anticipated increases or reductions in costs to the state and local governments as a result of enforcing or administering the rule.

Mr. Helenberg has also determined that for each year of the first five years that the rule is in effect, there is no anticipated impact in revenue to state government as a result of enforcing or administering the rule.

#### *Public Benefit and Cost Note*

Mr. Helenberg has also determined that for each year of the first five years the rule is in effect, the anticipated public benefit will be that complainants may request that investigations be reopened when appropriate. There are no anticipated economic costs to persons required to comply with the rule.

#### *Local Employment Impact Statement*

Mr. Helenberg has determined that the rule will have no impact on local employment or a local economy. Thus, the board is not required to prepare a local employment impact statement pursuant to §2001.022, Government Code.

#### *Economic Impact Statement and Regulatory Flexibility Analysis*

Mr. Helenberg has determined that there are no anticipated adverse economic effects on small business, micro-businesses or rural communities as a result of the proposed repeal. Thus, the Board is not required to prepare an economic impact statement or a regulatory flexibility analysis pursuant to §2006.002, Government Code.

#### *Takings Impact Assessment*

Mr. Helenberg has determined that there are no private real property interests affected by the rule. Thus, the board is not required to prepare a takings impact assessment pursuant to §2007.043, Government Code.

#### *Government Growth Impact Statement*

For the first five years that the rule would be in effect, it is estimated that: the proposed rule would not create or eliminate a government program; implementation of the proposed rule would not require the creation of new employee positions or the elimination of existing employee positions; implementation of the proposed rule would not require an increase or decrease in future legislative appropriations to the agency; the proposed rule would not require an increase in the fees paid to the agency; the proposed rule would not create a new regulation; the proposed rule would not expand, limit, or repeal an existing regulation; the proposed rule would not increase or decrease the number of individuals subject to the rule's applicability; and the proposed rule would not positively or adversely affect the state's economy.

#### *Request for Public Comments*

The Texas Board of Veterinary Medical Examiners invites comments on the proposed new rule from any interested persons, including any member of the public. A written statement should be mailed or delivered to Elaine Crease, Texas Board of Veterinary Medical Examiners, 333 Guadalupe, Ste. 3-810, Austin, Texas 78701-3942, by facsimile (FAX) to (512) 305-7574, or by email

to [vet.board@tbvme.state.tx.us](mailto:vet.board@tbvme.state.tx.us). Comments will be accepted for 30 days following publication in the *Texas Register*. Comments must be received within 30 days after publication of this proposal in order to be considered.

#### Statutory Authority

The rule is proposed under the authority of §801.151(a), Occupations Code, which states that the Board may adopt rules necessary to administer the chapter, and the authority of §801.205, Occupations Code, which states that the Board shall adopt rules which ensure that complaints are not dismissed without appropriate consideration.

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

#### §575.281. *Complaints--Request to Reopen Investigation.*

A complainant may request that an investigation be reopened by submitting to the Board information that has not previously been considered and could not have been obtained at the time of the initial investigation. Board staff may determine whether additional investigation is warranted.

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

Filed with the Office of the Secretary of State on September 21, 2018.

TRD-201804119

John Helenberg

Executive Director

Texas Board of Veterinary Medical Examiners

Earliest possible date of adoption: November 4, 2018

For further information, please call: (512) 305-7573



## TITLE 34. PUBLIC FINANCE

### PART 1. COMPTROLLER OF PUBLIC ACCOUNTS

#### CHAPTER 5. FUNDS MANAGEMENT (FISCAL AFFAIRS)

##### SUBCHAPTER A. DEFINITIONS

###### 34 TAC §5.1

The Comptroller of Public Accounts proposes amendments to §5.1 concerning definitions and an amendment to the title of Subchapter A. These amendments update the definitions of "comptroller" and "payroll period", and make it easier for users of Chapter 5 to find and use the definitions that apply to the entire chapter.

The amendment to §5.1 updates the definition of comptroller in paragraph (1) to make it the same as the definition of this term used in other sections of Chapter 5; adds "pay period" to the definition of "payroll period" in paragraph (3) because these terms have the same meaning and are used interchangeably throughout Chapter 5; and deletes the definition of "state pay warrant" in paragraph (4) because the term is being removed from this chapter in a separate proposal.

The amendment to the title of Subchapter A changes the title from "Judiciary Department Procedures" to "Definitions" to make it easier for users of Chapter 5 to find and use the definitions listed in Subchapter A, which apply to the entire chapter.

Tom Currah, Chief Revenue Estimator, has determined that during the first five years that the proposal is in effect, the rule: 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 the agency; will not require an increase or decrease in fees paid to the agency; will not increase or decrease the number of individuals subject to the rules applicability; and will not positively or adversely affect this state's economy. This proposal amends an existing rule.

Mr. Currah also has determined that the proposal would have no fiscal impact on small businesses or rural communities. The rule would have no fiscal impact on the state government, units of local government, or individuals. The proposed amendment would benefit the public by improving searches within the article. There would be no anticipated economic cost to the public.

Comments on the proposal may be submitted to Rob Coleman, Director, Fiscal Management Division, at [rob.coleman@cpa.texas.gov](mailto:rob.coleman@cpa.texas.gov) or at P.O. Box 13528 Austin, Texas 78711. Comments must be received no later than 30 days from the date of publication of the proposal in the *Texas Register*.

The section is proposed under Government Code, §2101.035(a), which authorizes the comptroller to adopt rules for the effective operation of the uniform statewide accounting system (USAS).

This section implements Government Code, §2101.035, concerning administration of USAS.

#### §5.1. *Definitions.*

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

(1) Comptroller--The Comptroller of Public Accounts for [comptroller of public accounts of] the State of Texas.

(2) Designated headquarters--The city limits of the town in which a person's headquarters are located.

(3) Payroll period or pay period--Designates the time period for which full-time state employees receive payment for services to the state.

~~(4) State pay warrant--A warrant issued by the comptroller payable at the treasury for services rendered to the state.~~

(4) ~~(5)~~ Transportation network company--An entity that uses a digital network service to connect people to transportation services provided by a transportation network driver.

(5) ~~(6)~~ Transportation network driver--A person who uses a personal vehicle to participate with a transportation network company to provide prearranged transportation services to people for pay.

(6) ~~(7)~~ Travel voucher--An accounting document used to implement payment to state officials and employees for travel expenses incurred in the discharge of state business.

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

Filed with the Office of the Secretary of State on September 18, 2018.

TRD-201804052

Victoria North

Chief Counsel, Fiscal and Agency Affairs Legal Services Division  
Comptroller of Public Accounts

Earliest possible date of adoption: November 4, 2018

For further information, please call: (512) 475-0387



### 34 TAC §§5.2 - 5.4, 5.6 - 5.8

The Comptroller of Public Accounts proposes the repeal of §5.2, concerning salary affidavits: district attorneys, criminal district attorneys, and state paid county attorneys; §5.3, concerning salary affidavits: district judges, criminal district judges and judges of court of civil appeals; §5.4, concerning claims for additional compensation for active, retired, and former district judges; §5.6, concerning travel and expense accounts of district judges and district attorneys; §5.7, concerning witness fees; and §5.8, concerning payroll procedures: district judges, criminal district judges, district attorneys, and criminal district attorneys.

This proposal removes §§5.2 - 5.8 from Subchapter A, leaving in that subchapter only §5.1, which contains definitions that apply to the entire chapter. In a separate proposal, the language of §§5.2 - 5.8 will be moved to new Subchapter R, concerning judiciary department procedures. The title of Subchapter A will also be changed from "Judicial Department Procedures" to "Definitions" to reflect the contents of this subchapter. The current proposal will make it easier for users of Chapter 5 to find and use the definitions in Subchapter A that apply to the entire chapter.

Tom Currah, Chief Revenue Estimator, has determined that during the first five years that the proposal rule repeals are in effect, the repeals: 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 the agency; will not require an increase or decrease in fees paid to the agency; will not increase or decrease the number of individuals subject to the rules' applicability; and will not positively or adversely affect this state's economy. This proposal repeals existing rules.

Mr. Currah also has determined that the repeals would have no significant fiscal impact on small businesses or rural communities. The rule would have no significant fiscal impact on the state government, units of local government, or individuals. The proposed repeals would benefit the public by clarifying the location of the definitions used for all of Chapter 5. There would be no anticipated significant economic cost to the public.

Comments on the proposal may be submitted to Rob Coleman, Director, Fiscal Management Division, at rob.coleman@cpa.texas.gov or at P.O. Box 13528, Austin, Texas 78711. Comments must be received no later than 30 days from the date of publication of the proposal in the *Texas Register*.

The repeals are proposed under Government Code, §660.021, which authorizes the comptroller to adopt rules relating to the administration of travel provisions for the State of Texas, and Government Code, §2101.035(a), which authorizes the comptroller to adopt rules for the effective operation of the uniform statewide accounting system (USAS).

The repeals implement Code of Criminal Procedure, Article 35.27, concerning reimbursement of nonresident witnesses; Government Code, §24.006, concerning salary of special judge; Government Code, §24.019, concerning expenses of district judge; Government Code, §32.302, concerning salary of special judges; Government Code, §41.202, concerning transfer by comptroller; Government Code, §41.203, concerning amount of transfer; Government Code, §41.258, concerning assistant prosecutor supplement fund and fair defense account; Government Code, §41.352, concerning payment for extraordinary costs of prosecution; Government Code, §43.004, concerning expenses; Government Code, §46.0031, concerning compensation of county prosecutors; Government Code, §659.012, concerning judicial salaries; Government Code, §659.0125, concerning salary for district judge or retired judge presiding over multidistrict litigation; Government Code, Chapter 660, concerning travel expenses; and Government Code, §2101.035, concerning administration of USAS.

*§5.2. Salary Affidavits: District Attorneys, Criminal District Attorneys, and State Paid County Attorneys.*

*§5.3. Salary Affidavits: District Judges, Criminal District Judges and Judges of Court of Civil Appeals.*

*§5.4. Claims for Additional Compensation for Active, Retired, and Former District Judges.*

*§5.6. Travel and Expense Accounts of District Judges and District Attorneys.*

*§5.7. Witness Fees.*

*§5.8. Payroll Procedures: District Judges, Criminal District Judges, District Attorneys, and Criminal District Attorneys.*

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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Victoria North

Chief Counsel, Fiscal and Agency Affairs Legal Services Division  
Comptroller of Public Accounts

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For further information, please call: (512) 475-0387



## SUBCHAPTER P. ENTERPRISE RESOURCE PLANNING

### 34 TAC §5.301

The Comptroller of Public Accounts proposes the repeal of §5.301, concerning enterprise resource planning advisory council.

In 2007, the legislature added Government Code, §2101.040, which requires the comptroller to establish the Council. This statute also provides that Government Code, Chapter 2110, regarding advisory committees, applies to the Council. Government Code, §2110.008(a), allows a state agency to designate by rule "the date on which an advisory committee will automatically be abolished." Pursuant to Government Code, §2101.040

and §2110.008, the comptroller adopted §5.301, which established the Council and made the Council subject to abolishment "on the fourth anniversary of its first meeting unless the comptroller acts to continue its existence." Because more than four years have elapsed since the Council's first meeting in 2008 and the comptroller has not acted to continue the Council's existence, the Council has been abolished. Therefore, §5.301 is no longer needed.

Tom Currah, Chief Revenue Estimator, has determined that during the first five years that the proposed rule repeal is in effect, the repeal: 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 the agency; will not require an increase or decrease in fees paid to the agency; will not increase or decrease the number of individuals subject to the rules' applicability; and will not positively or adversely affect this state's economy. This proposal repeals an existing rule.

Mr. Currah also has determined that the repeal would have no fiscal impact on small businesses or rural communities. The rule would have no fiscal impact on the state government, units of local government, or individuals. The proposed repeal would benefit the public by reflecting the abolishment of the Council. There would be no anticipated economic cost to the public.

Comments on the proposal may be submitted to Rob Coleman, Director, Fiscal Management Division, at [rob.coleman@cpa.texas.gov](mailto:rob.coleman@cpa.texas.gov) or at P.O. Box 13528, Austin, Texas 78711. Comments must be received no later than 30 days from the date of publication of the proposal in the *Texas Register*.

The repeal is proposed under Government Code, Chapter 2110.005, which requires a state agency that establishes an advisory committee to adopt rules that state the purpose and tasks of the committee, and describe the manner in which the committee will report to the agency.

This repeal implements Enterprise Resource Planning Advisory Council, §2101.040.

*§5.301. Enterprise Resource Planning Advisory Council.*

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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Chief Counsel, Fiscal and Agency Affairs Legal Services Division

Comptroller of Public Accounts

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For further information, please call: (512) 475-0387



## SUBCHAPTER R. JUDICIARY DEPARTMENT PROCEDURES

### 34 TAC §§5.450 - 5.455

The Comptroller of Public Accounts proposes new §5.450, concerning salary affidavits: district attorneys, criminal district attorneys, and state paid county attorneys; §5.451, concerning salary affidavits: district judges, criminal district judges and

judges of court of appeals; §5.452, concerning claims for additional compensation for active, retired, and former district judges; §5.453, concerning travel and expense accounts of district judges and district attorneys; §5.454, concerning witness fees; and §5.455, concerning payroll procedures: district judges, criminal district judges, district attorneys, and criminal district attorneys. The comptroller also proposes that this new section be located in Chapter 5, new Subchapter R, Judiciary Department Procedures.

This proposal moves the language of §§5.2 - 5.8 from Subchapter A to new Subchapter R, Judiciary Department Procedures. In a separate proposal, §§5.2 - 5.8 will be repealed from Subchapter A, leaving only §5.1 in that subchapter, which contains definitions that apply to the entire chapter. The title of Subchapter A will also be changed from "Judicial Department Procedures" to "Definitions" to reflect the contents of that subchapter. The current proposal establishes a new subchapter for the language of §§5.2 - 5.8, while making it easier for users of Chapter 5 to find and use the definitions in Subchapter A, which apply to the entire chapter.

Section 5.450 requires all district, criminal district, and county attorneys paid with state appropriations to complete a salary affidavit in order to receive a salary payment from the comptroller. This section contains the language of §5.2 of this title, except that "comptroller of public accounts" is changed to "comptroller" in subsection (a) because "comptroller" is defined in §5.1 of this title; "notary public of the State of Texas" is changed to "notary public" so that the term is used consistently throughout the chapter; "warrant" is changed to "payment" in subsections (a) and (c), and "his state pay warrant" is changed to "a salary payment" in subsection (b)(1), to clarify that a payment may be issued either in the form of a paper warrant or as an electronic funds transfer; and "shall be as follows" is deleted from subsection (b) as unnecessary.

Section 5.451 requires all the district judges, criminal district judges, and judges of courts of appeals paid with state appropriations to complete a salary affidavit in order to receive a salary payment from the comptroller. This section contains the language of §5.3 of this title, except that "comptroller of public accounts" is changed to "comptroller" in subsection (a) because "comptroller" is defined in §5.1 of this title; "court of civil appeals" is changed to "courts of appeals" in the subsection (a) and the title of the rule to update the name of the appellate courts; and "warrant" is changed to "payment" in subsections (a) and (c) to clarify that a payment may be issued either in the form of a paper warrant or as an electronic funds transfer; and "shall be as follows" is deleted from subsection (b) as unnecessary.

Section 5.452 requires an active, retired, or former district judge making a claim for additional compensation to furnish certain specified information prior to payment being made. This section contains the language of §5.4 of this title, except that "notary public of Texas" is changed to "notary public" so that the term is used consistently throughout the chapter; and "warrant" is changed to "payment" in subsection (e) to clarify that a payment may be issued either in the form of a paper warrant or as an electronic funds transfer.

Section 5.453 requires a district judge or district attorney making a travel or expense claim to furnish certain specified information prior to payment being made. This section contains the exact language of §5.6 of this title, except that "warrant" is changed to "payment" in subsection (e) to clarify that a payment may be

issued either in the form of a paper warrant or as an electronic funds transfer.

Section 5.454 requires that certain specified information be provided for processing a claim for witness fees. This section contains the exact language of §5.7 of this title, except that "warrant" is changed to "payment" in subsection (a)(1) to clarify that a payment may be issued either in the form of a paper warrant or as an electronic funds transfer; "comptroller of public accounts" is changed to "comptroller" in subsection (a)(1) because "comptroller" is defined in §5.1 of this title; "his/her" is changed to "the witness's" in subsection (a)(1)(B), (F), and (K), and "he/she" and "him/her" are changed to "the witness" in subsections (a)(1)(C), (I), and (L), to simplify the language of these subsections; and the word "and" is added to subsection (a)(1)(L) because all of the information in subsection (a)(1) is required for claim processing.

Section 5.455 sets forth payroll procedures for district judges, criminal district judges, district attorneys, and criminal district attorneys. This section contains the exact language of §5.8 of this title, except that "pay warrant" is changed to "payment" in subsection (a) to clarify that a payment may be issued either in the form of a paper warrant or as an electronic funds transfer; "his" is changed to "the judge's" and "he" is changed to "the judge" in subsection (b) to make the subsection gender neutral; "will placed" in subsection (b) is changed to "the attorney will be placed" to correct a typographical error; and "he/she" is changed to "the judge or attorney" in subsection (c) to simplify the language of the subsection.

Tom Currah, Chief Revenue Estimator, has determined that during the first five years that the proposals are in effect, the rules: 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 the agency; will not require an increase or decrease in fees paid to the agency; will not increase or decrease the number of individuals subject to the rules' applicability; and will not positively or adversely affect this state's economy. This proposal creates new rules.

Mr. Currah also has determined that the proposals would have no significant fiscal impact on small businesses or rural communities. The rules would have no significant fiscal impact on the state government, units of local government, or individuals. The proposals would benefit the public by organizing the judiciary department procedures in its own new Subchapter R. There would be no anticipated significant economic cost to the public.

Comments on the proposals may be submitted to Rob Coleman, Director, Fiscal Management Division, at rob.coleman@cpa.texas.gov or at P.O. Box 13528 Austin, Texas 78711. Comments must be received no later than 30 days from the date of publication of the proposal in the *Texas Register*.

The new sections are proposed under Government Code, §660.021, which authorizes the comptroller to adopt rules relating to the administration of travel provisions for the State of Texas, and Government Code, §2101.035(a), which authorizes the comptroller to adopt rules for the effective operation of the uniform statewide accounting system (USAS).

The new sections implement Code of Criminal Procedure, Article 35.27, concerning reimbursement of nonresident witnesses; Government Code, §24.006, concerning salary of special judge; Government Code, §24.019, concerning expenses of district judge; Government Code, §32.302, concerning salary of special judges; Government Code, §41.202, concerning transfer by

comptroller; Government Code, §41.203, concerning amount of transfer; Government Code, §41.258, concerning assistant prosecutor supplement fund and fair defense account; Government Code, §41.352, concerning payment for extraordinary costs of prosecution; Government Code, §43.004, concerning expenses; Government Code, §46.0031, concerning compensation of county prosecutors; Government Code, §659.012, concerning judicial salaries; Government Code, §659.0125, concerning salary for district judge or retired judge presiding over multidistrict litigation; Government Code, Chapter 660, concerning travel expenses; and Government Code, §2101.035, concerning administration of USAS.

*§5.450. Salary Affidavits: District Attorneys, Criminal District Attorneys, and State Paid County Attorneys.*

(a) To receive a salary payment from the comptroller, a salary affidavit must be completed by all the district, criminal district, and county attorneys paid with state appropriations stating:

(1) the amount received from sources other than state appropriated funds; and

(2) the authority by which those funds are received. The salary affidavit must be signed by the district, criminal district, or county attorney before a notary public.

(b) Time for filing.

(1) Those district, criminal district or county attorneys appointed during the fiscal year must file with the comptroller a completed salary affidavit prior to receiving a salary payment.

(2) Those district, criminal district, or county attorneys holding office at the beginning of the fiscal year or biennium must file with the comptroller a completed affidavit prior to the end of the first pay period in the new fiscal year.

(3) Each district, criminal district, or county attorney whose supplemental salary amount is changed in any way must file with the comptroller a revised salary affidavit prior to the end of the first pay period in the new fiscal year.

(c) Failure to submit the required affidavits will result in no salary payment being issued until receipt by the comptroller's office of a completed affidavit.

(d) Upon receipt of a completed salary affidavit, a copy of the affidavit will be forwarded by the comptroller's office to the secretary of state for filing.

*§5.451. Salary Affidavits: District Judges, Criminal District Judges and Judges of Courts of Appeals.*

(a) To receive a salary payment from the comptroller, a salary affidavit must be completed by all the district judges, criminal district judges, and judges of courts of appeals paid with state appropriations stating:

(1) the amount received from sources other than appropriated funds; and

(2) the authority by which those funds are received. The salary affidavit must be signed and notarized by the judge.

(b) Time for filing.

(1) Those judges appointed during the fiscal year must file with the comptroller a completed salary affidavit prior to the end of the first pay period.

(2) Those judges holding office at the beginning of the fiscal year or biennium must file with the comptroller a completed affidavit prior to the end of the first pay period in the new fiscal year.

(3) Each judge whose supplemental salary amount is changed in any way must file with the comptroller a revised salary affidavit prior to the end of the pay period in which the supplemental salary is altered.

(c) Failure to submit the required affidavits will result in a salary payment not being issued until receipt by the comptroller's office of a completed affidavit.

(d) Upon receipt of a completed salary affidavit, a copy of the affidavit will be forwarded by the comptroller's office to the secretary of state for filing.

§5.452. Claims for Additional Compensation for Active, Retired, and Former District Judges.

(a) The following information must be furnished by an active, retired, or former district judge making a claim for additional compensation prior to payment being made:

- (1) the claimant's name and county of residence;
- (2) the district court and county in which court was held;
- (3) the judge making the assignment; and
- (4) the number of days and dates which court was held.

(b) The information set forth in subsection (a) of this section, must be sworn to by the claimant before a notary public.

(c) The claim must have the approval of the presiding judge of the claimant's administrative judicial district, where required by law.

(d) To receive compensation for holding court outside the county of residence and/or district, all active, retired, and former district judges must submit a claim in accordance with Government Code, §74.061.

(e) Failure to submit a claim will result in no payment for compensation being issued.

§5.453. Travel and Expense Accounts of District Judges and District Attorneys.

(a) The following information must be furnished by a district judge or district attorney making a travel or expense claim prior to payment being made:

- (1) the claimant's name, address, title, and designated headquarters;
- (2) the dates covered by the claim;
- (3) the amount of fares for public transportation, with attached receipts;
- (4) the number of miles personally driven by the claimant;
- (5) the amount of postage expense, if any;
- (6) the amount of telephone expense, if any;
- (7) a breakdown of the meals and lodging expense for each day; and
- (8) a statement delineating the purpose of each trip.

(b) The information in subsection (a) of this section must be sworn to as to accuracy and correctness before a notary public.

(c) District judges are not permitted expenses outside their judicial district except on assignment.

(d) Allowances for the actual and necessary postage and telephone expenses incurred by district judges and district attorneys will be granted only if such expenses are incurred in the discharge of their official duties within their judicial district.

(e) If the claim presented exceeds the maximum amount appropriated by the legislature in the current appropriations act, the claim will be reduced and a payment for the reduced amount will be issued.

§5.454. Witness Fees.

(a) The following information is required for claim processing:

(1) The witness must submit the following information to the comptroller for a payment to be issued:

(A) offense charged. If a misdemeanor, it must be noted if the misdemeanor carries, as a possible punishment, a jail sentence;

(B) the witness's name and address including city, county, state, and social security number;

(C) the city/town in which the witness was subpoenaed, requested, or summoned;

(D) the county issuing the request, subpoena, or summons;

(E) the number of trips made pursuant to the subpoena, request, or summons;

(F) the number of miles driven in the witness's personal car, if any;

(G) the actual expenses incurred for public transportation, if any;

(H) a breakdown of the actual expenses for meals and lodging per day;

(I) the amount advanced to the witness by the district or criminal district attorney, the county, or sheriff;

(J) whether or not the witness is under bond;

(K) the existence of an affidavit by the witness of witness's inability to appear due to lack of funds;

(L) whether or not the witness testified in the case; and

(M) the number of years lived in county of residence.

(2) The witness must swear before a notary public that the information is correct and true.

(3) The judge of the case and the district or county clerk must indicate that the claim of the witness is correct and due, and note the date that the witness was released from further attendance upon court.

(b) Witness fee bills become due and payable after the witness is released from further court attendance.

(c) Failure to submit a witness fee bill within 12 months from the release of the witness will result in the barring of the claim forever.

§5.455. Payroll Procedures: District Judges, Criminal District Judges, District Attorneys, and Criminal District Attorneys.

(a) General. All newly elected or appointed judges and attorneys must file with the comptroller's office an IRS Form W4 indicating their social security number, marital status, and number of exemptions claimed prior to receiving their first payment.

(b) Date placed on state payroll. If the legislature is in regular session, the newly appointed judge is placed on the payroll the day the judge's appointment is confirmed by a two-thirds vote of the senate or the day the judge takes the oath of office, whichever is later. If the legislature is not in session, the newly appointed judge is placed on the payroll on the day the judge took the oath of office. Each newly elected or appointed attorney must indicate to the comptroller's office



the date the oath of office was taken and the attorney will be placed on the payroll as of that date.

(c) Judge's retirement, resignation, or acceptance of another office. When a judge or attorney retires, resigns, or accepts another office, the judge or attorney must notify the comptroller's office.

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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Victoria North

Chief Counsel, Fiscal and Agency Affairs Legal Services Division  
Comptroller of Public Accounts

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For further information, please call: (512) 475-0387



## TITLE 37. PUBLIC SAFETY AND CORRECTIONS

### PART 15. TEXAS FORENSIC SCIENCE COMMISSION

#### CHAPTER 651. DNA, CODIS, FORENSIC ANALYSIS, AND CRIME LABORATORIES SUBCHAPTER C. FORENSIC ANALYST LICENSING PROGRAM

##### 37 TAC §651.203

The Texas Forensic Science Commission ("Commission") proposes an amendment to 37 Tex. Admin. Code §651.203 related to its Forensic Analyst Licensing Program to provide an exemption for forensic analysts employed by federal laboratories. The amendment is necessary to reflect adoptions made by the Commission at its July 20, 2018, quarterly meeting. The adoptions were made in accordance with the Commission's authority under Article 38.01 §4-a(d), Code of Criminal Procedure which requires the Commission to create a forensic analyst licensing program that establishes the qualifications and term for a license and sets fees for the issuance and renewal of a license. Under §4-a(b), the Commission may establish classifications of licenses to the extent needed to ensure the availability of properly trained and qualified forensic analysts to perform activities regulated by the Commission. Because the United States Department of Justice has made clear in written communications to the Commission that the federal government will not comply with Texas forensic analyst licensing requirements, the Commission has no choice but to carve out an exception for federal analysts or risk a reduction in service by federal forensic laboratories.

**Fiscal Note.** Leigh M. Savage, Associate General Counsel of the Texas Forensic Science Commission, has determined that for each year of the first five years the proposed amendments will be in effect, the fiscal impact to state or local governments as a result of the enforcement or administration of the proposal will be neutral or positive (by avoiding the transfer of forensic analysis from the federal government to state and local entities).

There will be no anticipated effect on local employment or the local economy as a result of the proposal.

**Rural Impact Statement.** The Commission expects no adverse economic effect on rural communities as the proposed rules do not impose any direct costs on municipalities in rural communities.

**Public Benefit/Cost Note.** Leigh M. Savage, Associate General Counsel of the Texas Forensic Science Commission has also determined that for each year of the first five years the proposed amendments are in effect, the anticipated public benefit will be sufficient and accurate notification regarding the licensing status of federal analysts.

**Economic Impact Statement and Regulatory Flexibility Analysis for Small and Micro Businesses.** As required by the Government Code §2006.002(c) and (f), Leigh M. Savage, Associate General Counsel of the Texas Forensic Science Commission, has determined that the proposed amendments will not have an adverse economic effect on any small or micro business because there are no anticipated economic costs.

**Takings Impact Assessment.** Leigh M. Savage, Associate General Counsel of the Texas Forensic Science Commission, 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.** Leigh M. Savage, Associate General Counsel of the Texas Forensic Science Commission, has determined that for the first five-year period, implementation of the proposed amendments will have no government growth impact as described in Title 34, Part 1, Texas Administrative Code §11.1. The proposed rule exempts federal examiners which constitutes a reduction in regulation. As a result, the proposed rule has a neutral effect on the state's economy.

**Requirement for Rule Increasing Costs to Regulated Persons.** Leigh M. Savage, Associate General Counsel of the Texas Forensic Science Commission, has determined the proposed rule imposes no cost on regulated persons. The rule limits the applicability of licensing requirements for federal forensic examiners.

**Request for Public Comment.** The Texas Forensic Science Commission invites comments on the proposal from any member of the public. Please submit comments to Leigh M. Savage, 1700 North Congress Avenue, Suite 445, Austin, Texas 78701 or leigh@fsc.texas.gov. Comments must be received by October 29, 2018, to be considered by the Commission.

**Statutory Authority.** The amendment is proposed under Tex. Code Crim. Proc. art 38.01 §4-a.

**Cross reference to statute.** The proposal affects 37 Tex. Admin. Code §651.7.

*§651.203. Forensic Disciplines Subject to Commission Licensing; Categories of Licensure.*

(a) Forensic analysis/recognized accreditation. This section describes the forensic disciplines for which accreditation by an accrediting body recognized by the Commission is required by Article 38.01, Code of Criminal Procedure and for which licensing is therefore also required.

(b) By discipline. An individual may apply to the Commission for a Forensic Analyst License for one or more of the disciplines set forth in this section. The specific requirements for obtaining a license in any of the following disciplines may differ depending upon the categories of analysis within the discipline for which the individual is qualified to perform independent casework as set forth in §651.207 of this subchapter. An individual's license shall designate the category or categories of licensure for which the individual has been approved for independent casework and for which the individual has met the requirements set forth in §651.207 of this subchapter as follows:

(1) Seized Drugs. Categories of analysis may include one or more of the following: qualitative determination, quantitative measurement, weight measurement, and volume measurement; Categories of Licensure: Seized Drugs Analyst; Seized Drugs Technician;

(2) Toxicology. Categories of analysis may include one or more of the following: qualitative determination and quantitative measurement; Categories of Licensure: Toxicology Analyst Alcohol only (Non-interpretive); Toxicology Analyst (General, Non-interpretive); Toxicologist (Interpretive); Toxicology Technician;

(3) Forensic Biology. Categories of analysis may include one or more of the following: DNA-STR, DNA-YSTR, DNA-Mitochondrial, DNA-SNP, body fluid identification, relationship testing, microbiology, individual characteristic database, and nucleic acids other than human DNA; Categories of Licensure: DNA Analyst; Forensic Biology Screening Analyst; Analyst of Nucleic Acids other than Human DNA; Forensic Biology Technician;

(4) Firearms/Toolmarks. Categories of analysis may include one or more of the following: physical comparison, determination of functionality, length measurement, trigger pull force measurement, qualitative chemical determination, distance determination, ejection pattern determination, product (make/model) determination, evaluation of firearm-related evidence for NIBIN suitability, performance of NIBIN entries and individual characteristic database; Categories of Licensure: Firearms/Toolmarks Analyst; Firearms/Toolmarks Technician;

(5) Document Examination. Categories of analysis may include one or more of the following: document authentication, physical

comparison, and product determination; Categories of Licensure: Document Examination Analyst; Document Examination Technician; and

(6) Materials (Trace). Categories of analysis may include one or more of the following: physical determination, chemical determination, physical/chemical comparison, product (make/model) determination, gunshot residue analysis, footwear and tire tread analysis, and fire debris and explosives analysis (qualitative determination); Categories of Licensure: Materials (Trace) Analyst; Materials (Trace) Technician.

(c) Cross-disciplines. A laboratory may choose to assign a particular discipline or category of analysis to a different administrative section or unit in the laboratory than the designation set forth in this subchapter. Though an individual may perform a category of analysis under a different administrative section or unit in the laboratory, the individual still shall comply with the requirements for the discipline or category of analysis as outlined in this subchapter.

(d) Analysts and Technicians Performing Forensic Analysis on Behalf of the United States Government. Any forensic analyst or technician who performs forensic analysis on behalf of a publicly funded laboratory or law enforcement entity operating under the authority of the United States Government is deemed licensed to perform forensic analysis in Texas for purposes of this subchapter.

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

Filed with the Office of the Secretary of State on September 19, 2018.

TRD-201804086

Leigh Savage

Associate General Counsel

Texas Forensic Science Commission

Earliest possible date of adoption: November 4, 2018

For further information, please call: (512) 936-0661



# WITHDRAWN RULES

Withdrawn Rules include proposed rules and emergency rules. A state agency may specify that a rule is withdrawn immediately or on a later date after filing the notice with the Texas Register. A proposed rule is withdrawn six months after the date of publication of the proposed rule in the Texas Register if a state agency has failed by that time to adopt, adopt as amended, or withdraw the proposed rule. Adopted rules may not be withdrawn. (Government Code, §2001.027)

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## TITLE 13. CULTURAL RESOURCES

### PART 2. TEXAS HISTORICAL COMMISSION

#### CHAPTER 16. HISTORIC SITES

##### 13 TAC §16.3

The Texas Historical Commission withdraws proposed amendments to §16.3, which appeared in the September 7, 2018, issue of the *Texas Register* (43 TexReg 5739).

Filed with the Office of the Secretary of State on September 21, 2018.

TRD-201804131

Mark Wolfe

Executive Director

Texas Historical Commission

Effective date: September 21, 2018

For further information, please call: ( 512) 463-6100

##### 13 TAC §16.12

The Texas Historical Commission withdraws proposed amendments to §16.12, which appeared in the September 7, 2018, issue of the *Texas Register* (43 TexReg 5741).

Filed with the Office of the Secretary of State on September 21, 2018.

TRD-201804132

Mark Wolfe

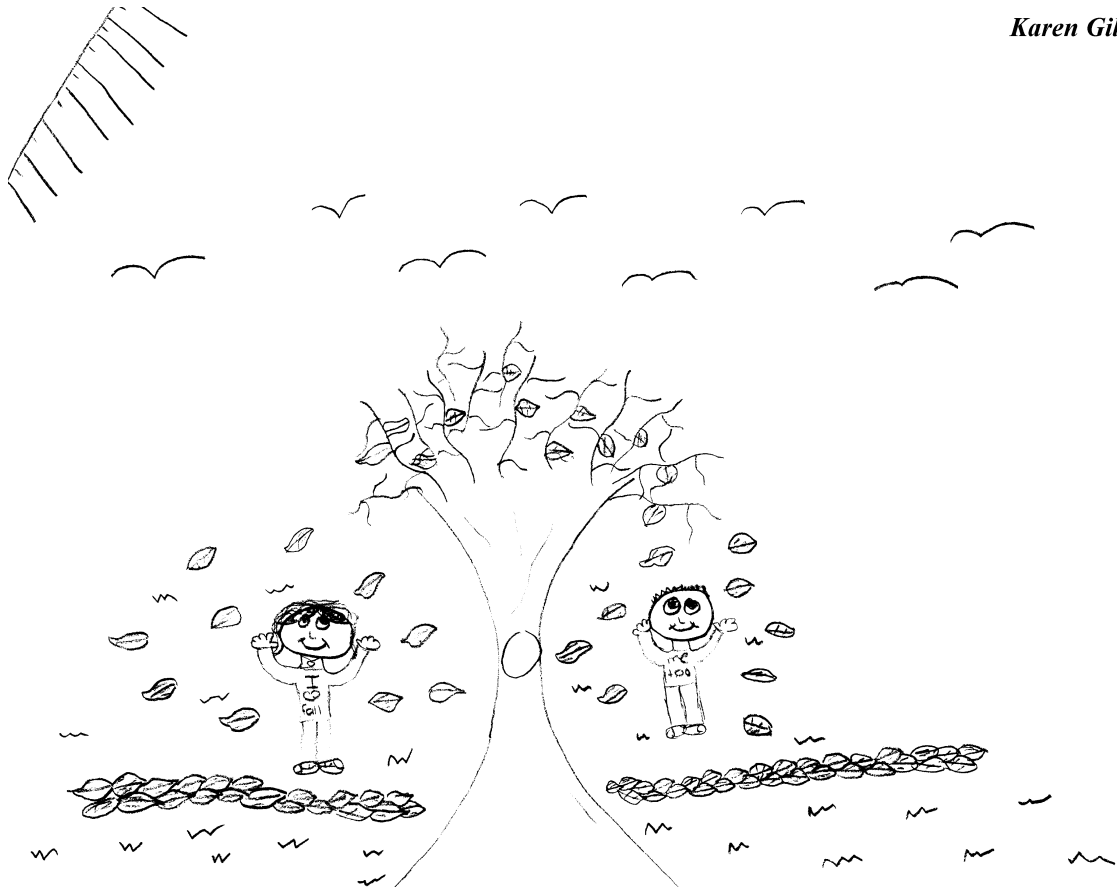
Executive Director

Texas Historical Commission

Effective date: September 21, 2018

For further information, please call: ( 512) 463-6100

*Karen Gil*



# ADOPTED RULES

Adopted rules include new rules, amendments to existing rules, and repeals of existing rules. A rule adopted by a state agency takes effect 20 days after the date on which it is filed with the Secretary of State unless a later date is required by statute or specified in the rule (Government Code, §2001.036). If a rule is adopted without change to the text of the proposed rule, then the *Texas Register* does not republish the rule text here. If a rule is adopted with change to the text of the proposed rule, then the final rule text is included here. The final rule text will appear in the Texas Administrative Code on the effective date.

## TITLE 13. CULTURAL RESOURCES

### PART 9. TEXAS HOLOCAUST AND GENOCIDE COMMISSION

#### CHAPTER 191. COMMISSION PROCEDURES

##### 13 TAC §191.8

The Texas Holocaust and Genocide Commission (THGC or Commission) adopts an amendment to §191.8, concerning the administration of the THGC Grant Program. The amendment is adopted without changes to the proposed text as published in the August 17, 2018, issue of the *Texas Register* (43 TexReg 5327). The amendment will not be republished.

**JUSTIFICATION FOR RULE ACTION.** Grant applications are reviewed by a panel and the reimbursement for grant projects is paid out when the project is complete. The adopted amendments to §191.8 add language concerning the composition of the review panel and give an opportunity for applicants to seek partial reimbursement before the project is complete. The THGC is finding it difficult to convene all three grant review panel components for assessment purposes and wants to give smaller non-profits the opportunity to apply for grants because they cannot float funds for a whole year.

**HOW THE RULE WILL FUNCTION.** The first adopted amendment to §191.8 adds language to subsection (g), which creates the composition of the grant application review panel. The scoring process for grant applications is conducted by a panel comprised of representatives from the commission, Friends of THGC, and commission staff. The amendment adds language that will allow any combination of the before-mentioned participants to comprise the grant scoring panel. All efforts will be made to include all three panel components before proceeding with assessment based on availability of participants.

The second adopted amendment to §191.8 adds language to subsection (h), which details when applicants are reimbursed during the project cycle. Applicants receive reimbursement at the end of the project cycle after the submission of a project report and acceptable proof of incurred allowable expenses. The amendment adds language that allows grant applicants to be reimbursed halfway through the project cycle with the proper required documentation. This will allow smaller non-profits to apply and be reimbursed sooner so as to not create an undue financial burden on their organizations.

**SUMMARY OF CONTENTS.** No comments were received for this rule proposal; therefore, no summary is required.

**STATUTORY AUTHORITY.** These amendments are adopted under the authority of Texas Government Code §449.052(c), which provides the Commission with the authority to adopt rules as

necessary for its own procedures; and Texas Government Code §449.052(e), which authorizes the commission to provide matching grants to assist in the implementation of the commission's goals and objectives.

No other statutes, articles, or codes are affected by these amendments.

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

Filed with the Office of the Secretary of State on September 18, 2018.

TRD-201804069

Matt Verdugo

Executive Director

Texas Holocaust and Genocide Commission

Effective date: October 8, 2018

Proposal publication date: August 17, 2018

For further information, please call: (512) 463-8815



## TITLE 22. EXAMINING BOARDS

### PART 22. TEXAS STATE BOARD OF PUBLIC ACCOUNTANCY

#### CHAPTER 511. ELIGIBILITY SUBCHAPTER C. EDUCATIONAL REQUIREMENTS

##### 22 TAC §511.57

The Texas State Board of Public Accountancy adopts an amendment to §511.57, concerning Qualified Accounting Courses, without changes to the proposed text as published in the August 3, 2018, issue of the *Texas Register* (43 TexReg 5037). The rule text will not be republished.

The amendment to §511.57 allows an applicant to apply up to 12 hours in accounting data analytics and 6 hours in business data analytics classes toward the minimum hours needed to qualify to take the UCPAE.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

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

Filed with the Office of the Secretary of State on September 20, 2018.

TRD-201804096

J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

Effective date: October 10, 2018

Proposal publication date: August 3, 2018

For further information, please call: (512) 305-7842



## 22 TAC §511.58

The Texas State Board of Public Accountancy adopts an amendment to §511.58, concerning Definitions of Related Business Subjects and Ethics Courses, without changes to the proposed text as published in the August 3, 2018, issue of the *Texas Register* (43 TexReg 5040) and will not be republished.

The amendment to §511.58 allows an applicant to apply up to 12 hours in accounting data analytics and 6 hours in business data analytics classes toward their minimum hours needed to qualify to take the UCPAE.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

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

Filed with the Office of the Secretary of State on September 20, 2018.

TRD-201804097

J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

Effective date: October 10, 2018

Proposal publication date: August, 3, 2018

For further information, please call: (512) 305-7842



## CHAPTER 518. UNAUTHORIZED PRACTICE OF PUBLIC ACCOUNTANCY

### 22 TAC §518.5

The Texas State Board of Public Accountancy adopts an amendment to §518.5, concerning Unlicensed Entities, without changes to the proposed text as published in the August 3,

2018, issue of the *Texas Register* (43 TexReg 5041). The rule will not be republished.

The amendment to §518.5 corrects a typo to avoid an opposite meaning so that it is clear that in any letterhead, or in any advertising or promotional statements by an unlicensed entity that is owned by a CPA, the unlicensed entity may refer to accounting, auditing or attest services so long as there is a statement that such services are only performed by the affiliated registered CPA firm.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

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

Filed with the Office of the Secretary of State on September 20, 2018.

TRD-201804098

J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

Effective date: October 10, 2018

Proposal publication date: August 3, 2018

For further information, please call: (512) 305-7842



## CHAPTER 519. PRACTICE AND PROCEDURE SUBCHAPTER E. POST BOARD ORDER PROCEDURES

### 22 TAC §519.95

The Texas State Board of Public Accountancy adopts an amendment to §519.95, concerning Reinstatement, without changes to the proposed text as published in the August 3, 2018, issue of the *Texas Register* (43 TexReg 5042) and will not be republished.

The amendment to §519.95 clarifies the "Three R's" used by the Board when considering applications for reinstatement. The "Three R's" are 1) responsibility, 2) rehabilitation and 3) restitution.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Public Accountancy Act (Act), Texas Occupations Code, §901.151 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

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

Filed with the Office of the Secretary of State on September 20, 2018.

TRD-201804099

J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

Effective date: October 10, 2018

Proposal publication date: August 3, 2018

For further information, please call: (512) 305-7842



## TITLE 25. HEALTH SERVICES

### PART 1. DEPARTMENT OF STATE HEALTH SERVICES

#### CHAPTER 13. HEALTH PLANNING AND RESOURCE DEVELOPMENT

##### SUBCHAPTER G. WORKPLACE VIOLENCE AGAINST NURSES PREVENTION GRANT PROGRAM

###### 25 TAC §§13.81 - 13.87

The Executive Commissioner of the Health and Human Services Commission (HHSC), on behalf of the Department of State Health Services (DSHS), adopts new Texas Administrative Code Title 25, Part 1, Chapter 13, Subchapter G, Sections 13.81, concerning Purpose; §13.82, concerning Definitions; §13.83, concerning Grant Application Procedures; §13.84, concerning Program Funding and Award Amounts; §13.85, concerning Award Criteria and Selection for Funding; §13.86, concerning General Information; and §13.87, concerning Reporting. New §§13.81 - 13.87 are adopted without changes to the proposed text as published in the June 22, 2018, issue of the *Texas Register* (43 TexReg 4015), and therefore the rule text will not be republished.

###### BACKGROUND AND JUSTIFICATION

The new subchapter and sections are necessary to implement Texas Health and Safety Code, §105.011, which authorizes HHSC to adopt rules for DSHS to administer a grant program aimed at reducing workplace violence against nurses. The new rules describe the grant program as well as the eligibility, grant application procedures, award amounts, award criteria and selection criteria, general information, and reporting requirements as they relate to this grant program.

###### COMMENTS

The 30-day comment period ended July 23, 2018.

During this period, DSHS received comments from the Texas Nurses Association in support of the rules as proposed.

DSHS acknowledges and appreciates the commenter's support of the rules.

###### STATUTORY AUTHORITY

The new sections are adopted under Texas Health and Safety Code §105.011(e), which provides that DSHS shall provide administrative assistance to the nursing resource section in administering the grant program and that the Executive Commissioner shall adopt rules to implement the grant program, including rules

governing the submission and approval of grant requests and establishing a reporting procedure for grant recipients. Texas Government Code, §531.0055 and Texas Health and Safety Code, §1001.075 authorize the Executive Commissioner to adopt rules and policies necessary for the operation and provision of health and human services by DSHS and for the administration of Texas Health and Safety Code, Chapter 1001.

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

Filed with the Office of the Secretary of State on September 21, 2018.

TRD-201804133

Barbara Klein

General Counsel

Department of State Health Services

Effective date: October 11, 2018

Proposal publication date: June 22, 2018

For further information, please call: (512) 776-6723



## TITLE 26. HEALTH AND HUMAN SERVICES

### PART 1. HEALTH AND HUMAN SERVICES COMMISSION

#### CHAPTER 744. MINIMUM STANDARDS FOR SCHOOL-AGE AND BEFORE OR AFTER-SCHOOL PROGRAMS

The Texas Health and Human Services Commission (HHSC) adopts amendments to §§744.901, 744.1311, 744.1317 and 744.1331 in Title 26, Chapter 744, Minimum Standards for School-Age and Before or After-School Programs, concerning information and documentation that must be maintained in personnel records, annual training, and transportation training, with changes to the proposed text as published in the June 22, 2018, issue of the *Texas Register* (43 TexReg 4065), and, therefore, will be republished.

HHSC adopts amendments to §§744.1103, 744.1105, 744.1301, 744.1303, 744.1305, 744.1307, 744.1309, and 744.2301; new §744.1315; and the repeal of §744.1315 in Title 26, Chapter 744, Minimum Standards for School-Age and Before or After-School Programs, concerning minimum qualifications, orientation, pre-service training, annual training, pediatric first aid training, pediatric CPR training, and ongoing training requirements. The amendments, new section, and repeal are adopted without changes to the proposed text as published in the June 22, 2018, issue of the *Texas Register* (43 TexReg 4065), and, therefore, will not be republished.

###### BACKGROUND AND JUSTIFICATION

The amendments, new section, and repeal implement needed changes to comply with requirements in the Child Care and Development Block Grant Act of 2014 ("the Act") related to orientation, initial training, annual training, and ongoing training requirements for employees and caregivers in licensed operations.

The Act is the first comprehensive revision of the Child Care Development Fund (CCDF) program since 1998. (The CCDF is

codified in 42 USC §9857 *et seq.* and supported in the federal regulations found in 45 CFR Part 98. For the purpose of this preamble, "the Act" will include the requirements in the federal regulations as well as the statute.) The Texas Workforce Commission (TWC) administers the CCDF, which is the primary federal funding source devoted to providing low-income families with access to child care. The Act made significant reforms to the CCDF program to raise the health, safety, and quality of child care by mandating that states comply with a multitude of additional requirements, including health and safety requirements and training on those topics, in order to continue to receive the CCDF funding. Although TWC is the lead agency for determining eligibility and distributing the subsidy monies, Child Care Licensing (CCL), a department of the HHSC, is the agency responsible for licensing operations, establishing health and safety regulations, and monitoring eligible operations for compliance.

New rules implementing the Act's background check and health and safety requirements were implemented on September 1, 2016. The amendments, new section, and repeal further implement the Act's health and safety requirements to make sure the Minimum Standards for School-Age and Before or After-School Programs are more consistent with the Act's requirements. The amendments, new section, and repeal: (1) require caregivers and directors to receive training within 90 days of employment in pediatric first aid with rescue breathing and choking and pediatric cardiopulmonary resuscitation (CPR), and the training must be ongoing; (2) clarify that training regarding child abuse and neglect is related to child maltreatment, in order to be more consistent with the federal health and safety training topic and the state statutory language; (3) clarify that directors must receive training relevant to the ages of children for whom the operation provides care; (4) require caregivers and directors to receive annual training in the prevention, recognition, and reporting of child maltreatment; (5) clarify that directors must receive training in transportation safety if the operation transports children who are chronologically or developmentally younger than nine years old; (6) streamline and reduce redundancies in rules regarding training requirements; and (7) update language for better readability and understanding.

A workgroup meeting was held on February 9, 2018, to obtain stakeholder input and feedback regarding the development of the proposed rules. Draft rules were discussed and several rules were updated before being proposed based on the comments.

#### COMMENTS

The 30-day comment period ended July 23, 2018.

During this period, HHSC received comments regarding the proposed rules from two commenters, including the Coalition for Nurses in Advanced Practice and one individual. A summary of comments relating to the rules and HHSC's responses follows.

Comment: Regarding §744.901(3), the commenter recommended that a "physician's statement", which is acceptable verification that an employee or caregiver is free of tuberculosis, be replaced with the broader term "health-care professional's statement" because "health-care professional" is already more broadly defined in this chapter and in many instances advanced practice registered nurses perform these duties, especially in medically underserved areas.

Response: HHSC agrees with the commenter and adopts this rule with changes.

Comment: Regarding §744.1315(b)(1), one commenter wanted to know whether the CPR certification must be by the American Heart Association (AHA), or whether other agencies like the Red Cross could be used.

Response: The wording of the original rule related to the comment did not change. CPR training provided by other organizations may be used as long as the organization adheres to the CPR guidelines established by the AHA, including the use of a CPR manikin and both written and hands-on skill-based instruction, practice, and testing. HHSC adopts this rule without changes.

In response to a comment made to a similar rule in Chapter 746, HHSC adopts §744.1331 with changes to clarify that operations may keep in the employee's personnel record the original certificate or letter documenting completion of pediatric first aid with rescue breathing and choking and pediatric CPR training or keep a photocopy in the personnel record, as long as the employee can provide the original certificate or letter upon Licensing's request.

In addition, minor changes were made to §744.1311(h) to reword the rule in present tense, and §744.1317(b) to correct a verb usage.

#### ADDITIONAL INFORMATION

For further information, please call: (512) 438-5559.

### SUBCHAPTER C. RECORD KEEPING DIVISION 4. PERSONNEL RECORDS

#### 26 TAC §744.901

##### STATUTORY AUTHORITY

The amendment is adopted under Government Code §531.0055, which provide that the Health and Human Services Executive Commissioner shall adopt rules for the operation and provision of services by the health and human services agencies, and §531.02011, which transferred the regulatory functions of the Department of Family and Protective Services to HHSC.

*§744.901. What information must I maintain in my personnel records?*

You must have the following records at the operation and available for review during your hours of operation for each employee, caregiver, substitute, and volunteer as specified in this chapter:

- (1) Documentation showing the dates of the first and last day on the job;
- (2) Documentation showing how the employee meets the minimum age and education qualifications, if applicable;
- (3) A copy of a health card or health care professional's statement verifying the employee is free of active tuberculosis, if required by the regional Department of State Health Services TB program or local health authority;
- (4) A notarized Licensing *Affidavit for Applicants for Employment* form as specified in Human Resources Code, §42.059;
- (5) A record of training hours;
- (6) A statement signed and dated by the employee showing he has received a copy of the operation's:
  - (A) Operational policies; and
  - (B) Personnel policies;



(7) Proof of request for background checks required under 40 TAC Chapter 745, Subchapter F (relating to Background Checks);

(8) A copy of a photo identification;

(9) A copy of a current driver's license for each person who transports a child in care; and

(10) A statement signed and dated by the employee verifying the date the employee attended training during orientation that includes an overview regarding the prevention, recognition, and reporting of child maltreatment, as outlined in §744.1303 of this chapter (relating to What must orientation for employees at my operation include?).

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

Filed with the Office of the Secretary of State on September 17, 2018.

TRD-201804025

Karen Ray

Chief Counsel

Health and Human Services Commission

Effective date: October 8, 2018

Proposal publication date: June 22, 2018

For further information, please call: (512) 438-5559



## SUBCHAPTER D. PERSONNEL DIVISION 2. EMPLOYEES AND CAREGIVERS

### 26 TAC §744.1103, §744.1105

#### STATUTORY AUTHORITY

The amendments are adopted under Government Code §531.0055, which provides that the Health and Human Services Executive Commissioner shall adopt rules for the operation and provision of services by the health and human services agencies, and §531.02011, which transferred the regulatory functions of the Department of Family and Protective Services to HHSC.

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

Filed with the Office of the Secretary of State on September 17, 2018.

TRD-201804026

Karen Ray

Chief Counsel

Health and Human Services Commission

Effective date: October 8, 2018

Proposal publication date: June 22, 2018

For further information, please call: (512) 438-5559



## DIVISION 4. PROFESSIONAL DEVELOPMENT

### 26 TAC §§744.1301, 744.1303, 744.1305, 744.1307, 744.1309, 744.1311, 744.1315, 744.1317, 744.1331

#### STATUTORY AUTHORITY

The amendments and new rule are adopted under Government Code §531.0055, which provides that the Health and Human Services Executive Commissioner shall adopt rules for the operation and provision of services by the health and human services agencies, and §531.02011, which transferred the regulatory functions of the Department of Family and Protective Services to HHSC.

§744.1311. *What areas of training must the annual training for an operation director or a program director cover?*

(a) The 20 clock hours of annual training must be relevant to the age of the children for whom the operation provides care.

(b) At least six clock hours of the annual training hours must be in one or more of the following topics:

- (1) Child growth and development;
- (2) Guidance and discipline;
- (3) Age-appropriate curriculum;
- (4) Teacher-child interaction; and
- (5) Serving children with special care needs.

(c) At least one clock hour of the annual training hours must focus on prevention, recognition, and reporting of child maltreatment, including:

- (1) Factors indicating a child is at risk for abuse or neglect;
- (2) Warning signs indicating a child may be a victim of abuse or neglect;
- (3) Procedures for reporting child abuse or neglect; and
- (4) Community organizations that have training programs available to employees, children, and parents.

(d) While there are no clock hour requirements for the topics in this subsection, the annual training hours must also include training on the following topics:

- (1) Emergency preparedness;
- (2) Preventing and controlling the spread of communicable diseases, including immunizations;
- (3) Administering medication, if applicable, including compliance with §744.2653 of this chapter (relating to What authorization must I obtain before administering a medication to a child in my care?);
- (4) Preventing and responding to emergencies due to food or an allergic reaction;
- (5) Understanding building and physical premises safety, including identification and protection from hazards that can cause bodily injury such as electrical hazards, bodies of water, and vehicular traffic; and
- (6) Handling, storing, and disposing of hazardous materials including compliance with §744.2523 of this chapter (relating to Must caregivers wear gloves when handling blood or bodily fluids containing blood?).

(e) An operation director or program director with:

- (1) Five or fewer years of experience as a designated operation director or program director must complete at least six clock

hours of the annual training hours in management techniques, leadership, or staff supervision; or

(2) More than five years of experience as a designated operation director or program director must complete at least three clock hours of the annual training hours in management techniques, leadership, or staff supervision.

(f) The remainder of the 20 clock hours of annual training must be selected from the training topics specified in §744.1309(e) of this division (relating to What areas of training must the annual training for caregivers and site directors cover?).

(g) An operation director or program director may obtain clock hours or CEUs from the same sources as caregivers.

(h) A director may not earn training hours by presenting training to others.

(i) No more than 80% of the required annual training hours may come from self-instructional training. No more than three of those self-instructional hours may come from self-study training.

(j) The 20 clock hours of annual training are exclusive of any requirements for orientation, pre-service training, pediatric first aid and pediatric CPR training, and transportation safety training.

§744.1317. *What additional training must an employee and director have if the operation transports children?*

(a) If the operation transports children whose chronological or developmental age is younger than nine years old, two clock hours of annual transportation safety training is required for:

(1) Each employee prior to transporting a child; and

(2) Each site director, and program director or operation director.

(b) The two clock hours of transportation safety training are exclusive of any requirements for orientation, pre-service training, and annual training.

§744.1331. *What documentation must I provide to Licensing to verify that employees have met training requirements?*

(a) You must maintain the original certificate or letter documenting the completion of annual training in each employee's personnel record at the operation.

(b) For annual training to be counted toward compliance with the minimum standards, the trainer or training source must provide the participant with an original certificate or letter showing:

(1) The participant's name;

(2) Date of the training;

(3) Title/subject of the training;

(4) The trainer's name, or the source of the training for self-instructional training;

(5) The trainer's qualifications, in compliance with §744.1319 of this division (relating to Must the training for my caregivers and the director meet certain criteria?); and

(6) Length of the training specified in clock hours, CEUs, or college credit hours, as appropriate.

(c) For pediatric first aid with rescue breathing and choking and pediatric CPR to count toward compliance with the minimum standards:

(1) The certificate or letter must include:

(A) The same information required in subsection (b) of this section; and

(B) The expiration or renewal date of the training, as determined by the organization providing the training; and

(2) You must maintain:

(A) The original certificate or letter documenting the completion of pediatric first aid and pediatric CPR in each employee's personnel record at the operation; or

(B) A photocopy of the original certificate or letter documenting the completion of pediatric first aid and pediatric CPR in each employee's personnel record at the operation, so long as the employee is able to provide an original certificate or letter upon Licensing's request.

(d) For orientation and pre-service training, you must obtain a signed and dated statement from the employee and the person providing the orientation or pre-service training stating the employee has received the orientation or pre-service training, or you may obtain an original certificate or letter as specified in subsection (b) of this section.

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

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Karen Ray

Chief Counsel

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For further information, please call: (512) 438-5559



## 26 TAC §744.1315

### STATUTORY AUTHORITY

The repeal is adopted under Government Code §531.0055, which provides that the Health and Human Services Executive Commissioner shall adopt rules for the operation and provision of services by the health and human services agencies, and §531.02011, which transferred the regulatory functions of the Department of Family and Protective Services to HHSC.

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

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## SUBCHAPTER I. FIELD TRIPS

### 26 TAC §744.2301

#### STATUTORY AUTHORITY

The amendments are adopted under Government Code §531.0055, which provides that the Health and Human Services Executive Commissioner shall adopt rules for the operation and provision of services by the health and human services agencies, and §531.02011, which transferred the regulatory functions of the Department of Family and Protective Services to HHSC.

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## CHAPTER 746. MINIMUM STANDARDS FOR CHILD-CARE CENTERS

The Texas Health and Human Services Commission (HHSC) adopts amendments to §§746.901, 746.1303, 746.1311, 746.1316, and 746.1329 in Title 26, Chapter 746, Minimum Standards for Child-Care Centers, concerning information and documentation that must be maintained in personnel records, annual training, and transportation training, with changes to the proposed text as published in the June 22, 2018 issue of the *Texas Register* (43 TexReg 4072).

HHSC adopts amendments to §§746.1105, 746.1107, 746.1301, 746.1309, 746.1317, 746.3001, and 746.3117; new §746.1315; and the repeal of §746.1315 in Title 26, Chapter 746, Minimum Standards for Child-Care Centers, concerning orientation, pre-service training, annual training, pediatric first-aid training, pediatric CPR training, and ongoing training requirements. The amendments, new section, and repeal are adopted without changes to the proposed text as published in the June 22, 2018, issue of the *Texas Register* (43 TexReg 4072), and therefore will not be republished.

#### BACKGROUND AND JUSTIFICATION

The amendments, new section, and repeal implement needed changes to comply with requirements in the Child Care and Development Block Grant Act of 2014 ("the Act") related to orientation, initial training, annual training, and ongoing training requirements for employees and caregivers in licensed child care centers.

The Act is the first comprehensive revision of the Child Care Development Fund (CCDF) program since 1998. (The CCDF is codified in 42 USC §9857 et seq. and supported in the federal regulations found in 45 CFR Part 98. For the purpose of this preamble, "the Act" will include the requirements in the federal regu-

lations as well as the statute.) The Texas Workforce Commission (TWC) administers the CCDF, which is the primary federal funding source devoted to providing low-income families with access to child care. The Act made significant reforms to the CCDF program to raise the health, safety, and quality of child care by mandating that states comply with a multitude of additional requirements, including health and safety requirements and training on those topics, in order to continue to receive the CCDF funding. Although TWC is the lead agency for determining eligibility and distributing the subsidy monies, Child Care Licensing (CCL), a department of the HHSC, is the agency responsible for licensing child care centers, establishing health and safety regulations, and monitoring eligible centers for compliance.

New rules implementing the Act's background check and health and safety requirements were implemented on September 1, 2016. The amendments, new section, and repeal further implement the Act's health and safety requirements to make sure the Minimum Standards for Child-Care Centers are more consistent with the Act's requirements. The amendments, new section, and repeal: (1) require caregivers and directors to receive training within 90 days of employment in pediatric first aid with rescue breathing and choking and pediatric cardiopulmonary resuscitation (CPR), and the training must be ongoing; (2) clarify that training regarding child abuse and neglect is related to child maltreatment, in order to be more consistent with the federal health and safety training topic and the state statutory language; (3) clarify that directors must receive training in transportation safety if the operation transports children who are chronologically or developmentally younger than nine years old; (4) streamline and reduce redundancies in rules regarding training requirements; and (5) update language for better readability and understanding.

A workgroup meeting was held on February 9, 2018, to obtain stakeholder input and feedback regarding the development of the proposed rules. Draft rules were discussed and several rules were updated before being proposed based on the comments.

#### COMMENTS

The 30-day comment period ended July 23, 2018.

During this period, HHSC received comments regarding the proposed rules from eight commenters, including Children's Center at Brazosport College, Covenant Presbyterian Preschool, Alphabet Club, Acton Baptist Preschool, A+ Learning Academy, Coalition for Nurses in Advanced Practice, and one individual and one parent. A summary of comments relating to the rules and HHSC's responses follows.

Comment: Regarding §746.901(3), the commenter recommended that a "physician's statement", which is acceptable verification that an employee or caregiver is free of tuberculosis, be replaced with the broader term "health-care professional's statement" because "health-care professional" is already more broadly defined in this chapter and in many instances advanced practice registered nurses perform these duties, especially in medically underserved areas.

Response: HHSC agrees with the commenter and adopts this rule with changes.

Comment: Regarding §746.1301(2)(C), the commenter disagreed with the requirement to have eight hours of preservice training before being counted in the child/caregiver ratio, because with staff shortages this requirement is a hindrance to needed child care.

Response: HHSC disagrees with the commenter. The requirement that a caregiver have eight hours of preservice training before being counted in the child/caregiver ratio is not a change to the original rule. The requirement is also currently mandated by Human Resources Code §42.0421(a)(1). However, §746.1307 does provide an exception for a caregiver with previous experience or training. HHSC adopts this rule without changes.

Comment: Regarding §746.1309(h), the commenter stated that first aid training should be counted in the 24 hours of annual training.

Response: HHSC disagrees with the commenter. This is not a change to the original rule, though the requirement was moved from subsection (b) to (h). Section 746.1309 has many areas of training that are required and many other areas of training that are suggested. Allowing the hours of first aid training to be counted in the 24 hours of annual training would make it more difficult to complete the required areas of training and more likely that the suggested areas of training would never be obtained. HHSC adopts this rule without changes.

Comment: Regarding §746.1315, three comments were received by two commenters. See specific comments below:

(1) One commenter agreed that all caregivers should have first aid training with infant choking and rescue breathing. However, the commenter did not agree that all caregivers should have CPR training, because of the financial impact. The commenter recommended that the idea to increase the number of caregivers that have CPR training be balanced with the cost impact by increasing the number of caregivers on campus to a certain percentage (say 10%). This will increase the likelihood that two or more CPR-certified staff are on campus at all times.

(2) One commenter wanted to know who would govern the deficiencies regarding CPR training and who dictates the time frames, since new hires are not required to have the training immediately.

(3) One commenter wanted to know whether the CPR certification must be by the American Heart Association (AHA), or whether other agencies like the Red Cross could be used.

Response: HHSC adopts §746.1315 without changes. See specific responses below:

(1) HHSC appreciates the recommended compromise. However, the Act requires CPR training for all caregivers. Section 746.1301(4)(C)(i) does give new caregivers 90 days to complete the training.

(2) As noted above, §746.1301(4)(C)(i) states that new caregivers have 90 days to complete the training. The regulation of a center and its compliance with minimum standards is completed through monitoring inspections, investigations, and technical assistance.

(3) The wording of the original rule related to the comment did not change. CPR training provided by other organizations may be used, as long as the organization adheres to the CPR guidelines established by the AHA, including the use of a CPR manikin and both written and hands-on skill-based instruction, practice, and testing.

Comment: Regarding §746.1329, the commenter questioned whether it was appropriate for centers to keep the original training certificates for first aid and CPR, because trainers usually tell participants to carry their original certificates with them.

Response: The original rule already provides flexibility for centers. Centers may keep in the employee's personnel record the original certificate or letter documenting completion of pediatric first aid with rescue breathing and choking and pediatric CPR or keep a photocopy in the personnel record, as long as the employee can provide the original certificate or letter upon Licensing's request. However, HHSC agrees that the rule should be made clearer. HHSC adopts this rule with changes.

Comment: There was one general comment that the Chapter 746 rules should use the term "child care" not "day care", because centers care for children not days. It is important not to let this term creep back into the rules.

Response: HHSC appreciates the comment and recognizes that "child care" is the preferred term. CCL has been working to update this term in all materials. The term "day care" has not been used in any of the proposed rules or relevant documents.

Comment: There was a general response that data should be looked at related to child/caregiver ratios, so that an appropriate number of staff care for an appropriate number of children. One person cannot care for five or six children all day alone. The risks would be too great for the children; this is not an acceptable standard for the care of children.

Response: This comment is outside the scope of the proposed rulemaking. No rules related to child/caregiver ratios were proposed.

In addition, minor changes were made to §746.1311(i) to reword the rule in present tense and §746.1316(b) to correct verb usage. Changes were made to §746.1303(5) and §746.1303(6) to correct punctuation.

#### ADDITIONAL INFORMATION

For further information, please call: (512) 438-5559.

### SUBCHAPTER C. RECORD KEEPING DIVISION 4. PERSONNEL RECORDS

#### 26 TAC §746.901

##### STATUTORY AUTHORITY

The amendment is adopted under Government Code §531.0055, which provides that the Health and Human Services Executive Commissioner shall adopt rules for the operation and provision of services by the health and human services agencies, and §531.02011, which transferred the regulatory functions of the Department of Family and Protective Services to HHSC.

*§746.901. What information must I maintain in my personnel records?*

You must have the following records at the child-care center and available for review during hours of operation for each employee, caregiver, substitute, and volunteer as specified in this chapter:

(1) Documentation showing the dates of the first and last day on the job;

(2) Documentation showing how the employee meets the minimum age and education qualifications, if applicable;

(3) A copy of a health card or health care professional's statement verifying the employee is free of active tuberculosis, if required by the regional Texas Department of State Health Services TB program or local health authority;

(4) A notarized Licensing Affidavit for Applicants for Employment form as specified in Human Resources Code, §42.059;

(5) A record of training hours;

(6) A statement signed and dated by the employee showing he has received a copy of the child-care center's:

(A) Operational policies; and

(B) Personnel policies;

(7) Proof of request for background checks required under 40 TAC Chapter 745, Subchapter F (relating to Background Checks);

(8) A copy of a photo identification;

(9) A copy of a current driver's license for each person who transports a child in care; and

(10) A statement signed and dated by the employee verifying the date the employee attended training during orientation that includes an overview of your policy on the prevention, recognition, and reporting of child maltreatment outlined in §746.1303 of this chapter (relating to What must orientation for employees at my child-care center include?).

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

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Karen Ray

Chief Counsel

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## SUBCHAPTER D. PERSONNEL DIVISION 2. CHILD-CARE CENTER EMPLOYEES AND CAREGIVERS

**26 TAC §746.1105, §746.1107**

### STATUTORY AUTHORITY

The amendments are adopted under Government Code §531.0055, which provides that the Health and Human Services Executive Commissioner shall adopt rules for the operation and provision of services by the health and human services agencies, and §531.02011, which transferred the regulatory functions of the Department of Family and Protective Services to HHSC.

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

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## DIVISION 4. PROFESSIONAL DEVELOPMENT

**26 TAC §§746.1301, 746.1303, 746.1309, 746.1311, 746.1315 - 746.1317, 746.1329**

### STATUTORY AUTHORITY

The amendments and new section are adopted under Government Code §531.0055, which provides that the Health and Human Services Executive Commissioner shall adopt rules for the operation and provision of services by the health and human services agencies, and §531.02011, which transferred the regulatory functions of the Department of Family and Protective Services to HHSC.

*§746.1303. What must orientation for employees at my child-care center include?*

Your orientation for employees must include at least the following:

(1) An overview of the minimum standards found in this chapter;

(2) An overview of your operational policies, including discipline and guidance practices and procedures for the release of children;

(3) An overview of your policy on the prevention, recognition, and reporting of child maltreatment, including:

(A) Factors indicating a child is at risk of abuse or neglect;

(B) Warning signs indicating a child may be a victim of abuse or neglect;

(C) Procedures for reporting child abuse or neglect; and

(D) Community organizations that have training programs available to employees, children, and parents;

(4) An overview of the procedures to follow in handling emergencies, which includes sharing the emergency preparedness plan with all employees. Emergencies may include, but are not limited to, fire, explosion, tornado, toxic fumes, volatile persons, and severe injury or illness of a child or adult;

(5) The location and use of fire extinguishers and first-aid equipment;

(6) Administering medication, if applicable, including compliance with §746.3803 of this chapter (relating to What authorization must I obtain before administering a medication to a child in my care?);

(7) Preventing and responding to emergencies due to food or an allergic reaction;

(8) Understanding building and physical premises safety, including identification and protection from hazards that can cause bodily injury such as electrical hazards, bodies of water, and vehicular traffic;

(9) Handling, storing, and disposing of hazardous materials including compliance with §746.3425 of this chapter (relating to Must caregivers wear gloves when handling blood or bodily fluids containing blood?); and

(10) Precautions in transporting children if your center transports a child whose chronological or developmental age is younger than nine years old.

§746.1311. *What areas of training must the annual training for my child-care center director cover?*

(a) The 30 clock hours of annual training must be relevant to the age of the children for whom the child-care center provides care.

(b) At least six clock hours of the annual training hours must be in one or more of the following topics:

- (1) Child growth and development;
- (2) Guidance and discipline;
- (3) Age-appropriate curriculum;
- (4) Teacher-child interaction; and
- (5) Serving children with special care needs.

(c) At least one clock hour of the annual training hours must focus on prevention, recognition, and reporting of child maltreatment, including:

- (1) Factors indicating a child is at risk for abuse or neglect;
- (2) Warning signs indicating a child may be a victim of abuse or neglect;
- (3) Procedures for reporting child abuse or neglect; and
- (4) Community organizations that have training programs available to employees, children, and parents.

(d) If the center provides care for children younger than 24 months of age, one hour of the annual training hours must cover the following topics:

- (1) Recognizing and preventing shaken baby syndrome and abusive head trauma;
- (2) Understanding and using safe sleep practices and preventing sudden infant death syndrome (SIDS); and
- (3) Understanding early childhood brain development.

(e) While there are no clock hour requirements for the topics in this subsection, the annual training hours must also include training on the following topics:

- (1) Emergency preparedness;
- (2) Preventing and controlling the spread of communicable diseases, including immunizations;
- (3) Administering medication, if applicable, including compliance with §746.3803 of this chapter (relating to What authorization must I obtain before administering a medication to a child in my care?);
- (4) Preventing and responding to emergencies due to food or an allergic reaction;
- (5) Understanding building and physical premises safety, including identification and protection from hazards that can cause bodily injury such as electrical hazards, bodies of water, and vehicular traffic; and

(6) Handling, storing, and disposing of hazardous materials including compliance with §746.3425 of this chapter (relating to Must caregivers wear gloves when handling blood or bodily fluids containing blood?).

(f) A director with:

(1) Five or fewer years of experience as a designated director of a child-care center must complete at least six clock hours of the annual training hours in management techniques, leadership, or staff supervision; or

(2) More than five years of experience as a designated director of a child-care center must complete at least three clock hours of the annual training hours in management techniques, leadership, or staff supervision.

(g) The remainder of the 30 clock hours of annual training must be selected from the training topics specified in §746.1309(f) of this division (relating to What areas of training must the annual training for caregivers cover?).

(h) The director may obtain clock hours or CEUs from the same sources as caregivers.

(i) A director may not earn training hours by presenting training to others.

(j) No more than 80% of the required annual training hours may come from self-instructional training. No more than three of those self-instructional hours may come from self-study training.

§746.1316. *What additional training must an employee and director have if the operation transports children?*

(a) If the operation transports children whose chronological or developmental age is younger than nine years old, two clock hours of annual transportation safety training is required for:

- (1) Each employee prior to transporting a child; and
- (2) Each child-care center director.

(b) The two clock hours of transportation safety training are exclusive of any requirements for orientation, pre-service training, and annual training.

§746.1329. *What documentation must I provide to Licensing to verify that employees have met training requirements?*

(a) You must maintain the original certificate or letter documenting the completion of annual training in each employee's personnel record at the child-care center.

(b) For annual training to be counted toward compliance with the minimum standards, the trainer or training source must provide the participant with an original certificate or letter showing:

- (1) The participant's name;
- (2) Date of the training;
- (3) Title/subject of the training;
- (4) The trainer's name, or the source of the training for self-instructional training;
- (5) The trainer's qualifications, in compliance with §746.1317 of this division (relating to Must the training for my caregivers and the director meet certain criteria?); and

(6) Length of the training specified in clock hours, CEUs, or college credit hours, as appropriate.

(c) For pediatric first aid with rescue breathing and choking and pediatric CPR to count toward compliance with the minimum standards:

(1) The certificate or letter must include:

(A) The same information required in subsection (b) of this section; and

(B) The expiration or renewal date of the training, as determined by the organization providing the training; and

(2) You must maintain:

(A) The original certificate or letter documenting the completion of pediatric first aid and pediatric CPR in each employee's personnel record at the center; or

(B) A photocopy of the original certificate or letter documenting the completion of pediatric first aid and pediatric CPR in each employee's personnel record at the center, so long as the employee is able to provide an original certificate or letter upon Licensing's request.

(d) For orientation and pre-service training, you must obtain a signed and dated statement from the employee and the person providing the orientation or pre-service training stating the employee has received the orientation or pre-service training, or you may obtain an original certificate or letter as specified in subsection (b) of this section.

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

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Chief Counsel

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For further information, please call: (512) 438-5559



## 26 TAC §746.1315

### STATUTORY AUTHORITY

The repeal is adopted under Government Code §531.0055, which provides that the Health and Human Services Executive Commissioner shall adopt rules for the operation and provision of services by the health and human services agencies, and §531.02011, which transferred the regulatory functions of the Department of Family and Protective Services to HHSC.

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

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## SUBCHAPTER N. FIELD TRIPS

### 26 TAC §746.3001

#### STATUTORY AUTHORITY

The amendment is adopted under Government Code §531.0055, which provides that the Health and Human Services Executive Commissioner shall adopt rules for the operation and provision of services by the health and human services agencies, and §531.02011, which transferred the regulatory functions of the Department of Family and Protective Services to HHSC.

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

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## SUBCHAPTER O. GET-WELL CARE PROGRAMS

### 26 TAC §746.3117

#### STATUTORY AUTHORITY

The amendment is adopted under Government Code §531.0055, which provides that the Health and Human Services Executive Commissioner shall adopt rules for the operation and provision of services by the health and human services agencies, and §531.02011, which transferred the regulatory functions of the Department of Family and Protective Services to HHSC.

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

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**CHAPTER 747. MINIMUM STANDARDS FOR  
CHILD-CARE HOMES**

The Texas Health and Human Services Commission (HHSC) adopts amendments to §§747.901, 747.1309, 747.1314, and 747.1327 in Title 26, Chapter 747, Minimum Standards for Child-Care Homes, concerning information and documentation that must be maintained in personnel records, annual training, and transportation training, with changes to the proposed text as published in the June 22, 2018 issue of the *Texas Register* (43 TexReg 4080).

HHSC adopts amendments to §§747.1007, 747.1107, 747.1207, 747.1209, 747.1301, 747.1303, 747.1305, 747.1403, and 747.2901; new §747.1313; and the repeal of §747.1307 and §747.1313 in Title 26, Chapter 747, Minimum Standards for Child-Care Homes, concerning caregiver qualifications, orientation, annual training, pediatric first aid training, pediatric CPR training, and ongoing training requirements. The amendments, new section, and repeals are adopted without changes to the proposed text as published in the June 22, 2018 issue of the *Texas Register* (43 TexReg 4080), and therefore will not be republished.

**BACKGROUND AND JUSTIFICATION**

The amendments, new section, and repeals implement needed changes to comply with requirements in the Child Care and Development Block Grant Act of 2014 ("the Act") related to orientation, annual training, and ongoing training requirements for caregivers in licensed and registered homes.

The Act is the first comprehensive revision of the Child Care Development Fund (CCDF) program since 1998. (The CCDF is codified in 42 USC §9857 et seq. and supported in the federal regulations found in 45 CFR Part 98. For the purpose of this preamble, "the Act" will include the requirements in the federal regulations as well as the statute.) The Texas Workforce Commission (TWC) administers the CCDF, which is the primary federal funding source devoted to providing low-income families with access to child care. The Act made significant reforms to the CCDF program to raise the health, safety, and quality of child care by mandating that states comply with a multitude of additional requirements, including health and safety requirements and training on those topics, in order to continue to receive the CCDF funding. Although TWC is the lead agency for determining eligibility and distributing the subsidy monies, Child Care Licensing (CCL), a department of the HHSC, is the agency responsible for licensing and registering homes, establishing health and safety regulations, and monitoring eligible homes for compliance.

New rules implementing the Act's background check and health and safety requirements were implemented on September 1, 2016. The amendments, new section, and repeals further implement the Act's health and safety requirements to make sure the Minimum Standards for Child-Care Homes are more consistent with the Act's requirements. The amendments, new section, and

repeals: (1) require caregivers to receive training within 90 days of employment in pediatric first aid with rescue breathing and choking and pediatric cardiopulmonary resuscitation (CPR), and the training must be ongoing; (2) clarify that training regarding child abuse and neglect is related to child maltreatment, in order to be more consistent with the federal health and safety training topic and the state statutory language; (3) require caregivers to have training qualifications in understanding the developmental stages of children; (4) require caregivers to have training qualifications in the prevention, recognition, and reporting of child maltreatment; (5) clarify that the primary caregiver must receive training in transportation safety if the home transports children who are chronologically or developmentally younger than nine years old; (6) streamline and reduce redundancies in rules regarding training requirements; and (7) update language for better readability and understanding.

A workgroup meeting was held on February 9, 2018, to obtain stakeholder input and feedback regarding the development of the proposed rules. Draft rules were discussed and several rules were updated before being proposed based on the comments.

**COMMENTS**

The 30-day comment period ended July 23, 2018.

During this period, HHSC received comments regarding the proposed rules from four commenters, including Sandy's Little Darlings, the Coalition for Nurses in Advanced Practice, Rafique Registered Child-Care Home, and one individual. A summary of comments relating to the rules and HHSC's responses follows.

**Comment:** Regarding §747.901(3), the commenter recommended that a "physician's statement", which is acceptable verification that an employee or caregiver is free of tuberculosis, be replaced with the broader term "health-care professional's statement" because "health-care professional" is already more broadly defined in this chapter and in many instances advanced practice registered nurses perform these duties, especially in medically underserved areas.

**Response:** HHSC agrees with the commenter and adopts this rule with changes.

**Comment:** Regarding §747.1303, one commenter liked the specific labelling of clock hours, which the commenter found clearer and more helpful.

**Response:** HHSC appreciates the comment and adopts this rule without changes.

**Comment:** Regarding §747.1313(b)(1), one commenter wanted to know whether the CPR certification must be by the American Heart Association (AHA), or whether other agencies like the Red Cross could be used.

**Response:** The wording of the original rule related to the comment did not change. CPR training provided by other organizations may be used, as long as the organization adheres to the CPR guidelines established by the AHA, including the use of a CPR manikin and both written and hands-on skill-based instruction, practice, and testing. HHSC adopts this rule without changes.

**Comment:** Regarding §747.1403, one commenter liked replacing the term "abuse and neglect" with "maltreatment".

**Response:** HHSC appreciates the comment and adopts this rule without changes.



Comment: There was a general comment that changing the rules every three months is difficult for home care providers, and CCL should be looking for unlicensed child care providers.

Response: HHSC acknowledges the general comment, but did not adopt any changes to rules regarding this comment.

In response to a comment made to a similar rule in Chapter 746, HHSC adopts §747.1327 with changes to clarify that homes may keep in the caregiver's personnel record the original certificate or letter documenting completion of pediatric first aid with rescue breathing and choking and pedantic CPR training or keep a photocopy in the personnel record, as long as the caregiver can provide the original certificate or letter upon Licensing's request.

In addition, minor changes were made to §747.1309(h) to reword the rule in present tense, and §747.1314(b) to correct a verb usage.

#### ADDITIONAL INFORMATION

For further information, please call: (512) 438-5559.

### SUBCHAPTER C. RECORD KEEPING DIVISION 4. RECORDS ON CAREGIVERS AND HOUSEHOLD MEMBERS

#### 26 TAC §747.901

##### STATUTORY AUTHORITY

The amendment is adopted under Government Code §531.0055, which provides that the Health and Human Services Executive Commissioner shall adopt rules for the operation and provision of services by the health and human services agencies, and §531.02011, which transferred the regulatory functions of the Department of Family and Protective Services to HHSC.

*§747.901. What information must I maintain in my personnel records?*

You must keep at least the following at the child-care home for each assistant caregiver and substitute caregiver, as specified in this chapter:

- (1) Documentation showing the dates of the first and last day on the job;
- (2) Documentation showing how the caregiver meets the minimum age and education qualifications, if applicable;
- (3) A copy of a health card or health care professional's statement verifying the caregiver is free of active tuberculosis, if required by the regional Texas Department of State Health Services TB program or local health authority;
- (4) A notarized Licensing *Affidavit for Applicants for Employment* form as specified in Human Resources Code, §42.059;
- (5) A record of training hours;
- (6) Proof of request for all background checks required under 40 TAC Chapter 745, Subchapter F (relating to Background Checks);
- (7) A copy of a photo identification;
- (8) A copy of a current driver's license for each person or caregiver that transports a child in care; and
- (9) A statement signed and dated by the caregiver in a licensed child-care home verifying the date the caregiver attended training during orientation that includes an overview regarding the prevention, recognition, and reporting of child maltreatment, as specified in

§747.1301 of this chapter (relating to What must orientation for caregivers at my child-care home include?)

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

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Karen Ray

Chief Counsel

Health and Human Services Commission

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For further information, please call: (512) 438-5559



### SUBCHAPTER D. PERSONNEL DIVISION 1. PRIMARY CAREGIVER QUALIFICATIONS FOR A REGISTERED CHILD-CARE HOME

#### 26 TAC §747.1007

##### STATUTORY AUTHORITY

The amendment is adopted under Government Code §531.0055, which provides that the Health and Human Services Executive Commissioner shall adopt rules for the operation and provision of services by the health and human services agencies, and §531.02011, which transferred the regulatory functions of the Department of Family and Protective Services to HHSC.

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### DIVISION 2. PRIMARY CAREGIVER QUALIFICATIONS FOR A LICENSED CHILD-CARE HOME

#### 26 TAC §747.1107

##### STATUTORY AUTHORITY

The amendment is adopted under Government Code §531.0055, which provides that the Health and Human Services Executive Commissioner shall adopt rules for the operation

and provision of services by the health and human services agencies, and §531.02011, which transferred the regulatory functions of the Department of Family and Protective Services to HHSC.

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

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### DIVISION 3. ASSISTANT AND SUBSTITUTE CAREGIVERS

#### 26 TAC §747.1207, §747.1209

##### STATUTORY AUTHORITY

The amendments are adopted under Government Code §531.0055, which provides that the Health and Human Services Executive Commissioner shall adopt rules for the operation and provision of services by the health and human services agencies, and §531.02011, which transferred the regulatory functions of the Department of Family and Protective Services to HHSC.

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

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### DIVISION 4. PROFESSIONAL DEVELOPMENT

#### 26 TAC §§747.1301, 747.1303, 747.1305, 747.1309, 747.1313, 747.1314, 747.1327

##### STATUTORY AUTHORITY

The amendments and new section are adopted under Government Code §531.0055, which provides that the Health and Human Services Executive Commissioner shall adopt rules for the operation and provision of services by the health and human services agencies, and §531.02011, which transferred the regula-

tory functions of the Department of Family and Protective Services to HHSC.

§747.1309. *What areas of training must the annual training for the primary caregiver cover?*

(a) You must obtain at least 30 clock hours of training each year relevant to the age of the children for whom you provide care.

(b) At least six clock hours of the annual training hours must be in one or more of the following topics:

- (1) Child growth and development;
- (2) Guidance and discipline;
- (3) Age-appropriate curriculum; and
- (4) Teacher-child interaction.

(c) If your home provides care for children younger than 24 months, one hour of the annual training hours must cover the following topics:

- (1) Recognizing and preventing shaken baby syndrome;
- (2) Understanding and using safe sleep practices and preventing sudden infant death syndrome (SIDS); and
- (3) Understanding early childhood brain development.

(d) While there are no clock hour requirements for the topics in this subsection, the annual training hours must also include training on the following topics:

- (1) Emergency preparedness;
- (2) Preventing and controlling the spread of communicable diseases, including immunizations;
- (3) Administering medication, if applicable, including compliance with §747.3603 of this chapter (relating to What authorization must I obtain before administering a medication to a child in my care?);

(4) Preventing and responding to emergencies due to food or an allergic reaction;

(5) Understanding building and physical premises safety, including identification and protection from hazards that can cause bodily injury such as electrical hazards, bodies of water, and vehicular traffic; and

(6) Handling, storing, and disposing of hazardous materials including compliance with §747.3221 of this chapter (relating to Must caregivers wear gloves when handling blood or bodily fluids containing blood?).

(e) If you have:

(1) Five or fewer years of experience as a primary caregiver in a licensed or registered child-care home, you must complete at least six of the annual training hours in management techniques, leadership, or staff supervision; or

(2) More than five years of experience as a primary caregiver in a licensed or registered child-care home, you must complete at least three of the annual training hours in management techniques, leadership, or staff supervision.

(f) The remainder of annual training hours must be selected from the training topics specified in §747.1305(e) of this chapter (relating to What areas of training must the annual training for substitute and assistant caregivers cover?).

(g) You may obtain clock hours or CEUs from the same sources as other caregivers.

(h) You may not earn training hours by presenting training to other caregivers.

(i) No more than 80% of the required annual training hours may come from self-instructional training. No more than three of those self-instructional hours may come from self-study training.

(j) The 30 clock hours of annual training are exclusive of any requirements for the Licensing pre-application course, pediatric first aid and pediatric CPR training, and transportation safety training.

*§747.1314. What additional training must an employee and caregiver have if the home transports children?*

(a) If the home transports children whose chronological or developmental age is younger than nine years old, two clock hours of annual transportation safety training is required for:

- (1) Each employee prior to transporting a child; and
- (2) The primary caregiver.

(b) The two clock hours of transportation safety training are exclusive of any requirements for orientation, pre-service training, and annual training.

*§747.1327. What documentation must I provide to Licensing to verify that caregivers have met training requirements?*

(a) You must maintain the original certificate or letter documenting the completion of annual training in each caregiver's personnel record at the child-care home.

(b) For annual training to be counted toward compliance with the minimum standards, the trainer or training source must provide the participant with an original certificate or letter showing:

- (1) The participant's name;
- (2) Date of the training;
- (3) Title/subject of the training;
- (4) The trainer's name, or the source of the training for self-instructional training;

(5) The trainer's qualifications, in compliance with §747.1315 of this division (relating to Must child-care training meet certain criteria?); and

(6) Length of the training specified in clock hours, CEUs, or college credit hours, as appropriate.

(c) For pediatric first aid with rescue breathing and choking and pediatric CPR to count toward compliance with the minimum standards:

(1) The certificate or letter must include:

(A) The same information required in subsection (b) of this section; and

(B) The expiration or renewal date of the training, as determined by the organization providing the training; and

(2) You must maintain:

(A) The original certificate or letter documenting the completion of the pediatric first aid and pediatric CPR in each caregiver's personnel record at the home; or

(B) A photocopy of the original certificate or letter documenting the completion of the pediatric first aid and pediatric CPR in

each caregiver's personnel record at the home, so long as the caregiver is able to provide an original certificate or letter upon Licensing's request.

(d) For orientation, you must obtain a signed and dated statement from the caregiver and the person providing the orientation stating the caregiver has received the orientation, or you may obtain an original statement or letter as specified in subsection (b) of this section.

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

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Karen Ray

Chief Counsel

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## **26 TAC §747.1307, §747.1313**

### **STATUTORY AUTHORITY**

The repeals are adopted under Government Code §531.0055, which provides that the Health and Human Services Executive Commissioner shall adopt rules for the operation and provision of services by the health and human services agencies, and §531.02011, which transferred the regulatory functions of the Department of Family and Protective Services to HHSC.

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## **DIVISION 5. HOUSEHOLD MEMBERS, VOLUNTEERS, AND PEOPLE WHO OFFER CONTRACTED SERVICES**

### **26 TAC §747.1403**

#### **STATUTORY AUTHORITY**

The amendment is adopted under Government Code §531.0055, which provides that the Health and Human Services Executive Commissioner shall adopt rules for the operation and provision of services by the health and human services agencies, and §531.02011, which transferred the regulatory

functions of the Department of Family and Protective Services to HHSC.

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## SUBCHAPTER N. FIELD TRIPS

### 26 TAC §747.2901

#### STATUTORY AUTHORITY

The amendment is adopted under Government Code §531.0055, which provides that the Health and Human Services Executive Commissioner shall adopt rules for the operation and provision of services by the health and human services agencies, and §531.02011, which transferred the regulatory functions of the Department of Family and Protective Services to HHSC.

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## CHAPTER 749. MINIMUM STANDARDS FOR CHILD-PLACING AGENCIES

The Texas Health and Human Services Commission (HHSC) adopts in Title 26, Chapter 749, Minimum Standards for Child-Placing Agencies, an amendment to §749.41, concerning pronouns used in this chapter, new §§749.2470, 749.2471, and 749.2827, and the repeal of §749.2471, concerning the verification of a foster family home and how long a current foster group home may continue to operate. The amendment, new sections, and the repeal are adopted without changes to the proposed text as published in the June 22, 2018, issue of the *Texas Register* (43 TexReg 4090), and therefore will not be republished.

#### BACKGROUND AND JUSTIFICATION

The amendment, new sections, and repeal are necessary to implement House Bill (HB) 5 and HB 7, Section 78, 85th Legislature, Regular Session, 2017. HB 5 moved the regulation of child care formerly provided by the Department of Family and Protective Services (DFPS) to HHSC. The amendment to §749.41 clarifies that Licensing is now a Department of HHSC. HB 7 prohibits a child-placing agency from verifying a foster group home after August 31, 2017, but allows a foster group home to continue to operate until HHSC adopts rules for the conversion or closure of the foster group home. New §749.2827 requires child-placing agencies to either convert (re-verify) a foster group home to a foster family home or close the foster group home by August 31, 2019. New §749.2471 clarifies what steps a child-placing agency must take to re-verify a foster group home as a foster family home. Section 749.2471 was repealed and the text was moved to new §749.2470 and updated for better organization and readability.

Stakeholder input and feedback were used in the development of the proposed rules relating to child-placing agencies converting a foster group home to a foster family home. A workgroup meeting was held on February 9, 2018. The proposed amendment, new sections, and repeal were posted for informal stakeholder comments on the Health and Human Services rulemaking website from March 9 - 23, 2018. No informal stakeholder comments were received.

#### COMMENTS

The 30-day comment period ended July 23, 2018.

During this period, HHSC did not receive any comments regarding the proposed rules.

#### ADDITIONAL INFORMATION

For further information, please call: (512) 438-5559.

## SUBCHAPTER B. DEFINITIONS AND SERVICES

### DIVISION 1. DEFINITIONS

#### 26 TAC §749.41

#### STATUTORY AUTHORITY

The amendment is adopted under Government Code, §531.0055, which provides that the Health and Human Services Executive Commissioner shall adopt rules for the operation and provision of services by the health and human services agencies, and §531.02011, which transferred the regulatory functions of DFPS to HHSC.

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

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Karen Ray

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SUBCHAPTER M. FOSTER HOMES:  
SCREENINGS AND VERIFICATIONS  
DIVISION 3. VERIFICATION OF FOSTER  
HOMES

**26 TAC §749.2470, §749.2471**

The new sections are adopted under Government Code, §531.0055, which provides that the Health and Human Services Executive Commissioner shall adopt rules for the operation and provision of services by the health and human services agencies, and §531.02011, which transferred the regulatory functions of DFPS to HHSC.

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

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Karen Ray  
Chief Counsel  
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For further information, please call: (512) 438-5559

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**26 TAC §749.2471**

The repeal is adopted under Government Code, §531.0055, which provides that the Health and Human Services Executive Commissioner shall adopt rules for the operation and provision of services by the health and human services agencies, and §531.02011, which transferred the regulatory functions of DFPS to HHSC.

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SUBCHAPTER N. FOSTER HOMES:  
MANAGEMENT AND EVALUATION

**26 TAC §749.2827**

The new section is adopted under Government Code, §531.0055, which provides that the Health and Human Services

Executive Commissioner shall adopt rules for the operation and provision of services by the health and human services agencies, and §531.02011, which transferred the regulatory functions of DFPS to HHSC.

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

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**TITLE 31. NATURAL RESOURCES AND  
CONSERVATION**

**PART 2. TEXAS PARKS AND  
WILDLIFE DEPARTMENT**

**CHAPTER 57. FISHERIES**

**SUBCHAPTER I. CONSISTENCY WITH  
FEDERAL REGULATIONS IN THE EXCLUSIVE  
ECONOMIC ZONE**

**31 TAC §57.801**

The Texas Parks and Wildlife Commission in a duly noticed meeting on May 24, 2018, adopted an amendment to §57.801, concerning Powers of the Executive Director, without change to the proposed text as published in the April 20, 2018, issue of the *Texas Register* (43 TexReg 2365).

The amendment authorizes the executive director of the department to implement fishery management plans approved by the U.S. Secretary of Commerce, including but not limited to Exempted Fishing Permits (EFPs), when such action is deemed to be in the best interest of the State of Texas.

Despite increases in red snapper stocks to levels not seen before (SouthEast Data, Assessment, and Review 2013), the recreational season established by federal regulation for the red snapper fishery in Texas has steadily dwindled in length. In 2010 the federal recreational red snapper season was 77 days, but it has since decreased precipitously - to the point that in 2017 it would have been just three days (Table 1). The proposed three-day recreational season resulted in controversy involving recreational anglers, communities, and elected officials at the local, state, and federal levels in all states bordering the Gulf of Mexico, prompting the U.S. Secretary of Commerce to initiate a process in which federal regulators worked with the affected states (Texas, Louisiana, Mississippi, Alabama, and Florida) to develop an eventual season of 42 days.

Table 1. Number of days allocated by National Marine Fisheries Service for recreational red snapper fishing in federal waters of the Gulf of Mexico, 2010 - 2017.

2010 - 77  
2011 - 48  
2012 - 46  
2013 - 42  
2014 - 9  
2015 - 10  
2016 - 11  
2017 - 42

In September of 2017 the National Marine Fisheries Service (NMFS) sent the Gulf States marine fisheries directors a letter inviting them to apply for an Exempted Fishing Permit (EFP) that would authorize the individual states to take the lead on red snapper management activities in the Gulf of Mexico. This letter was prompted by Senate Report 114-239, which directed the National Oceanic and Atmospheric Administration (NOAA) to develop and support a fishery management pilot program that would allow Gulf States to take the lead in reef fish management activities, specifically for red snapper. EFP's are issued for conducting research or other fishing activities that would otherwise be prohibited by regulations.

In response to this request the department submitted an EFP application requesting exemption from the federal red snapper season to test data collection and quota monitoring methodologies during 2018 and 2019. The original application requested allocation (pounds of fish) based on historical landings data for all sectors of the recreational red snapper fishery (private (approximately 24,000 anglers), charter-for-hire (212 federally-permitted charter boats), and headboat anglers (16 federally-permitted headboats)).

On April 16, 2018, NMFS approved a modified version of the Texas EFP that applied only to the private recreational sector of the red snapper fishery. The department's requested allocation was reduced by approximately 77% (from 1,077,280 pounds to 241,245 pounds) to correspond with historical landings from this sector. The NMFS chose to retain the federally-permitted for-hire sectors with the federal management system.

Under the terms of the EFP, landings of red snapper will be monitored weekly from data collected through the Texas Marine Sport Harvest Monitoring Program and validated self-reported data from a smart-phone application (iSnapper). Red snapper landed in Texas by private recreational anglers will count against Texas' quota, and the fishery in both state and federal waters must be closed when the combined estimated recreational landings are projected to meet the quota. In order to avoid exceeding the quota, the department has determined that there must be a regulatory mechanism at the state level to allow the department to quickly close the fishery in state and federal waters when the quota is reached. Therefore, the amendment allows the executive director to take the necessary action to implement management plans ultimately approved by the U.S. Secretary of Commerce (including EFP's) in the Exclusive Economic Zone (federal waters).

#### Literature Cited

SEDAR 31. 2013. Stock assessment report Gulf of Mexico red snapper. Southeast Data, Assessment, and Review. North Charleston, South Carolina. <http://www.sefsc.noaa.gov/sedar/>.

The department received five comments opposing adoption of the proposed rule via the department's website; however, the department has determined that three comments were generated by a bot and are therefore immaterial. The two remaining commenters provided a reason or rationale for opposing adoption. Those comments, accompanied by the department's response to each, follow.

One commenter opposed adoption and stated disagreement with the terms of the EFP, the legitimacy of fisheries data used to make management decisions, and the commitment of the department to the recreational fishery. The department disagrees with the comment and responds that the EFP is the result of a good-faith negotiation among all concerned parties and is certainly preferable to the alternative of significantly reduced angling opportunity, that the department's data is the best available data upon which to base management decisions, and that department management decisions are made solely on a biological basis and without favoritism to any particular component of the fishery. No changes were made as a result of the comment.

One commenter opposed adoption and stated that the rule discriminates against commercial license holders. The department disagrees with the comment and responds that management decisions are made solely on a biological basis and without favoritism to any particular component of the fishery. No changes were made as a result of the comment.

The amendment is adopted under authority of Parks and Wildlife Code, §79.002, which authorizes the commission to delegate to the director the duties, responsibilities, and authority provided by this chapter for taking immediate action as necessary to modify state coastal fisheries regulations in order to provide for consistency with federal regulations in the exclusive economic zone.

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

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Robert D. Sweeney, Jr.  
General Counsel  
Texas Parks and Wildlife Department  
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For further information, please call: (512) 389-4775

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## CHAPTER 58. OYSTERS, SHRIMP, AND FINFISH

### SUBCHAPTER A. STATEWIDE OYSTER FISHERY PROCLAMATION

#### 31 TAC §58.70

The Texas Parks and Wildlife Commission in a duly noticed meeting on May 24, 2018, adopted new §58.70, concerning the Oyster License Buyback Program, with changes to the proposed text as published in the April 20, 2018, issue of the *Texas Register* (43 TexReg 2367), therefore, the rule will be republished.

The new rule creates a buyback program for commercial oyster licenses by prescribing the application requirements and bidding procedures for prospective license offerors, setting forth the criteria to be used by the department in ranking bids from offerors and the selection of licenses to be purchased (if any), providing for notification of applicants of acceptance or rejection of bids, and authorizing the delegation of license buyback authority to third parties.

The 79th Legislature (2005) enacted Senate Bill 272, which directed the department to implement a license moratorium to promote efficiency and economic stability in the oyster industry. In the period between the passage of SB 272 and its effective date, commercial oyster license sales increased by 127% in comparison to the previous five-year average, which the department attributes to speculative behavior by persons anticipating a future opportunity to sell licenses back to the department at a profit. In 2017, the 85th Texas Legislature enacted House Bill 51, which, among other things, required the department to implement a commercial oyster license buyback program. Although some attrition in the number of licenses has occurred over the years and it appears that a significant number of licenses have never actually been used, the number of licenses remaining constitutes a risk to the recovery and sustainability of oyster resources in Texas, given the current state of the fishery and the resultant pressure on oyster resources. Accordingly, the new rule creates a mechanism for the purchase and retirement of commercial oyster licenses.

New §58.70(a) delegates authority to the department's executive director to administer the oyster license buyback program. Although such authority is implicit in the provisions of H.B. 51 that direct the department to implement and administer a license buyback program, the department has determined that the rule should be patterned after existing rules governing the license buyback program for shrimp (31 TAC §58.130) in order to avoid confusion.

New §58.70(b) provides for the establishment of application periods based on the availability of funds, during which bids would be accepted by the department. The department anticipates that funds for license buyback will not be continuously available; therefore, the department believes it is efficient to conduct buyback activities during specific periods when funds are available.

New §58.70(c) requires an applicant to be the owner of a license offered for buyback and to submit a department-supplied application form by the stated deadline. The new subsection also prescribes the contents of the application form. The application form will require the applicant's full name, current residence address and social security number, documentation attesting that applicant is the sole owner of the vessel and holds the sole rights and privileges to the license (or that all members of a partnership or corporation have agreed to the application and the bid contained in the application), the federal vessel documentation number or state registration number for the vessel, a copy of the applicant's current commercial oyster boat license, and the applicant's bid offer, in U.S. dollars. The department believes that it is necessary and prudent to verify that a person seeking to sell a license is legally entitled to do so, which necessitates that the department verify the person's identity, legal residence, and licensure status, as well as vessel documentation.

New §58.70(d) sets forth the criteria that could be used by the department in evaluating applications and selecting licenses for buyback, such as vessel length, the funds available to the department, the number of commercial oyster boat licenses in the

fishery issued in the license year of the specific bid offer application period, bid offers from previous application periods, established open market prices for licenses, and other relevant factors. The department has determined that since a variety of factors are in play at any given time, the department should have the latitude to consider all of them in the process of determining whether a license should be repurchased and at what price.

Proposed new §58.70(e) establishes the procedure used by the department to prioritize bid offers. The new subsection provides that applications will be ranked from highest to lowest using the criteria in new subsection (d), that licenses will be purchased in order from highest to lowest evaluations, and that in the case of bid offers that are ranked equally, priority will be given to the larger vessel and after that, in alphabetical order of the applicant's last name. The department has determined that in cases where two bid offers have an equal ranking, the larger vessel should take precedence since the larger the vessel, the greater the harvest and storage capacity and, concomitantly, the greater the positive impact on oyster resources realized by the purchase of that license. Beyond that, there are no additional useful criteria and an alphabetical order is necessary simply to separate bid offers that are so similar as to be indistinguishable.

New §58.70(f) requires the department to notify applicants within 45 days of receipt of an application of the department's decisions to either accept or reject the applicant's bid offer, and gives accepted applicants 15 days from the date of notification to accept or reject the department's offer. The department considers that because the process set forth by the rule takes place within a specified period, the timeframe of the decision to accept or refuse the department's decision cannot be open-ended, but must be definitive as of a date certain.

New §58.70(g) provides for the delegation of purchasing authority to qualified agents. The department has determined that circumstances in some cases might make it more convenient and efficient for a qualified agent to analyze and accept or reject bids according to the provisions of the rule.

The department received four comments opposing adoption of the proposed rules via the department's website; however, the department has determined that three of the comments were generated by a bot and are therefore immaterial. The fourth comment opposed adoption and stated that buyback is made available only to licenses that are being used. The department disagrees with the comment and responds that the department does not have the authority to prescribe such a requirement and that the rule is necessary precisely because licenses have been purchased and not used. No changes were made as a result of the comment.

The department received nine comments supporting adoption of the rules as proposed; however three of those comments were also determined to have been generated by a bot and are therefore immaterial.

The new rule is adopted under authority of Parks and Wildlife Code, §76.405, which authorizes the commission to implement a license buyback program for commercial oyster licenses as part of the oyster license moratorium program required by Parks and Wildlife Code, Chapter 76, Subchapter F and to establish criteria by rule for selecting oyster licenses to be purchased; and §76.404, which authorizes the commission to adopt any rules necessary for the administration of the program established under Parks and Wildlife Code, Chapter 76, Subchapter F.

§58.70. *Oyster License Buyback Program.*

(a) Delegation of Authority. The commission delegates power and authority to the executive director to administer the Oyster License Buyback Program.

(b) License Buyback Bid Application Period.

(1) The department will open one or more license buyback bid offer application periods (hereinafter referred to as an application period) per license year if available funds permit.

(2) The department shall establish during each application period a deadline for receipt of all applications.

(c) License Buyback Application Requirements.

(1) The department shall consider all applications to the Oyster License Buyback Program provided the applicants meet the following requirements:

(A) A completed License Buyback Application form furnished by the department has been submitted to the department by the application deadline;

(B) The applicant is the owner of the license submitted for buyback; and

(C) The applicant has submitted to the department copies of all information as required in this subsection.

(2) A completed License Buyback Application shall contain:

(A) full name of the applicant;

(B) current address of applicant's residence;

(C) social security number of the applicant;

(D) a copy of legal documentation that:

(i) documents applicant as the sole owner of the vessel who holds the sole rights and privileges to the license; or

(ii) documents that all members of a partnership or corporation are in agreement to apply to the license buyback program and the submitted bid offer for license buyback;

(E) USCG vessel documentation number or State of Texas registration number;

(F) a copy of current commercial oyster boat license; and

(G) the applicant's bid offer, in U.S. dollars.

(3) Department records will be used to verify all information supplied by the applicant or pertaining to the applicant's history in the oyster fishery or will be used in cases where the applicant has not provided adequate information for proper consideration of the application.

(d) Oyster License Buyback Criteria.

(1) The department may establish criteria each license year which will be used to determine qualifications for license buybacks.

(2) The department may consider:

(A) length of vessel;

(B) amount of funds accumulated in the Oyster License Buyback Account and the Commercial License Buyback Subaccount;

(C) number of commercial oyster boat licenses in the fishery issued in the license year of the specific bid offer application period;

(D) bid offers from previous application periods;

(E) established open market prices for licenses; and

(F) other relevant factors.

(e) Application Ranking Procedures.

(1) Ranking values will be assigned to all applications based on the criteria set forth in subsection (d) of this section.

(2) The department will purchase licenses beginning with the highest ranking to the lowest.

(3) Equally ranked bid offers:

(A) If bid offers are equally ranked and both vessels are not the same length, the department will rank the larger vessel ahead of the smaller.

(B) If bid offers are equally ranked, the department will rank according to the ascending alphabetical order of the applicant's last name.

(f) Notification of Acceptance or Rejection of Application.

(1) Department will notify each applicant in writing within 45 days of receipt of application regarding acceptance or rejection of application bid offer.

(2) Applicants whose bids are accepted must then notify the department of their intent to accept or reject the offer from the department within 15 days of the postmark of the notification letter sent by the department.

(g) Delegation of Purchasing Authority.

(1) The department may designate other qualified agents to purchase licenses on behalf of the department provided all purchased licenses are surrendered to the department and retired.

(2) The designated qualified agents may utilize the Oyster License Buyback Criteria established in subsection (d) of this section to purchase licenses.

(h) The department shall set aside 20 percent of the fees from licenses issued under this subchapter for the purpose of buying back commercial oyster boat licenses from willing license holders.

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

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Robert D. Sweeney, Jr.

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Texas Parks and Wildlife Department

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For further information, please call: (512) 389-4775



## SUBCHAPTER B. STATEWIDE SHRIMP FISHERY PROCLAMATION

### 31 TAC §58.161

The Texas Parks and Wildlife Commission in a duly noticed meeting on May 24, 2018, adopted an amendment to §58.161,



concerning Shrimping in Outside Waters, without change to the proposed text as published in the April 20, 2018, issue of the *Texas Register* (43 TexReg 2369). The rule will not be republished.

The amendment provides that a person who is required to obtain a shrimp unloading license in order to unload (or allow to be unloaded) shrimp or other aquatic products at a port or point in Texas must stow all shrimp trawls and doors while in Texas waters. The amendment is necessary to comply with the provisions of House Bill 1260, which was enacted by the 85th Texas Legislature.

House Bill 1260 amended the Parks and Wildlife Code by adding new §77.034, which provides that except for holders of a Texas gulf shrimp boat license, no person may unload or allow to be unloaded at a port or point in this state shrimp or other aquatic products caught or taken from the outside water or from salt water outside the state without having been previously unloaded in some other state or foreign country, unless the person has obtained a commercial gulf shrimp unloading license and a federal commercial vessel permit for gulf shrimp from the National Oceanic and Atmospheric Administration. The bill also requires the commission to adopt rules for the requirements of trawl gear storage for vessels required to obtain a shrimp unloading license.

To facilitate enforcement of commercial shrimp licensing rules and to protect marine resources from unlawful exploitation, the amendment requires any shrimp boat required to obtain a shrimp unloading license to stow all trawls and doors within the confines of the hull while in Texas waters.

The department received four comments opposing adoption of the proposed rule via the department's website; however, the department has determined that three of the comments were generated by a bot and are therefore immaterial. The fourth commenter opposed adoption and stated that the rule will depress shrimp prices for Texas shrimpers by allowing shrimp from other states to be unloaded in Texas. The department disagrees with the comment and responds that shrimp prices are driven by overall market demand, not by landing location. No changes were made as a result of the comment.

The department received nine comments supporting adoption of the rules as proposed; however three of those comments were also determined to have been generated by a bot and are therefore immaterial.

The amendment is adopted under Parks and Wildlife Code §77.034, which requires the commission to adopt rules for the requirements of trawl gear storage for a vessel who holds a commercial gulf shrimp unloading license while that vessel is making a nonstop progression through outside waters to a place of unloading, and Parks and Wildlife Code §77.007, which authorizes the commission to regulate the catching, possession, purchase, and sale of shrimp.

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

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## CHAPTER 65. WILDLIFE

### SUBCHAPTER B. DISEASE DETECTION AND RESPONSE

#### DIVISION 2. CHRONIC WASTING DISEASE - MOVEMENT OF DEER

##### 31 TAC §§65.90, 65.91, 65.95, 65.97

The Texas Parks and Wildlife Commission in a duly noticed meeting on May 24, 2018, adopted amendments to §§65.90, 65.91, 65.95, and 65.97 concerning Chronic Wasting Disease - Movement of Deer. Sections 65.90, 65.95, and 65.97 are adopted with changes to the proposed text as published in the April 20, 2018, issue of the *Texas Register* (43 TexReg 2370). Section 65.91 is adopted without change and will not be republished.

The change to §65.90, concerning Definitions, is a minor grammatical correction to (39).

The change to §65.95, concerning Movement of Breeder Deer, eliminates a citation in subsection (a). The proposed amendment would have removed a reference to a subsection in §65.610 in order to make the entirety of §65.610 applicable; the department has determined that the citation is itself irrelevant, as the language of subsection (a) predicates the movement of deer upon the approval by the department of a permit activation, which makes a citation of any kind redundant. The Department also made a grammatical correction to (F)(2).

The change to §65.97, concerning Testing and Movement of Deer Pursuant to a Triple T or TTP Permit, is a minor grammatical correction in the Section title.

The amendments require certain permittees to provide precise geospatial information to identify locations where white-tailed or mule deer are transferred under department-issued permits.

Chronic wasting disease (CWD) is a fatal neurodegenerative disorder that affects some cervid species, including white-tailed deer, mule deer, elk, red deer, sika, and their hybrids (susceptible species). It is classified as a TSE (transmissible spongiform encephalopathy), a family of diseases that includes scrapie (found in sheep), bovine spongiform encephalopathy (BSE, found in cattle), and variant Creutzfeldt-Jakob Disease (vCJD) in humans.

Much remains unknown about CWD. The peculiarities of its transmission (how it is passed from animal to animal), infection rate (the frequency of occurrence through time or other comparative standard), incubation period (the time from exposure to clinical manifestation), and potential for transmission to other species are still being investigated. There is no scientific evidence to indicate that CWD is transmissible to humans. What is known is that CWD is invariably fatal to cervids, and is transmitted both directly (through deer-to-deer contact) and indirectly (through environmental contamination). Moreover, re-

cent research shows that several deer herds with a long history of CWD and high prevalence rates are experiencing population impacts. Those impacts include higher than normal mortality rates in infected deer, a shift to a younger herd age structure, and local population declines. Human dimensions research suggests that hunters will avoid areas of high CWD prevalence. Additionally, the apparent persistence of CWD in contaminated environments represents a significant obstacle to eradication of CWD from either farmed or free-ranging cervid populations.

CWD has been discovered in multiple locations in Texas, in both captive and free-ranging populations of native deer, which the department believes constitutes an existential threat to those resources, as well as the economies dependent upon them. In response, the department has engaged in rulemakings in recent years to protect free-ranging and captive cervid populations from the spread of CWD. A crucial component of that effort is the monitoring of free-ranging deer that are trapped and translocated under department-issued permits and captive-bred deer that are introduced to, transferred among, and released from captive herds under department-issued permits. Such activities occur in virtually every area of the state. Because of the sheer geographic scale involved, the accuracy of geographical information regarding the locations where deer have been transferred by humans is one of the most important components of efficacious disease management efforts. Knowing more precisely where individual animals are and have been allows epidemiological investigators to quickly and accurately determine the source and extent of pathways for disease propagation and allows responders to focus resources efficiently and effectively.

The department is concerned that current rules governing the movement of live deer under various department-issued programs do not impose a consistent standard for identifying the locations where such deer are trapped, possessed, or transferred, which has the potential to complicate or even confound the department's CWD management efforts. The department has determined that the contents of applications and registrations relating to facility location and infrastructure should be specified by rule in order to avoid misunderstandings, confusion, or the implication that the information required in an application is voluntary rather than mandatory or that the accuracy of the information is open to interpretation by an applicant. To that end, the department has determined that it is prudent to mandate all required facility registrations (deer breeding facilities (and associated transfer destinations), deer management permit facilities, sites associated with trap, transport, and transplant permits, and trap, transport, and process permits) to include a georeferenced map delineating the exact boundaries of each facility. This will allow the department to more quickly and effectively respond to CWD detections, promote efficiency in administrative processes, enhance enforcement of regulations, and prevent attempts to circumvent CWD testing requirements.

The amendment to §65.90, concerning Definitions, alters the definition of "facility" to include locations affected by permits for the trapping, transporting, and processing of game animals (TTP).

The amendment to §65.91, concerning General Provisions, prohibits the introduction or removal of deer from a facility unless a georeferenced map (a map image incorporating a system of geographic ground coordinates, such as latitude/longitude or Universal Transverse Mercator (UTM) coordinates) showing the exact boundaries of the facility has been submitted to the department prior to any such introduction or removal.

The amendment to §65.95, concerning Movement of Breeder Deer, eliminates a reference to §65.610 in subsection (a), which is necessary to eliminate redundancy.

The amendment to 65.97, concerning Testing and Movement of Deer Pursuant to Triple T or TTP Permit, removes subsection (a)(2), which is no longer necessary.

The department received no comments opposing adoption of the proposed rules.

The department received 14 comments supporting adoption of the rules as proposed.

The Texas Wildlife Association commented in support of the adoption of the proposed rules.

The amendments are adopted under the authority of Parks and Wildlife Code, Chapter 43, Subchapter C, which requires the commission to adopt rules to govern the collecting, holding, possession, propagation, release, display, or transport of protected wildlife for scientific research, educational display, zoological collection, or rehabilitation; Subchapter E, which requires the commission to adopt rules for the trapping, transporting, and transplanting of game animals and game birds, urban white-tailed deer removal, and trapping and transporting surplus white-tailed deer; Subchapter L, which authorizes the commission to make regulations governing the possession, transfer, purchase, sale, of breeder deer held under the authority of the subchapter; Subchapter R, which authorizes the commission to establish the conditions of a deer management permit, including the number, type, and length of time that white-tailed deer may be temporarily detained in an enclosure; Subchapter R-1, which authorizes the commission to establish the conditions of a deer management permit, including the number, type, and length of time that mule deer may be temporarily detained in an enclosure (although the department has not yet established a DMP program for mule deer authorized by Subchapter R-1); and §61.021, which provides that no person may possess a game animal at any time or in any place except as permitted under a proclamation of the commission.

#### *§65.90. Definitions.*

The following words and terms shall have the following meanings, except in cases where the context clearly indicates otherwise.

(1) Accredited testing laboratory--A laboratory approved by the United States Department of Agriculture to test white-tailed deer or mule deer for CWD.

(2) Ante-mortem test--A CWD test performed on a live deer.

(3) Breeder deer--A white-tailed deer or mule deer possessed under a permit issued by the department pursuant to Parks and Wildlife Code, Chapter 43, Subchapter L, and Subchapter T of this chapter.

(4) Confirmed--A CWD test result of "positive" received from the National Veterinary Service Laboratories of the United States Department of Agriculture.

(5) CWD--Chronic wasting disease.

(6) CWD-positive facility--Any facility in or on which CWD has been confirmed.

(7) Deer breeder--A person who holds a deer breeder's permit issued pursuant to Parks and Wildlife Code, Chapter 43, Subchapter L, and Subchapter T of this chapter.

(8) Deer breeding facility (breeding facility)--A facility authorized to hold breeder deer under a permit issued by the department pursuant to Parks and Wildlife Code, Chapter 43, Subchapter L, and Subchapter T of this chapter (Deer Breeder's Permit).

(9) Department (department)--Texas Parks and Wildlife Department.

(10) Deer Management Permit (DMP)--A permit issued under the provisions of Parks and Wildlife Code, Subchapter R or R-1 and Subchapter D of this chapter (relating to Deer Management Permit (DMP)) that authorizes the temporary detention of deer for the purpose of propagation.

(11) Eligible-aged deer--

(A) if the deer is held in a breeding facility enrolled in the TAHC CWD Herd Certification Program, 12 months of age or older; or

(B) for any other deer, 16 months of age or older.

(12) Eligible mortality--An eligible-aged deer that has died.

(13) Exposed deer--Unless the department determines through an epidemiological investigation that a specific deer has not been exposed, an exposed deer is a white-tailed deer or mule deer that:

(A) is in a CWD-positive facility; or

(B) was in a CWD-positive facility within the five years preceding the confirmation of CWD in the CWD-positive facility.

(14) Facility--Any location required to be registered in TWIMS under a deer breeder's permit, Triple T permit, TTP permit, or DMP, including release sites and/or trap sites.

(15) Hunter-harvested deer--A deer required to be tagged under the provisions of Subchapter A of this chapter (relating to Statewide Hunting Proclamation).

(16) Hunting year--That period of time between September 1 and August 31 of any year when it is lawful to hunt deer under the provisions of Subchapter A of this chapter (relating to Statewide Hunting Proclamation).

(17) Interim Breeder Rules--31 TAC §§65.90 - 65.93, concerning Chronic Wasting Disease - Movement of Deer, adopted by the Texas Parks and Wildlife Commission on November 5, 2015, and published in the January 29, 2016 issue of the *Texas Register* (41 TexReg 815).

(18) Landowner (owner)--Any person who has an ownership interest in a tract of land and includes landowner's authorized agent.

(19) Landowner's authorized agent (agent)--A person designated by a landowner to act on the landowner's behalf.

(20) Liberated deer--A free-ranging deer that bears evidence of having been liberated including, but not limited to a tattoo (including partial or illegible tattooing) or of having been eartagged at any time (holes, rips, notches, etc. in the ear tissue).

(21) Movement Qualified (MQ)--A designation made by the department pursuant to this division that allows a deer breeder to lawfully transfer breeder deer.

(22) Not Movement Qualified (NMQ)--A designation made by the department pursuant to this division that prohibits the transfer of deer by a deer breeder.

(23) NUES tag--An ear tag approved by the United States Department of Agriculture for use in the National Uniform Eartagging System (NUES).

(24) Originating facility--Any facility from which deer have been transported, transferred, or released, as provided in this definition or as determined by an investigation of the department, including:

(A) for breeder deer, the source facility identified on a transfer permit; and

(B) for deer being moved under a Triple T permit, the trap site.

(25) Post-mortem test--A CWD test performed on a dead deer.

(26) Properly executed--A form or report required by this division on which all required information has been entered.

(27) Reconciled herd--The breeder deer held in a breeding facility for which every birth, mortality, and transfer of breeder deer in the previous reporting year has been accurately reported.

(28) Release site--A specific tract of land to which deer are released, including the release of deer under the provisions of this chapter or Parks and Wildlife Code, Chapter 43, Subchapters E, L, R, or R-1.

(29) Reporting year--For a deer breeder's permit, the period of time from April 1 of one calendar year through March 31 of the next calendar year.

(30) RFID tag--A button-type ear tag conforming to the 840 standards of the United States Department of Agriculture's Animal Identification Number system.

(31) Status--A level assigned under this division for any given facility on the basis of testing performance and the source of the deer. For the transfer categories established in §65.95(b) of this title (relating to Movement of Breeder Deer), the highest status is Transfer Category 1 (TC 1) and the lowest status is Transfer Category 3 (TC 3). For the release site classes established in §65.95(c) of this title, Class I is the highest status and Class III is the lowest.

(32) Submit--When used in the context of test results, provided to the department, either directly from a deer breeder or via an accredited testing laboratory.

(33) Suspect--An initial CWD test result of "detected" that has not been confirmed.

(34) TAHC--Texas Animal Health Commission.

(35) TAHC CWD Herd Certification Program--The disease-testing and herd management requirements set forth in 4 TAC §40.3 (relating to Herd Status Plans for Cervidae).

(36) TAHC Herd Plan--A set of requirements for disease testing and management developed by TAHC for a specific facility.

(37) Test, Test Result(s), or Test Requirement--A CWD test, CWD test result, or CWD test requirement as provided in this division.

(38) Trap Site--A specific tract of land approved by the department for the trapping of deer under this chapter and Parks and Wildlife Code, Chapter 43, Subchapters E, L, R, and R-1.

(39) Triple T permit--A permit to trap, transport, and transplant white-tailed or mule deer (Triple T permit) issued under the provisions of Parks and Wildlife Code, Chapter 43, Subchapter E, and Sub-

chapter C of this chapter (relating to Permits for Trapping, Transporting, and Transplanting Game Animals and Game Birds).

(40) Trap, Transport and Process (TTP) permit--A permit issued under the provisions of Parks and Wildlife Code, Chapter 43, Subchapter E, and Subchapter C of this chapter (relating to Permits for Trapping, Transporting, and Transplanting Game Animals and Game Birds), to trap, transport, and process surplus white-tailed deer (TTP permit).

(41) TWIMS--The department's Texas Wildlife Information Management Services (TWIMS) online application.

§65.95. *Movement of Breeder Deer.*

(a) General. Except as otherwise provided in this division, a TC 1 or TC 2 breeding facility may transfer breeder deer under a transfer permit that has been activated and approved by the department to:

- (1) another breeding facility;
- (2) an approved release site as provided in paragraph (3) of this subsection;
- (3) a DMP facility; or
- (4) to another person for nursing purposes.

(b) Breeder Facilities.

(1) TC 1. Except as may be otherwise provided in this division, a breeding facility that is in compliance with the requirements in 65.94(a) of this title (relating to Breeding Facility Minimum Movement Qualification) is a TC 1 facility if:

(A) the breeding facility has "fifth-year" or "certified" status in the TAHC CWD Herd Certification Program; or

(B) the breeding facility has submitted one of the following:

(i) "not detected" post-mortem test results for at least 80 percent of the total number of eligible mortalities that occurred in the breeding facility over the previous five consecutive reporting years, so long as the total number of "not detected" post-mortem test results submitted during the previous five consecutive reporting years is equal to or greater than the following number: the sum of the eligible-aged population in the breeding facility at the end of each of the previous five consecutive reporting years, plus the sum of the eligible mortalities that occurred within the breeding facility for each of the previous five consecutive reporting years, multiplied by 3.6 percent; or

(ii) "not detected" ante-mortem test results for at least 50 percent of eligible-aged deer in the facility's inventory as of the date the facility initiates the ante-mortem testing process. For the report year beginning April 1, 2016, a breeding facility will be construed to have temporarily complied with this item upon submission of "not detected" ante-mortem test results for at least 25 percent of eligible-aged deer in the facility as of the date the facility initiates the ante-mortem testing process; however, the breeding facility must submit the remaining ante-mortem tests results to achieve 50% testing by May 15, 2017.

(2) TC 2.

(A) A breeding facility is a TC 2 facility if:

- (i) it is not a TC 1 facility; and
- (ii) it is not a TC 3 facility.

(B) The testing requirements for a TC 2 facility are the minimum testing requirements established for MQ designation

in §65.94(a)(1) of this title (relating to Breeding Facility Minimum Movement Qualification).

(3) TC 3.

(A) A TC 3 facility is any breeding facility registered in TWIMS that is under a TAHC hold order, quarantine, and/or herd plan and meets any of the following criteria:

(i) received an exposed deer within the previous five years;

(ii) transferred deer to a CWD-positive facility within the five-year period preceding the confirmation of CWD in the CWD-positive facility; or

(iii) possessed a deer that was in a CWD-positive facility within the previous five years.

(B) No deer from a TC 3 facility may be transferred or liberated unless expressly authorized in a TAHC herd plan and then only in accordance with the provisions of this division and the TAHC herd plan.

(C) A TC 3 breeding facility remains a TC 3 breeding facility until the TAHC hold order or quarantine in effect at the breeding facility has been lifted.

(D) A TC 3 breeding facility may not transfer a breeder deer for any purpose unless the deer has been tagged in one ear with a NUES tag or button-type RFID tag approved by the department.

(c) Release Sites.

(1) General.

(A) An approved release site consists solely of the specific tract of land to which deer are released and the acreage designated as a release site in TWIMS. A release site owner may modify the acreage registered as the release site to recognize changes in acreage (such as the removal of cross-fencing or the purchase of adjoining land), so long as the release site owner notifies the department of such modifications prior to the acreage modification. The release site requirements set forth in this division apply to the entire acreage modified under the provisions of this subparagraph.

(B) Liberated breeder deer must have complete, unrestricted access to the entirety of the release site; provided, however, deer may be excluded from areas for safety reasons (such as airstrips) or for the purpose of protecting areas such as crops, orchards, ornamental plants, and lawns from depredation.

(C) All release sites onto which breeder deer are liberated must be surrounded by a fence of at least seven feet in height that is capable of retaining deer at all times under reasonable and ordinary circumstances. The owner of the release site is responsible for ensuring that the fence and associated infrastructure retain deer under reasonable and ordinary circumstances.

(D) The testing requirements of this subsection continue in effect until "not detected" test results have been submitted as required by this subsection. A release site that is not in compliance with the requirements of this subsection is ineligible to receive deer and must continue to submit test results until the testing requirements of this subsection are satisfied.

(E) No person may intentionally cause or allow any live deer to leave or escape from a release site onto which breeder deer have been liberated.

(F) The owner of a Class II or Class III release site shall maintain a harvest log at the release site that complies with §65.93 of this title (relating to Harvest Log).

(2) Class I Release Site. Except as provided in §65.98, a release site is a Class I release site and is not required to perform CWD testing if the release site:

(A) is not a Class II or Class III release site; and

(B) after August 15, 2016, the release site has received deer only from TC 1 facilities.

(3) Class II Release Site.

(A) A release site that is not a Class III release site and receives deer from a TC 2 breeding facility is a Class II release site.

(B) Beginning the first hunting year following the release of deer from any TC 2 breeding facility and continuing for each hunting year thereafter, the owner of a Class II release site must submit "not detected" post-mortem test results for the first deer harvested and each deer harvested thereafter at the release site; however, no release site owner is required to submit more than 15 "not detected" post-mortem test results in any hunting year.

(C) The requirements of subparagraph (B) cease as follows:

(i) for release sites that have submitted all test results required by this division, the requirements of subparagraph (B) cease on March 1, 2019;

(ii) for release sites that have not submitted all the test results required by this division, the requirements of subparagraph (B) shall cease upon submission of all required test results.

(4) Class III Release Site.

(A) A release site is a Class III release site if:

(i) it has:

(I) received deer from an originating facility that is a TC 3 facility; or

(II) received an exposed deer within the previous five years or has transferred deer to a CWD-positive facility within the five-year period preceding the confirmation of CWD in the CWD-positive facility; and

(ii) it has not been released from a TAHC hold order or quarantine related to activity described in clause (i) of this subparagraph.

(B) The landowner of a Class III release site must submit post-mortem CWD test results for one of the following values, whichever represents the greatest number of deer tested:

(i) 100 percent of all hunter-harvested deer; or

(ii) one hunter-harvested deer per liberated deer released on the release site between the last day of lawful hunting on the release site in the previous hunting year and the last day of lawful hunting on the release site during the current hunting year; provided, however, this minimum harvest and testing provision may only be substituted as prescribed in a TAHC herd plan.

(C) No breeder deer may be transferred to a Class III release site unless the deer has been tagged in one ear with a NUES tag or button-type RFID tag approved by the department.

§65.97. *Testing and Movement of Deer Pursuant to a Triple T or TTP Permit.*

(a) General.

(1) Unless expressly provided otherwise in this section, the provisions of §65.102 of this title (relating to Disease Detection Requirements) cease effect upon the effective date of this section.

(2) The department will not issue a Triple T permit authorizing deer to be trapped at a:

(A) release site that has received breeder deer within five years of the application for a Triple T permit;

(B) release site that has failed to fulfill testing requirements;

(C) any site where a deer has been confirmed positive for CWD;

(D) any site where a deer has tested "suspect" for CWD; or

(E) any site under a TAHC hold order or quarantine.

(3) In addition to the reasons for denying a Triple T permit listed in §65.103(c) of this title (relating to Trap, Transport, and Transplant Permit), the department will not issue a Triple T permit if the department determines, based on epidemiological assessment and consultation with TAHC that to do so would create an unacceptable risk for the spread of CWD.

(4) All deer released under the provisions of this section must be tagged prior to release in one ear with a button-type RFID tag approved by the department, in addition to the marking required by §65.102 of this title (relating to Disease Detection Requirements). RFID tag information must be submitted to the department.

(5) Nothing in this section authorizes the take of deer except as authorized by applicable laws and regulations, including but not limited to laws and regulations regarding seasons, bag limits, and means and methods as provided in Subchapter A of this chapter (relating to Statewide Hunting Proclamation).

(6) Except for a permit issued for the removal of urban deer, a test result is not valid unless the sample was collected and tested after the Saturday closest to September 30 of the year for which activities of the permit are authorized.

(7) For permits issued for the removal of urban deer, test samples may be collected between April 1 and the time of application.

(b) Testing Requirements for Triple T Permit.

(1) The department will not issue a Triple T permit unless "not detected" post-mortem test results have been submitted for 15 eligible-aged deer from the trap site.

(2) CWD testing is not required for deer trapped on any property if the deer are being moved to adjacent, contiguous tracts owned by the same person who owns the trap site property.

(c) Testing Requirements for TTP Permit.

(1) "Not detected" test results for at least 15 eligible-aged deer from the trap site must be submitted.

(2) The landowner of a Class III release site must submit CWD test results for 100% of the deer harvested pursuant to a TTP permit, which may include the samples required under paragraph (1) of this subsection.

(3) Test results related to a TTP permit must be submitted to the department by the method prescribed by the department by the May 1 immediately following the completion of permit activities.

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

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## SUBCHAPTER P. ALLIGATOR PROCLAMATION

### 31 TAC §65.352, §65.363

The Texas Parks and Wildlife Commission in a duly noticed meeting on May 24, 2018, adopted amendments to §65.352 and §65.363, concerning the Alligator Proclamation. Section 65.363 is adopted with changes to the proposed text as published in the April 20, 2018, issue of the *Texas Register* (43 TexReg 2377). Section 65.352 is adopted without change and will not be republished.

The change to §65.363, concerning Permit Required; Subpermittees, inserts "the person" in paragraph (2)(A)(ii) to make the provision grammatically correct.

The amendment to §65.352, concerning Definitions, defines "subpermittee" as "a person who is registered with the department to assist a permittee in performing nuisance alligator control activities". The amendment to §65.363 authorizes permittees to utilize assistants to help perform nuisance alligator control activities and sets forth various provisions regarding the registration and supervision of such persons. Thus, a definition is necessary to establish a regulatory identity for such persons.

The amendment to §65.363, concerning Nuisance Alligator Control, consists of several components.

The amendment to subsection (a) allows permittees to designate subpermittees to assist the permittee in nuisance alligator control activities. The amendment requires subpermittees to be approved by the department, provides for an application process, requires permittees to directly supervise all nuisance control activities conducted by their subpermittees, and stipulates that permittees must possess the subpermittee authorization issued by the department on their person at all times that the subpermittee is engaged in nuisance alligator control activities.

The department agrees in principle that the nature of nuisance alligator control makes it convenient and in some cases necessary for a nuisance control hunter to utilize assistants. However, because alligators are a public resource that the department is charged with managing and conserving (as well as an export commodity subject to federal and international laws governing trade in endangered species and lookalike species), it is necessary to ensure that subpermittees are appropriately vetted and supervised. Therefore, the amendment allows the use of subpermittees, subject to department approval. The amendment allows the department to deny subpermittee authori-

zation to persons who have been convicted of, pleaded *nolo contendere* to, or received deferred adjudication for a violation of Parks and Wildlife Code, Chapter 43, Subchapters C, E, L, or R, or Parks and Wildlife Code, Chapter 65; a violation of the Parks and Wildlife Code that is a Class B misdemeanor, a Class A misdemeanor, or a felony; a violation of Parks and Wildlife Code, §63.002; or a violation of 16 U.S.C. §§3371 - 3378 (the Lacey Act). Under the current rule, the department may refuse issuance of a nuisance alligator control permit on the basis of a violation listed above. The department promulgated the current provision because the department believes that a person should not be allowed to engage in the activity involving live wildlife resources, particularly for commercial gain, if the person has engaged in prior serious criminal behavior related to conservation laws. The purpose of the provision is to prevent persons who have been proven to exhibit disregard for statutes and regulations governing wildlife and fisheries from participating in nuisance alligator control activities. The amendment extends the same standard to encompass subpermittees. The department notes that it does not intend for a conviction or administrative penalty to be an automatic bar to obtaining subpermittee authorization. The factors that may be considered by the department in determining whether to deny subpermittee authorization based on a conviction or deferred adjudication would include the seriousness of the offense, the number of offenses, the existence or absence of a pattern of offenses, the length of time between the offense and the permit application, and any other pertinent factors.

The amendment to subsection (a) also requires subpermittees to be directly supervised by the permittee at all times that a subpermittee is engaged in permitted activities, which is necessary to ensure that nuisance alligator control activities are performed correctly and lawfully. Finally, the amendment to subsection (a) requires the department's authorization for the subpermittee to be maintained on the person of the permittee during permitted activities, which is necessary to facilitate prompt on-site verification of the status of anyone purporting to be a subpermittee.

The amendment eliminates current subsection (b), which establishes a deadline for permit applications. The department has determined that eliminating the application deadline will allow for additional prospective nuisance alligator control hunters to be permitted at times when nuisance control calls are at high volumes or there is a shortage of nuisance control hunters available.

The amendment also alters subsection (d) by implementing a more structured approach to nuisance alligator control activities and requiring explicit department approval on a case-by-case basis for the capture or killing of alligators in excess of 10 feet in length.

Under the current rule, a nuisance control hunter may contract directly with a landowner (or authorized agent), political subdivision, governmental entity, or property owner's association for the removal of nuisance alligators. The current rules were promulgated in 2011 in response to a steadily rising number of nuisance alligator complaints. The department intended for nuisance control hunters to determine, in any given instance, whether or not an alligator was indeed a nuisance as defined by §65.352 ("an alligator that is depredating or a threat to human health or safety") and then proceed accordingly. In practice, however, the department has discovered that this approach can lead to confusion and perhaps misunderstanding. Therefore, the amendment requires nuisance control hunters, prior to engaging in permitted

activities, to contact the department via one of the department's Law Enforcement Division communications centers to receive a control number for each nuisance alligator that the nuisance control hunter seeks to remove. In this way, the department has a method for tracking exactly when and where nuisance control activities are taking place, which allows the department the ability to selectively monitor nuisance alligator control activities and ensure compliance with federal tagging requirements for crocodilian species.

Finally, the amendment would require written authorization from the department on a case-by-case basis for the capture or killing of alligators greater than 10 feet in length. The justification for this amendment is twofold. First, large alligators are critical components of aquatic ecosystems. These individuals (usually males) are apex predators that directly impact the social and breeding structures, home ranges, and population densities of alligator populations across Texas. Requiring additional confirmation that large alligators are verified nuisance animals before their removal from the environment is a safeguard for ensuring that alligators remain a sustainable natural resource in Texas. Second, large alligators are economically valuable as live attractions or when sold as hides or parts. Similar to other "trophy" animals, these animals are also highly valuable to hunters who seek to legally harvest large alligators during the Texas alligator hunting season. During the past year the department received complaints from the public that large alligators were being captured by nuisance alligator control hunters not because the alligators were legitimate nuisances but solely for their value as desirable trophy animals.

The department received no comments opposing adoption of the proposed rules.

The department received four comments supporting adoption of the rules as proposed.

The amendments are adopted under the authority of Parks and Wildlife Code, §65.003, which authorizes the commission to regulate taking, possession, propagation, transportation, exportation, importation, sale, and offering for sale of alligators, alligator eggs, or any part of an alligator that the commission considers necessary to manage this species, including regulations to provide for the periods of time when it is lawful to take, possess, sell, or purchase alligators, alligator hides, alligator eggs, or any part of an alligator; and limits, size, means, methods, and places in which it is lawful to take or possess alligators, alligator hides, alligator eggs, or any part of an alligator; and control of nuisance alligators.

*§65.363. Nuisance Alligator Control.*

(a) Permit Required; Subpermittees.

(1) Except as provided in this subchapter or §65.49(g) of this title (relating to Alligators), no person may take, kill, transport, sell, or release a nuisance alligator, or offer to take, kill, transport, sell, or release a nuisance alligator unless that person possesses a valid nuisance alligator control permit issued by the department.

(2) A permittee may utilize a subpermittee or subpermittees to assist in the performance of nuisance alligator control activities.

(A) A subpermittee must be approved by the department prior to engaging in any activities under this section. The department will not authorize any person to act as a subpermittee if:

(i) the person has been convicted of, pleaded nolo contendere to, or received deferred adjudication for an offense listed in subsection (g)(1) - (4) of this section; or

(ii) the department determines the person is incapable, unqualified, or otherwise unfit to act as a subpermittee.

(B) To register a subpermittee, the permittee must complete and submit an application on a form provided by the department for that purpose. Upon approval, the department will send a written authorization for the subpermittee to the permittee.

(C) A permittee utilizing a subpermittee must be in direct supervision of the subpermittee at all times that the subpermittee is engaging in permitted activities.

(D) The written authorization provided for in subparagraph (B) of this paragraph must be in the physical possession of the permittee at all times that permitted activities are being performed by the subpermittee.

(b) Permit Application and Issuance.

(1) The department may issue a nuisance alligator control permit to a person who has:

(A) submitted a completed application on a form supplied by the department;

(B) completed a department-administered course on nuisance alligator control;

(C) taken a department-administered examination and obtained a minimum passing score as determined by the department; and

(D) paid the nonrefundable fee prescribed by Chapter 53, Subchapter A of this title (relating to Fees).

(2) The department may refuse to issue a permit to any person who, in the department's determination, lacks the skill, experience, or aptitude to adequately perform the activities typically involved in nuisance alligator control.

(c) Period of Validity. A nuisance alligator control permit is valid from the date of issuance through August 31 of the following year.

(d) Permit Privileges and Restrictions.

(1) A permittee under this section may:

(A) contract directly with a landowner or landowner's authorized agent (including a political subdivision, governmental entity, or property owner's association, as defined by Property Code, §204.004), for a fee or other compensation to be determined by the parties involved, for the removal of a nuisance alligator or alligators;

(B) capture or kill a nuisance alligator at any time of day;

(C) retain and sell nuisance alligators, alive or dead, taken under a nuisance alligator control permit as provided under §65.357 of this title (relating to Purchase and Sale of Alligators); and

(D) release nuisance alligators in areas of suitable habitat with the prior written approval of the department and the owner (or the owner's authorized agent) of the property where the release occurs.

(2) A permittee or subpermittee may not:

(A) capture or kill an alligator without being in physical possession of a complaint number issued by a department Law Enforcement Division Communication Center that corresponds to the date and place the permittee captures or kills, or attempts to capture or kill an alligator;

(B) capture or kill more than one alligator per complaint number issued by the department;

(C) use any means, method, or procedure not approved by the department for the capture, immobilization, transport, or dispatch of a nuisance alligator; or

(D) capture or kill an alligator over 10 feet in length without prior written authorization from the department's Alligator Program in addition to a complaint number issued by the department as prescribed in subparagraph (A) of this paragraph.

(e) Tagging Requirements. All provisions of this subchapter applicable to the tagging of alligators apply to alligators taken under a nuisance alligator control permit.

(f) Reporting, Notification, and Recordkeeping Requirements.

(1) Landowner authorization. No permittee may engage in nuisance alligator control activities unless the written authorization of the landowner, the landowner's authorized agent, or a government official acting within the scope of official duty has been obtained. The authorization shall contain, at a minimum, the date, the name, address, phone number, and Texas Department of Public Safety driver's license or identification card number (or, if the person is not a Texas resident, similar documentation from the person's state of residence) of the person with whom the permittee has contracted for nuisance alligator control; and shall be signed by the landowner, agent, or official. The permittee shall physically possess the authorization required by this paragraph:

(A) at all times that the permittee is engaged in or conducts nuisance alligator control activities; and

(B) subsequent to the capture of a nuisance alligator, at all times the permittee is in possession of the alligator, dead or alive, until the alligator is sold, transferred to another person legally permitted to possess the alligator, or released.

(2) Daily Log. A permittee shall continuously maintain and possess upon their person while engaged in any activity governed by this subchapter a completed daily log on a form prescribed by the department, indicating:

(A) the date, location, and department-assigned case number for each nuisance alligator complaint responded to by the permittee;

(B) the date and location of each nuisance alligator captured by the permittee;

(C) the sex and length of each alligator captured; and

(D) the disposition of each alligator captured, to include:

(i) the means of dispatch, if lethal control is employed; and

(ii) if the alligator is lawfully sold or lawfully transferred to another person, the name and applicable permit number of the person to whom the nuisance alligator is sold or transferred.

(3) Record of Sale or Transfer. A permittee shall retain an invoice or sales receipt for each alligator sold or transferred to another person.

(4) Record Retention. All records and documents required by this section shall be retained and kept available for inspection upon request of a department employee acting within the official scope of duty for a two-year period immediately following the expiration of the

period of validity of the permit under which they are required to be kept.

(5) Reporting.

(A) A permittee shall complete a Nuisance Alligator Hide Tag Report (PWD-305) immediately upon the take of a nuisance alligator and shall submit the report to the department within seven days.

(B) A permittee shall submit completed quarterly reports to the department by March 15, June 15, September 15, and December 15. The reports must be on a form supplied or approved by the department and must be submitted even if no nuisance alligators were taken by the permittee.

(C) The department may refuse to issue an initial or subsequent permit to any person who is not in compliance with the provisions of this paragraph.

(g) Denial of Permit Issuance. The department may refuse permit issuance to any person who has been convicted of, pleaded nolo contendere to, or received deferred adjudication for:

(1) a violation of Parks and Wildlife Code, Chapter 43, Subchapters C, E, L, or R, or Parks and Wildlife Code, Chapter 65;

(2) a violation of Parks and Wildlife Code that is a Class B misdemeanor, a Class A misdemeanor, or a felony;

(3) a violation of Parks and Wildlife Code, §63.002; or

(4) convicted, pleaded nolo contendere, received deferred adjudication or pre-trial diversion, or assessed a civil penalty for a violation of 16 U.S.C. §§3371 - 3378 (the Lacey Act).

(h) Review of Agency Decision. An applicant for a permit under this subchapter may request a review of a decision of the department to refuse issuance of a permit.

(1) An applicant seeking review of a decision of the department with respect to permit issuance under this subchapter shall first contact the department within 10 working days of being notified by the department of permit denial.

(2) The department shall schedule a review within 10 days of receipt of a request for a review. The department shall conduct the review and notify the applicant of the results within 45 working days of receiving a request for review.

(3) The request for review shall be presented to a review panel. The review panel shall consist of the following, or their designees:

(A) the Deputy Executive Director for Fisheries and Wildlife;

(B) the Director of the Wildlife Division; and

(C) the Deputy Division Director of the Wildlife Division.

(4) The decision of the review panel is the final department decision.

(i) Prohibited Acts. It is an offense for a permittee to:

(1) violate a provision of this subchapter;

(2) violate a condition of a permit issued under this subchapter; or

(3) treat or allow the treatment of an alligator in a cruel manner as defined in Penal Code, §42.092.



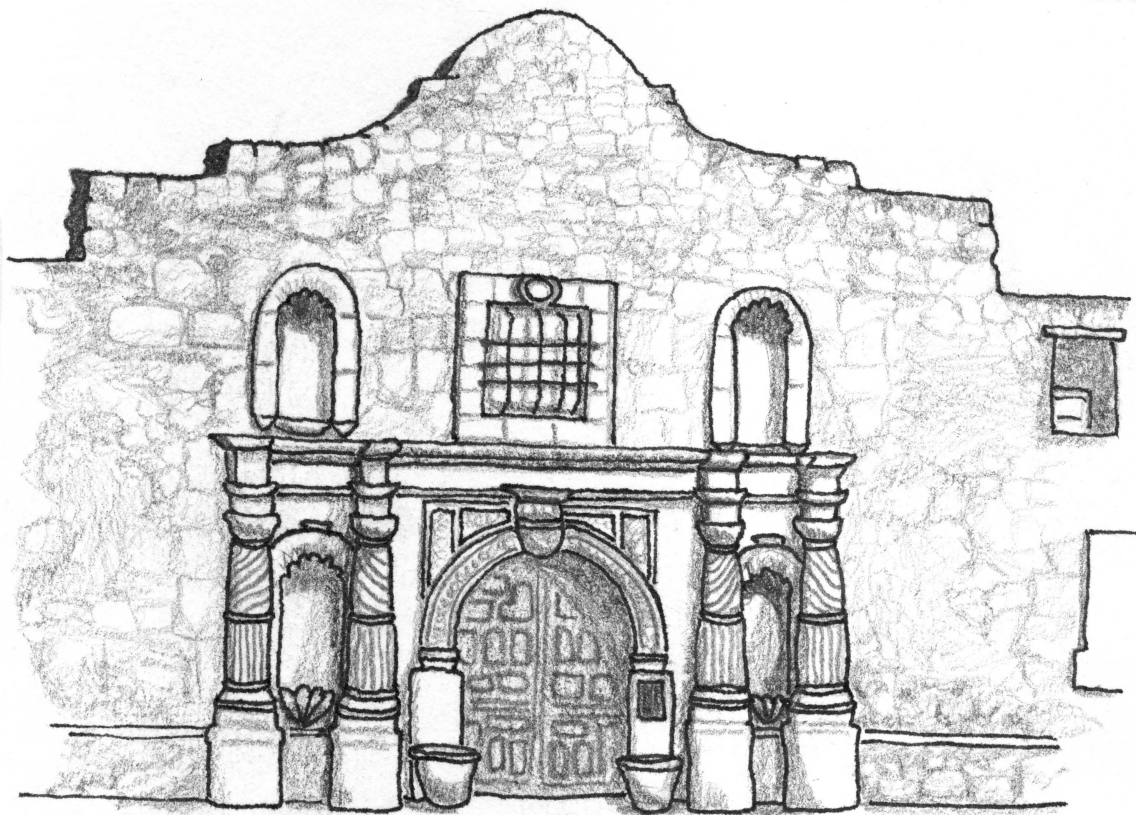
The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on September 17, 2018.

TRD-201804048

Robert D. Sweeney, Jr.  
General Counsel  
Texas Parks and Wildlife Department  
Effective date: October 7, 2018  
Proposal publication date: April 20, 2018  
For further information, please call: (512) 389-4775





**IN**

**ADDITION**

The *Texas Register* is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings issued by the Office of Consumer Credit Commissioner, and consultant proposal requests and awards. State agencies also may publish other notices of general interest as space permits.

**Texas State Affordable Housing Corporation**

Notice of Public Hearing Regarding the Issuance of Bonds

Notice is hereby given of a public hearing to be held by the Texas State Affordable Housing Corporation (the "Issuer") at the Office of the Issuer at 2200 East Martin Luther King Jr. Blvd., Austin, Texas 78702 on October 19, 2018 at 12:00 noon, on the proposed issuance by the Issuer of two or more series of multifamily housing revenue bonds (the "Bonds") to provide financing for the acquisition, construction and equipping of the following multifamily housing projects (the "Project"), as well as to fund any working capital for the Project(s), any reserve funds and costs of issuance for the Bonds:

Ventura at Fairgrounds, located at the Northeast corner of the intersection of Scharbauer Drive and Norht Fairgrounds Road, Midland, Texas 79705. The maximum principal amount of the Bonds to be issued with respect to this Project is \$40,000,000. The owner of this Project is THF Midland Leased Housing Associates II, Limited Partnership, a Texas Limited Partnership; and

Ventura at Tradewinds, located at approximately 1811 Tradewinds Blvd., Midland, Texas 79706. The maximum principal amount of the Bonds to be issued with respect to this Project is \$30,000,000. The owner of this Project is THF Midland Leased Housing Associates, I, Limited Partnership, a Texas Limited Partnership.

All interested persons are invited to attend the public hearing to express orally, or in writing, their views on the Project and the issuance of the Bonds. Further information with respect to the proposed Bonds will be available at the hearing or upon written request prior thereto addressed to the Issuer at 2200 East Martin Luther King Jr. Boulevard, Austin, Texas 78702, Attention: David W. Danenfelzer; (512) 477-3562.

Individuals who require auxiliary aids in order to attend this meeting should contact Lacy Brown, ADA Responsible Employee, at (512) 220-1174 at least two days before the meeting so that appropriate arrangements can be made.

Individuals may transmit written testimony or comments regarding the subject matter of this public hearing to David Danenfelzer at [ddanenfelzer@tsahc.org](mailto:ddanenfelzer@tsahc.org).

David Danenfelzer

Senior Director of Development Finance Programs

Texas State Affordable Housing Corporation

2200 East Martin Luther King Jr. Boulevard

Austin, Texas 78702

TRD-201804166

David Long

President

Texas State Affordable Housing Corporation

Filed: September 26, 2018

◆ ◆ ◆  
**Comptroller of Public Accounts**

Local Sales Tax Rate Changes Effective October 2018

The city of Brock West (2184160) has abolished city sales tax and merged with the city of Brock. The 1 1/2 percent local sales and use tax will be abolished effective September 30, 2018 and local sales tax should now be reported as follows in the city listed below.

CITY NAME	LOCAL CODE	LOCAL RATE	TOTAL RATE
Brock (Parker Co)	2184142	.020000	.082500

A 1 percent local sales and use tax will become effective October 1, 2018 in the cities listed below.

CITY NAME	LOCAL CODE	LOCAL RATE	TOTAL RATE
Fairchild's (Fort Bend Co)	2079195	.010000	.072500
Peaster (Parker Co)	2184179	.020000	.082500

A 2 percent local sales and use tax will become effective October 1, 2018 in the city listed below.

CITY NAME	LOCAL CODE	LOCAL RATE	TOTAL RATE
Fruitvale (Van Zandt Co)	2234071	.020000	.082500

The 1/2 percent city sales and use tax for Property Tax Relief will be abolished September 30, 2018 in the cities listed below.

CITY NAME	LOCAL CODE	LOCAL RATE	TOTAL RATE
Boyd (Wise Co)	2249029	.020000	.082500
Prosper (Collin Co)	2043125	.020000	.082500
Prosper (Denton Co)	2043125	.020000	.082500

The 1/4 percent city sales and use tax for Municipal Street Maintenance and Repair will be abolished September 30, 2018 in the city listed below.

CITY NAME	LOCAL CODE	LOCAL RATE	TOTAL RATE
Winona (Smith Co)	2212077	.017500	.080000

The city sales and use tax will be increased to 1 1/4 percent as permitted under Chapter 321 of the Texas Tax Code, effective October 1, 2018 in the city listed below.

CITY NAME	LOCAL CODE	LOCAL RATE	TOTAL RATE
Hickory Creek (Denton Co)	2061186	.020000	.082500

The city sales and use tax will be increased to 1 1/2 percent as permitted under Chapter 321 of the Texas Tax Code, effective October 1, 2018 in the cities listed below.

CITY NAME	LOCAL CODE	LOCAL RATE	TOTAL RATE
Rio Vista (Johnson Co)	2126036	.020000	.082500
Saint Hedwig (Bexar Co)	2015218	.020000	.082500
Sterling City (Sterling Co)	2216019	.020000	.082500
Yorktown (DeWitt Co)	2062014	.020000	.082500

An additional 1/4 percent city sales and use tax for Municipal Street Maintenance and Repair as permitted under Chapter 327 of the Texas Tax Code will become effective October 1, 2018 in the cities listed below.

CITY NAME	LOCAL CODE	LOCAL RATE	TOTAL RATE
Buffalo Gap (Taylor Co)	2221067	.020000	.082500
Crystal City (Zavala Co)	2254012	.020000	.082500

An additional 1 percent city sales and use tax for Municipal Street Maintenance and Repair as permitted under Chapter 327 of the Texas Tax Code will become effective October 1, 2018 in the city listed below.

CITY NAME	LOCAL CODE	LOCAL RATE	TOTAL RATE
Rule (Haskell Co)	2104041	.020000	.082500

The additional 1/4 percent sales and use tax for Municipal Street Maintenance and Repair as permitted under Chapter 327 of the Texas Tax Code will be increased to 1/2 percent and the additional 1/2 percent sales and use tax for improving and promoting economic and industrial development as permitted under Chapter 505 of the Texas Local Government Code, Type B Corporations (4B) will be reduced to 1/4 percent effective October 1, 2018 in the city listed below. There will be no change in the local rate or total rate.

CITY NAME	LOCAL CODE	LOCAL RATE	TOTAL RATE
Argyle (Denton Co)	2061104	.020000	.082500

The additional 1/4 percent sales and use tax for Municipal Street Maintenance and Repair as permitted under Chapter 327 of the Texas Tax Code will be increased to 3/8 percent and the additional 1/2 percent sales and use tax for improving and promoting economic and industrial development as permitted under Chapter 505 of the Texas Local Government Code, Type B Corporations (4B) will be reduced to 1/8 percent effective October 1, 2018 in the city listed below. There will be no change in the local rate or total rate.

CITY NAME	LOCAL CODE	LOCAL RATE	TOTAL RATE
Pecos (Reeves Co)	2195014	.020000	.082500

The additional 1/4 percent sales and use tax for improving and promoting economic and industrial development as permitted under Chapter 504 of the Texas Local Government Code, Type A Corporations (4A) will be abolished effective September 30, 2018 and an additional 1/4 percent sales and use tax for improving and promoting economic and industrial development as permitted under Chapter 505 of the Texas Local Government Code, Type B Corporations (4B) will become effective October 1, 2018 in the city listed below. There will be no change in the local rate or total rate.

CITY NAME	LOCAL CODE	LOCAL RATE	TOTAL RATE
Brady (McCulloch Co)	2160015	.020000	.082500

The additional 1/2 percent sales and use tax for improving and promoting economic and industrial development as permitted under Chapter 504 of the Texas Local Government Code, Type A Corporations (4A) will be abolished effective September 30, 2018 and an additional 1/2 percent sales and use tax for improving and promoting economic and industrial development as permitted under Chapter 505 of the Texas Local Government Code, Type B Corporations (4B) will become effective October 1, 2018 in the city listed below. There will be no change in the local rate or total rate.

CITY NAME	LOCAL CODE	LOCAL RATE	TOTAL RATE
Overton (Rusk Co)	2201025	.020000	.082500
Overton (Smith Co)	2201025	.020000	.082500

The 1/4 percent special purpose district sales and use tax will increase to 1/2 percent effective October 1, 2018 in the special purpose district listed below.

SPD NAME	LOCAL CODE	LOCAL RATE	TOTAL RATE
Hamlin Municipal Development District	5127507	.020000	.082500

A 1/4 percent special purpose district sales and use tax will become effective October 1, 2018 in the special purpose districts listed below.

SPD NAME	LOCAL CODE	LOCAL RATE	DESCRIPTION
Prosper Crime Control and Prevention District	5043535	.002500	SEE NOTE 1
Prosper Fire Control and Prevention District	5043544	.002500	SEE NOTE 2

A 1/2 percent special purpose district sales and use tax will become effective October 1, 2018 in the special purpose districts listed below.

SPD NAME	LOCAL CODE	LOCAL RATE	DESCRIPTION
Boyd Municipal Development District	5249519	.005000	SEE NOTE 3
Iowa Colony Crime Control and Prevention District	5020523	.005000	SEE NOTE 4
North Hays County Emergency Services District No. 1	5105610	.005000	SEE NOTE 5

A 3/4 percent special purpose district sales and use tax will become effective October 1, 2018 in the special purpose district listed below.

SPD NAME	LOCAL CODE	LOCAL RATE	DESCRIPTION
Hays County Emergency Services District No. 6-A	5105629	.007500	SEE NOTE 6

A 1 1/2 percent special purpose district sales and use tax will become effective October 1, 2018 in the special purpose district listed below.

SPD NAME	LOCAL CODE	LOCAL RATE	DESCRIPTION
Bexar County Emergency Services District No. 10	5015655	.015000	SEE NOTE 7

A 2 percent special purpose district sales and use tax will become effective October 1, 2018 in the special purpose district listed below.

SPD NAME	LOCAL CODE	LOCAL RATE	DESCRIPTION
Fort Bend County Assistance District No. 10	5079621	.020000	SEE NOTE 8
Jasper County Emergency Services District No. 1	5121512	.020000	SEE NOTE 9

NOTE 1: The boundaries of the Prosper Crime Control and Prevention District are the same as the

boundaries for the city of Prosper.

NOTE 2: The boundaries of the Prosper Fire Control and Prevention District are the same as the boundaries for the city of Prosper.

NOTE 3: The boundaries of the Boyd Municipal Development District are the same as the boundaries for the city of Boyd.

NOTE 4: The boundaries of the Iowa Colony Crime Control and Prevention District are the same as the boundaries for the city of Iowa Colony.

NOTE 5: The North Hays County Emergency Services District No. 1 is located in the northern portion of Hays County, which has a county sales and use tax. The district partially overlaps territory in the Dripping Springs Library District and all of the Hays County Emergency Services District No. 6-A, both of which have special purpose district sales and use tax. The district excludes any area within the cities of Austin, Dripping Springs, Wimberley or Woodcreek, and the Driftwood Economic Development Municipal Management District. The unincorporated areas of Hays County in ZIP Codes 78610, 78619, 78620, 78676, 78736 and 78737 are partially located within the North Hays County Emergency Services District No. 1. Contact the district representative at 512-829-4356 for additional boundary information.

NOTE 6: The Hays County Emergency Services District No. 6-A is the unincorporated area of the original district excluding the area within the cities of Austin, Dripping Springs, Wimberley or Woodcreek, the Dripping Springs/Hays County Emergency Services District No. 6 Combined Area and the Driftwood Economic Development Municipal Management District, which all have sales and use tax. The district partially overlaps territory in the Dripping Springs Library District and all of the North Hays County Emergency Services District No. 1, both of which have special purpose district sales and use tax. The unincorporated areas of Hays County in ZIP Codes 78610, 78619, 78620, 78676, 78736 and 78737 are partially located within the Hays County Emergency Services District No. 6-A. Contact the district representative at 512-894-0704 for additional boundary information.

NOTE 7: The Bexar County Emergency Services District No. 10 is located in the eastern portion of Bexar County. The district is located entirely within the San Antonio MTA, which has a transit sales and use tax. The district **excludes**, for sales and use tax purposes, any area within the city of Elmendorf. Unincorporated areas of Bexar County in ZIP Codes 78101, 78109, 78112, 78220, 78222, 78223, 78239 and 78263 are partially located within the Bexar County Emergency Services District No. 10. Contact the district representative at 210-661-3144 for additional boundary information.

NOTE 8: The Fort Bend County Assistance District No. 10 is located in the northern portion of Fort Bend County. The district's boundaries exclude any areas of the district which are also responsible for collecting and remitting sales and use tax to the city of Houston due to a strategic partnership agreement between a utility district and the city of Houston, or any other cities or special purpose districts. The unincorporated areas of Fort Bend County in ZIP Code 77494 are partially located within the Fort Bend County Assistance District No. 10. Contact the district representative at 281-341-8608 for additional boundary information.

NOTE 9: The Jasper County Emergency Services District No. 1 is located in the southern portion of Jasper County. The district excludes any area within the cities of Evadale and Kirbyville. The unincorporated areas of Jasper County in ZIP Code 77612 are partially located within the Jasper County Emergency Services District No. 1. Contact the district representative at 409-994-2543 for additional boundary information.

TRD-201804087  
William Hamner  
Special Counsel for Tax Administration  
Comptroller of Public Accounts  
Filed: September 20, 2018

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**Office of Consumer Credit Commissioner**

**Notice of Rate Ceilings**

The Consumer Credit Commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in §§303.003, 303.009 and 304.003, Texas Finance Code.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 10/01/18 - 10/07/18 is 18% for Consumer<sup>1</sup>/Agricultural/Commercial<sup>2</sup> credit through \$250,000.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 10/01/18 - 10/07/18 is 18% for Commercial over \$250,000.

The judgment ceiling as prescribed by §304.003 for the period of 10/01/18 - 10/31/18 is 5.00% for Consumer/Agricultural/Commercial credit thru \$250,000.

The judgment ceiling as prescribed by §304.003 for the period of 10/01/18 - 10/31/18 is 5.00% for commercial over \$250,000.

<sup>1</sup>Credit for personal, family or household use.

<sup>2</sup>Credit for business, commercial, investment or other similar purpose.

TRD-201804152  
Leslie L. Pettijohn  
Commissioner  
Office of Consumer Credit Commissioner  
Filed: September 25, 2018

◆ ◆ ◆  
**Texas Commission on Environmental Quality**

**Agreed Orders**

The Texas Commission on Environmental Quality (TCEQ, agency, or commission) staff is providing an opportunity for written public comment on the listed Agreed Orders (AOs) in accordance with Texas Water Code (TWC), §7.075. TWC, §7.075 requires that before the commission may approve the AOs, the commission shall allow the public an opportunity to submit written comments on the proposed AOs. TWC, §7.075 requires that notice of the proposed orders and the opportunity to comment must be published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is November 5, 2018. TWC, §7.075 also requires that the commission promptly consider any written comments received and that the commission may withdraw or withhold approval of an AO if a comment discloses facts or considerations that indicate that consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the statutes and rules within the commission's jurisdiction or the commission's orders and permits issued in accordance with the commission's regulatory authority. Additional notice of changes to a proposed AO is not required to be published if those changes are made in response to written comments.

A copy of each proposed AO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building C, 1st Floor, Austin, Texas 78753, (512) 239-2545 and at the applicable regional office listed as follows. Written comments about an AO should be sent to the enforcement coordinator designated for each

AO at the commission's central office at P.O. Box 13087, Austin, Texas 78711-3087 and must be received by 5:00 p.m. on November 5, 2018. Written comments may also be sent by facsimile machine to the enforcement coordinator at (512) 239-2550. The commission's enforcement coordinators are available to discuss the AOs and/or the comment procedure at the listed phone numbers; however, TWC, §7.075 provides that comments on the AOs shall be submitted to the commission in writing.

(1) COMPANY: ANROIN, INCORPORATED dba Srilak Mart; DOCKET NUMBER: 2018-1003-PST-E; IDENTIFIER: RN101891687; LOCATION: Freeport, Brazoria County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.50(b)(1)(A) and TWC, §26.3475(c)(1), by failing to monitor the underground storage tanks for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring); PENALTY: \$3,375; ENFORCEMENT COORDINATOR: Carlos Molina, (512) 239-2557; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(2) COMPANY: Arkema Incorporated; DOCKET NUMBER: 2018-0918-AIR-E; IDENTIFIER: RN100216373; LOCATION: Beaumont, Jefferson County; TYPE OF FACILITY: organic chemical manufacturing plant; RULES VIOLATED: 30 TAC §122.143(4) and §122.146(2), Federal Operating Permit Number O1636, General Terms and Conditions and Special Terms and Conditions Number 17, and Texas Health and Safety Code, §382.085(b), by failing to submit a permit compliance certification no later than 30 days after the end of the certification period; PENALTY: \$6,037; ENFORCEMENT COORDINATOR: Johnnie Wu, (512) 239-2524; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1830, (409) 898-3838.

(3) COMPANY: Bestway Oilfield, Incorporated; DOCKET NUMBER: 2018-1074-AIR-E; IDENTIFIER: RN110023447; LOCATION: Channelview, Harris County; TYPE OF FACILITY: process equipment manufacturing site; RULES VIOLATED: 30 TAC §116.110(a) and Texas Health and Safety Code, §382.0518(a) and §382.085(b), by failing to obtain authorization prior to constructing or modifying a source of air contaminants; PENALTY: \$1,312; ENFORCEMENT COORDINATOR: Johnnie Wu, (512) 239-2524; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(4) COMPANY: Blanchard Refining Company LLC; DOCKET NUMBER: 2018-0274-AIR-E; IDENTIFIER: RN102535077; LOCATION: Texas City, Galveston County; TYPE OF FACILITY: petroleum refinery; RULES VIOLATED: 30 TAC §§101.20(3), 116.715(a), and 122.143(4), Federal Operating Permit Number O1541, Special Terms and Conditions Number 23, Flexible Permit Numbers 47256 and PSDTX402M3, Special Conditions Number 1, and Texas Health and Safety Code (THSC), §382.085(b), by failing to prevent unauthorized emissions; and 30 TAC §116.116(b)(1) and THSC, §382.085(b), by failing to obtain a permit amendment; PENALTY: \$57,000; Supplemental Environmental Project offset amount: \$22,800; ENFORCEMENT COORDINATOR: David Carney, (512) 239-2583; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(5) COMPANY: City of Maypearl; DOCKET NUMBER: 2018-0701-MWD-E; IDENTIFIER: RN101612612; LOCATION: Maypearl, Ellis County; TYPE OF FACILITY: wastewater treatment facility; RULES VIOLATED: 30 TAC §305.125(1), TWC, §26.121(a)(1), and Texas Pollutant Discharge Elimination System Permit Number WQ0010431001, Effluent Limitations and Monitoring Requirements Number 1, by failing to comply with permitted effluent limitations; PENALTY: \$5,625; Supplemental Environmental Project offset



amount: \$4,500; ENFORCEMENT COORDINATOR: Harley Hobson, (512) 239-1337; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(6) COMPANY: City of Paint Rock; DOCKET NUMBER: 2018-0836-PWS-E; IDENTIFIER: RN101451730; LOCATION: Paint Rock, Concho County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.46(e)(3)(A) and Texas Health and Safety Code, §341.033(a), by failing to operate the facility under the direct supervision of a water works operator who holds a Class D or higher license; 30 TAC §290.46(f)(2) and (3)(D)(i), by failing to maintain water works operation and maintenance records and make them readily available for review by commission personnel during the investigation; and 30 TAC §290.46(n)(2), by failing to provide an accurate and up-to-date map of the distribution system so that valves and mains can be easily located during emergencies; PENALTY: \$292; ENFORCEMENT COORDINATOR: Ryan Byer, (512) 239-2571; REGIONAL OFFICE: 622 South Oakes, Suite K, San Angelo, Texas 76903-7035, (325) 655-9479.

(7) COMPANY: Columbia Sussex Management, LLC dba Renaissance Dallas Addison; DOCKET NUMBER: 2018-0549-PST-E; IDENTIFIER: RN109464636; LOCATION: Addison, Dallas County; TYPE OF FACILITY: an underground storage tank (UST) system with an emergency generator; RULES VIOLATED: 30 TAC §334.7(d)(3) and §334.8(c)(4)(C), by failing to obtain a UST delivery certificate by submitting a properly completed UST registration and self-certification form notifying the agency of any changes; and 30 TAC §334.50(b)(1)(A) and TWC, §26.3475(c)(1), by failing to monitor the UST for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring); PENALTY: \$3,751; Supplemental Environmental Project offset amount: \$1,500; ENFORCEMENT COORDINATOR: Tyler Richardson, (512) 239-4872; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(8) COMPANY: Eco Services Operations Corp.; DOCKET NUMBER: 2018-0880-AIR-E; IDENTIFIER: RN100220581; LOCATION: Houston, Harris County; TYPE OF FACILITY: chemical manufacturing plant; RULES VIOLATED: 30 TAC §116.115(b)(2)(F) and (c) and §122.143(4), Texas Health and Safety Code, §382.085(b), Federal Operating Permit Number O3049, General Terms and Conditions and Special Terms and Conditions Number 17, and New Source Review Permit Number 56566, Special Conditions Numbers 1 and 14, by failing to comply with the maximum allowable emissions rate and concentration limit; PENALTY: \$11,775; ENFORCEMENT COORDINATOR: Jo Hunsberger, (512) 239-1274; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(9) COMPANY: Equistar Chemicals, LP; DOCKET NUMBER: 2018-0586-AIR-E; IDENTIFIER: RN100210319; LOCATION: La Porte, Harris County; TYPE OF FACILITY: chemical manufacturing plant; RULES VIOLATED: 30 TAC §§101.20(3), 115.722(c)(1), 116.115(c), and 122.143(4), Federal Operating Permit Number O2223, Special Terms and Conditions Number 18, New Source Review Permit Numbers 18978, PSDTX752M5, and N162, Special Conditions Number 1, and Texas Health and Safety Code, §382.085(b), by failing to prevent the release of unauthorized emissions, and failing to prevent the exceedance of 1,200 pounds of highly reactive volatile organic compounds per one-hour block; PENALTY: \$13,125; Supplemental Environmental Project offset amount: \$5,250; ENFORCEMENT COORDINATOR: Raime Hayes-Falero, (713) 767-3567; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(10) COMPANY: Hillard Homes, LLC; DOCKET NUMBER: 2018-1235-WQ-E; IDENTIFIER: RN110449121; LOCATION:

Whitehouse, Smith County; TYPE OF FACILITY: construction site; RULE VIOLATED: 30 TAC §281.25(a)(4), by failing to obtain a construction general permit; PENALTY: \$875; ENFORCEMENT COORDINATOR: Harley Hobson, (512) 239-1337; REGIONAL OFFICE: 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

(11) COMPANY: Legacy Reserves Operating LP; DOCKET NUMBER: 2018-0829-AIR-E; IDENTIFIER: RN102498912; LOCATION: Dew, Freestone County; TYPE OF FACILITY: natural gas compressor station; RULES VIOLATED: 30 TAC §122.143(4) and §122.146(1) and (2), Federal Operating Permit Number O2455/General Operating Permit Number 514, Site-wide Requirements Number (b)(3), and Texas Health and Safety Code, §382.085(b), by failing to certify compliance for at least each 12-month period following initial permit issuance, and failing to submit the permit compliance certification within 30 days after the end of the certification period; PENALTY: \$3,563; ENFORCEMENT COORDINATOR: Johnnie Wu, (512) 239-2524; REGIONAL OFFICE: 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

(12) COMPANY: LFP Unimproved Investments, Ltd. and Swinging R LLC; DOCKET NUMBER: 2018-0784-WR-E; IDENTIFIER: RN110234978; LOCATION: Beeville, Bee County; TYPE OF FACILITY: dam; RULES VIOLATED: 30 TAC §297.11, and TWC, §11.121 by failing to obtain authorization prior to impounding, diverting, or using state water; PENALTY: \$250; ENFORCEMENT COORDINATOR: Had Darling, (512) 239-2520; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

(13) COMPANY: MANKAMANA HOLDINGS, LLC dba Kwik-O-Foods; DOCKET NUMBER: 2018-0659-PST-E; IDENTIFIER: RN102266855; LOCATION: Lubbock, Lubbock County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.8(c)(4)(A)(vii) and (5)(B)(ii), by failing to renew a previously issued underground storage tank (UST) delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date; and 30 TAC §334.8(c)(5)(A)(i) and TWC, §26.3467(a), by failing to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs; PENALTY: \$2,548; ENFORCEMENT COORDINATOR: Tyler Richardson, (512) 239-4872; REGIONAL OFFICE: 5012 50th Street, Suite 100, Lubbock, Texas 79414-3426, (806) 796-7092.

(14) COMPANY: O MA Shreeful Incorporated dba Rita's Super Store; DOCKET NUMBER: 2018-0522-PST-E; IDENTIFIER: RN102426087; LOCATION: Kingsville, Kleberg County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.50(b)(1)(A) and (2) and TWC, §26.3475(a) and (c)(1), by failing to monitor the underground storage tanks (USTs) for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring), and failing to provide release detection for the pressurized piping associated with the UST system; PENALTY: \$3,499; ENFORCEMENT COORDINATOR: Rahim Momin, (512) 239-2544; REGIONAL OFFICE: 6300 Ocean Drive, Suite 1200, Corpus Christi, Texas 78412-5839, (361) 825-3100.

(15) COMPANY: Pioneer Natural Resources USA, Incorporated; DOCKET NUMBER: 2018-1008-AIR-E; IDENTIFIER: RN100226943; LOCATION: Masterson, Potter County; TYPE OF FACILITY: natural gas processing plant; RULES VIOLATED: 30 TAC §§122.121, 122.133(2), and 122.241(b), and Texas Health and Safety Code, §382.054 and §382.085(b), by failing to submit a permit renewal application at least six months prior to the expiration of a federal operating permit; PENALTY: \$3,750; ENFORCEMENT CO-

ORDINATOR: Trina Grieco, (210) 403-4006; REGIONAL OFFICE: 3918 Canyon Drive, Amarillo, Texas 79109-4933, (806) 353-9251.

(16) COMPANY: R.N.A. Corporation dba RNA Chevron; DOCKET NUMBER: 2018-0748-PST-E; IDENTIFIER: RN102838729; LOCATION: Alvin, Brazoria County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.50(b)(1)(A) and TWC, §26.3475(c)(1), by failing to monitor the underground storage tanks for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring); PENALTY: \$9,000; ENFORCEMENT COORDINATOR: Harley Hobson, (512) 239-1337; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(17) COMPANY: Rohm and Haas Chemicals LLC; DOCKET NUMBER: 2017-1416-AIR-E; IDENTIFIER: RN100223205; LOCATION: Deer Park, Harris County; TYPE OF FACILITY: chemical manufacturing plant; RULES VIOLATED: 30 TAC §116.115(b)(2)(F) and (c) and §122.143(4), Federal Operating Permit Number O2237, Special Terms and Conditions Number 8, New Source Review Permit Number 27131, Special Conditions Number 1, and Texas Health and Safety Code, §382.085(b), by failing to comply with the maximum allowable emissions rate; PENALTY: \$9,300; Supplemental Environmental Project offset amount: \$3,720; ENFORCEMENT COORDINATOR: Raime Hayes-Falero, (713) 767-3567; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(18) COMPANY: Solvay Specialty Polymers USA, L.L.C.; DOCKET NUMBER: 2018-0655-AIR-E; IDENTIFIER: RN102305505; LOCATION: Orange, Orange County; TYPE OF FACILITY: chemical manufacturing plant; RULES VIOLATED: 30 TAC §116.115(c), New Source Review Permit Number 9224A, Special Conditions Number 1, and Texas Health and Safety Code, §382.085(b), by failing to prevent unauthorized emissions; PENALTY: \$1,438; ENFORCEMENT COORDINATOR: Raime Hayes-Falero, (713) 767-3567; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1830, (409) 898-3838.

(19) COMPANY: Suleman Shamsuddin and Zohra Virani; DOCKET NUMBER: 2018-0486-PST-E; IDENTIFIER: RN102478401; LOCATION: Troy, Bell County; TYPE OF FACILITY: inactive underground storage tank (UST); RULES VIOLATED: 30 TAC §334.7(d)(1)(A) and (B) and (3) and §334.54(e)(2), by failing to provide written notice to the agency of any changes or additional information concerning the UST system within 30 days from the date of the occurrence of the change or addition; and 30 TAC §334.49(a)(2) and §334.54(b)(2), and TWC, §26.3475(d), by failing to ensure the corrosion protection system was operated and maintained in a manner that will ensure corrosion protection is continuously provided to the UST system; PENALTY: \$5,250; ENFORCEMENT COORDINATOR: Rahim Momin, (512) 239-2544; REGIONAL OFFICE: 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

(20) COMPANY: Targa Downstream LLC; DOCKET NUMBER: 2018-0359-AIR-E; IDENTIFIER: RN100222900; LOCATION: Mont Belvieu, Chambers County; TYPE OF FACILITY: bulk materials storage and distribution terminal; RULES VIOLATED: 30 TAC §116.115(b)(2)(F) and (c) and §122.143(4), Texas Health and Safety Code (THSC), §382.085(b), Federal Operating Permit (FOP) Number O615, General Terms and Conditions (GTC) and Special Terms and Conditions Number 12, and New Source Review Permit Number 22088, Special Conditions Number 1, by failing to comply with the maximum allowable emissions rates; and 30 TAC §122.143(4) and §122.145(2)(A), THSC, §382.085(b), and FOP Number O615, GTC, by failing to report all instances of deviations; PENALTY: \$50,375; Supplemental Environmental Project offset amount: \$25,187; EN-

FORCEMENT COORDINATOR: Jo Hunsberger, (512) 239-1274; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(21) COMPANY: TEXAS AIRLIFE, INCORPORATED dba University Hospital-Air Life; DOCKET NUMBER: 2018-0717-PST-E; IDENTIFIER: RN104551817; LOCATION: San Antonio, Bexar County; TYPE OF FACILITY: aircraft refueling station; RULES VIOLATED: 30 TAC §334.50(b)(2) and (d)(1)(B)(ii) and (iii)(I), and TWC, §26.3475(a) and (c)(1), by failing to provide release detection for the pressurized piping associated with the underground storage tank system; PENALTY: \$3,375; ENFORCEMENT COORDINATOR: Tyler Richardson, (512) 239-4872; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

(22) COMPANY: Triple R Assets, LLC; DOCKET NUMBER: 2018-0736-PWS-E; IDENTIFIER: RN106916398; LOCATION: Spring, Harris County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.110(e)(4)(A) and (f)(3), by failing to submit a Disinfectant Level Quarterly Operating Report to the executive director (ED) each quarter, by the tenth day of the month following the end of the quarter, for the third and fourth quarters of 2017; 30 TAC §290.117(c)(2)(A), (h), and (i)(1), by failing to collect lead and copper tap samples at the required ten sample sites, have the samples analyzed, and report the results to the ED for the January 1, 2017 - June 30, 2017, monitoring period; and 30 TAC §290.117(i)(6) and (j), by failing to provide a consumer notification of lead tap water monitoring results to persons served at the sites (taps) that were tested, and failing to mail a copy of the consumer notification of tap results to the ED along with certification that the consumer notification has been distributed for the July 1, 2017 - December 31, 2017, monitoring period; PENALTY: \$754; ENFORCEMENT COORDINATOR: Steven Hall, (512) 239-2569; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(23) COMPANY: UMBARGER COMMUNITY WATER SUPPLY CORPORATION; DOCKET NUMBER: 2018-0975-PWS-E; IDENTIFIER: RN101451268; LOCATION: Umbarger, Randall County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.106(f)(3) and Texas Health and Safety Code, §341.0315(c), by failing to comply with the maximum contaminant level of 4.0 milligrams per liter for fluoride based on a running annual average; PENALTY: \$210; ENFORCEMENT COORDINATOR: Steven Hall, (512) 239-2569; REGIONAL OFFICE: 3918 Canyon Drive, Amarillo, Texas 79109-4933, (806) 353-9251.

(24) COMPANY: UNIVERSITY OF NORTH TEXAS; DOCKET NUMBER: 2018-0520-PST-E; IDENTIFIER: RN100221423; LOCATION: Denton, Denton County; TYPE OF FACILITY: fleet refueling facility; RULES VIOLATED: 30 TAC §334.45(c)(3)(A), by failing to install an emergency shutoff valve (also known as a shear or impact valve) on each pressurized delivery or product line, and failing to ensure that it is securely anchored at the base of the dispenser; 30 TAC §334.49(a)(4) and TWC, §26.3475(d), by failing to maintain corrosion protection on all underground metal components of an underground storage tank (UST) system; and 30 TAC §334.50(b)(1)(A) and TWC, §26.3475(c)(1), by failing to monitor the USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring); PENALTY: \$7,688; Supplemental Environmental Project offset amount: \$6,151; ENFORCEMENT COORDINATOR: Marla Waters, (512) 239-4712; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(25) COMPANY: WTG Jameson, LP; DOCKET NUMBER: 2018-0862-AIR-E; IDENTIFIER: RN101246478; LOCATION: Silver, Coke County; TYPE OF FACILITY: natural gas processing plant; RULES VIOLATED: 30 TAC §101.20(1) and §116.620(a)(12),

40 Code of Federal Regulations §60.18(c)(2), and Texas Health and Safety Code, §382.085(b), by failing to operate flares with a flame present at all times; PENALTY: \$14,325; ENFORCEMENT COORDINATOR: Amanda Diaz, (512) 239-2601; REGIONAL OFFICE: 622 South Oakes, Suite K, San Angelo, Texas 76903-7035, (325) 655-9479.

TRD-201804146

Charmaine Backens

Director, Litigation Division

Texas Commission on Environmental Quality

Filed: September 25, 2018



### Enforcement Orders

An agreed order was adopted regarding Platform Manufacturing Group, LLC, Docket No. 2017-0084-AIR-E on September 25, 2018, assessing \$1,312 in administrative penalties with \$262 deferred. Information concerning any aspect of this order may be obtained by contacting Abigail Lindsey, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Larry R. Burns, Docket No. 2017-0430-WOC-E on September 25, 2018, assessing \$675 in administrative penalties with \$135 deferred. Information concerning any aspect of this order may be obtained by contacting Had Darling, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding CRYSTAL SPRINGS WATER CO., INC., Docket No. 2017-0452-PWS-E on September 25, 2018, assessing \$1,170 in administrative penalties with \$234 deferred. Information concerning any aspect of this order may be obtained by contacting Sarah Kim, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Deer Creek Ranch Water Co., LLC, Docket No. 2017-0627-PWS-E on September 25, 2018, assessing \$260 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Sarah Kim, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding ADJP, INC. dba Deirs Drive In, Docket No. 2017-1096-PST-E on September 25, 2018, assessing \$4,500 in administrative penalties with \$900 deferred. Information concerning any aspect of this order may be obtained by contacting Carlos Molina, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding J.C. ALL SEASONS MARKET, INC., Docket No. 2017-1282-PST-E on September 25, 2018, assessing \$3,603 in administrative penalties with \$720 deferred. Information concerning any aspect of this order may be obtained by contacting Epifanio Villarreal, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding DOBBIN-PLANTERSVILLE WATER SUPPLY CORPORATION, (A NON-PROFIT CORPORATION), Docket No. 2017-1340-PWS-E on September 25, 2018, assessing \$287 in administrative penalties with \$195 deferred. Information concerning any aspect of this order may be obtained by contacting

James Boyle, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas

An agreed order was adopted regarding K 786 Investment, LLC dba K Food Mart, Docket No. 2017-1347-PST-E on September 25, 2018, assessing \$3,724 in administrative penalties with \$744 deferred. Information concerning any aspect of this order may be obtained by contacting Rahim Momin, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Southwest Community Management, L.L.C., Docket No. 2017-1396-PST-E on September 25, 2018, assessing \$3,937 in administrative penalties with \$787 deferred. Information concerning any aspect of this order may be obtained by contacting Carlos Molina, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding General Services Administration, Docket No. 2017-1408-PST-E on September 25, 2018, assessing \$2,813 in administrative penalties with \$562 deferred. Information concerning any aspect of this order may be obtained by contacting Sandra Douglas, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Sunergos, LLC, Docket No. 2017-1414-PWS-E on September 25, 2018, assessing \$933 in administrative penalties with \$186 deferred. Information concerning any aspect of this order may be obtained by contacting Michaelle Garza, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding PRUETT'S FOOD, INC., Docket No. 2017-1452-PST-E on September 25, 2018, assessing \$3,375 in administrative penalties with \$675 deferred. Information concerning any aspect of this order may be obtained by contacting Jo Hunsberger, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding W.O.I. PETROLEUM, INC., Docket No. 2017-1557-PST-E on September 25, 2018, assessing \$6,975 in administrative penalties with \$1,395 deferred. Information concerning any aspect of this order may be obtained by contacting Abigail Lindsey, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding ES&H of Houston, L.L.C., Docket No. 2017-1581-MSW-E on September 25, 2018, assessing \$1,250 in administrative penalties with \$250 deferred. Information concerning any aspect of this order may be obtained by contacting Abigail Lindsey, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Richard Allen Keenan dba K & B Waterworks, Docket No. 2017-1584-PWS-E on September 25, 2018, assessing \$895 in administrative penalties with \$179 deferred. Information concerning any aspect of this order may be obtained by contacting Ryan Byer, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding D & G STORE LLC dba One Stop, Docket No. 2017-1603-PST-E on September 25, 2018, assessing \$4,938 in administrative penalties with \$987 deferred. Informa-

tion concerning any aspect of this order may be obtained by contacting Carlos Molina, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding EUN HAE PROPERTIES LLC dba 121 Chevron, Docket No. 2017-1605-PST-E on September 25, 2018, assessing \$3,012 in administrative penalties with \$602 deferred. Information concerning any aspect of this order may be obtained by contacting Tyler Richardson, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding CEDOS A, LLC dba Cedoss Stop, Docket No. 2017-1714-PST-E on September 25, 2018, assessing \$3,375 in administrative penalties with \$675 deferred. Information concerning any aspect of this order may be obtained by contacting Stephanie McCurley, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Juan T. Noriega dba Enchanted Inn Restaurant, Docket No. 2017-1733-PWS-E on September 25, 2018, assessing \$550 in administrative penalties with \$110 deferred. Information concerning any aspect of this order may be obtained by contacting Ryan Byer, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Hassan Atiyeh dba Lancaster Mini Mart, Docket No. 2017-1757-PST-E on September 25, 2018, assessing \$3,825 in administrative penalties with \$765 deferred. Information concerning any aspect of this order may be obtained by contacting Claudia Corrales, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Exxon Mobil Corporation, Docket No. 2017-1764-AIR-E on September 25, 2018, assessing \$5,812 in administrative penalties with \$1,162 deferred. Information concerning any aspect of this order may be obtained by contacting Carol McGrath, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Arturo Armenta, Docket No. 2017-1780-PST-E on September 25, 2018, assessing \$3,750 in administrative penalties with \$750 deferred. Information concerning any aspect of this order may be obtained by contacting Tyler Richardson, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding CLYDE VIEW ENTERPRISES LLC dba Anita Food Mart 2, Docket No. 2017-1781-PST-E on September 25, 2018, assessing \$3,687 in administrative penalties with \$737 deferred. Information concerning any aspect of this order may be obtained by contacting John Paul Fennell, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Five Rivers Investments, LLC, a Texas limited liability company, Docket No. 2017-1782-PWS-E on September 25, 2018, assessing \$426 in administrative penalties with \$85 deferred. Information concerning any aspect of this order may be obtained by contacting Steven Hall, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Bayside Boat Club, LLC dba Bayview Marina, Docket No. 2018-0008-PST-E on September 25, 2018, assessing \$4,125 in administrative penalties with \$825 deferred. Information concerning any aspect of this order may be obtained by contacting Rahim Momin, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Formosa Plastics Corporation, Docket No. 2018-0011-AIR-E on September 25, 2018, assessing \$7,500 in administrative penalties with \$1,500 deferred. Information concerning any aspect of this order may be obtained by contacting Jo Hunsberger, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding ALEDO MIDWAY CORP. dba Midway Food Store, Docket No. 2018-0034-PST-E on September 25, 2018, assessing \$5,925 in administrative penalties with \$1,185 deferred. Information concerning any aspect of this order may be obtained by contacting Epifanio Villarreal, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding GURUJI, LLC dba I Fuel, Docket No. 2018-0035-PST-E on September 25, 2018, assessing \$7,313 in administrative penalties with \$1,462 deferred. Information concerning any aspect of this order may be obtained by contacting Jonathan Nguyen, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding SNOW WATER VENTURES INC dba Scooters Triple C Convenience Store, Docket No. 2018-0045-PST-E on September 25, 2018, assessing \$4,998 in administrative penalties with \$999 deferred. Information concerning any aspect of this order may be obtained by contacting Carlos Molina, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Harden Cabinets LLC, Docket No. 2018-0054-AIR-E on September 25, 2018, assessing \$2,725 in administrative penalties with \$545 deferred. Information concerning any aspect of this order may be obtained by contacting Raime Hayes-Falero, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding MCCC, LLC, Docket No. 2018-0098-WR-E on September 25, 2018, assessing \$300 in administrative penalties with \$60 deferred. Information concerning any aspect of this order may be obtained by contacting Had Darling, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding BW Gas & Convenience Retail, LLC dba Yesway 1056, Docket No. 2018-0107-PST-E on September 25, 2018, assessing \$3,499 in administrative penalties with \$699 deferred. Information concerning any aspect of this order may be obtained by contacting Epifanio Villarreal, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Richard Thomas, Docket No. 2018-0117-WQ-E on September 25, 2018, assessing \$1,312 in administrative penalties with \$262 deferred. Information concerning any aspect of this order may be obtained by contacting Claudia Corrales, En-

forcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Aqua Utilities, Inc., Docket No. 2018-0118-PWS-E on September 25, 2018, assessing \$535 in administrative penalties with \$107 deferred. Information concerning any aspect of this order may be obtained by contacting Yuliya Dunaway, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Dipesh Limbad dba Last Chance, Docket No. 2018-0184-PST-E on September 25, 2018, assessing \$3,512 in administrative penalties with \$702 deferred. Information concerning any aspect of this order may be obtained by contacting Chase Davenport, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Lyondell Chemical Company, Docket No. 2018-0185-AIR-E on September 25, 2018, assessing \$3,038 in administrative penalties with \$607 deferred. Information concerning any aspect of this order may be obtained by contacting Trina Grieco, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding JRM Water L.L.C., Docket No. 2018-0191-PWS-E on September 25, 2018, assessing \$1,298 in administrative penalties with \$259 deferred. Information concerning any aspect of this order may be obtained by contacting Ryan Byer, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding DEANVILLE WATER SUPPLY CORPORATION, Docket No. 2018-0200-PWS-E on September 25, 2018, assessing \$624 in administrative penalties with \$124 deferred. Information concerning any aspect of this order may be obtained by contacting Yuliya Dunaway, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Hana Travel Plaza Amarillo, Inc., Docket No. 2018-0206-PST-E on September 25, 2018, assessing \$7,074 in administrative penalties with \$1,414 deferred. Information concerning any aspect of this order may be obtained by contacting Abigail Lindsey, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Penske Truck Leasing Co., L.P., Docket No. 2018-0210-PST-E on September 25, 2018, assessing \$3,338 in administrative penalties with \$667 deferred. Information concerning any aspect of this order may be obtained by contacting John Paul Fennell, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Comanche Combo, LLC, Docket No. 2018-0213-PST-E on September 25, 2018, assessing \$3,375 in administrative penalties with \$675 deferred. Information concerning any aspect of this order may be obtained by contacting Claudia Corrales, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding EnLink Midstream Services, LLC, Docket No. 2018-0215-AIR-E on September 25, 2018, assessing \$6,750 in administrative penalties with \$1,350 deferred. Informa-

tion concerning any aspect of this order may be obtained by contacting Raime Hayes-Falero, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Rainbow Ranch of Texas, L.L.C., Docket No. 2018-0253-PWS-E on September 25, 2018, assessing \$350 in administrative penalties with \$70 deferred. Information concerning any aspect of this order may be obtained by contacting Steven Hall, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Delta Millworks U.S., LLC, Docket No. 2018-0275-AIR-E on September 25, 2018, assessing \$1,312 in administrative penalties with \$262 deferred. Information concerning any aspect of this order may be obtained by contacting Abigail Lindsey, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Payan's Fuel Center, Inc. dba Payan's Tourist Service, Docket No. 2018-0280-AIR-E on September 25, 2018, assessing \$900 in administrative penalties with \$180 deferred. Information concerning any aspect of this order may be obtained by contacting David Carney, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Blue Water Oaks Property Owners Association, Sewer Service and Water Supply Corporation, Docket No. 2018-0303-MWD-E on September 25, 2018, assessing \$4,575 in administrative penalties with \$915 deferred. Information concerning any aspect of this order may be obtained by contacting Claudia Corrales, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box

TRD-201804168

Bridget C. Bohac

Chief Clerk

Texas Commission on Environmental Quality

Filed: September 26, 2018



Notice of Application and Opportunity to Request a Public Meeting for a New Municipal Solid Waste Facility Registration Application No. 40299

Application. RECON SERVICES, INC., P.O. Box 17665, Austin, Texas 78760-7665, has applied to the Texas Commission on Environmental Quality (TCEQ) for proposed Registration No. 40299, to construct and operate a Type V municipal solid waste transfer station. The proposed facility, RECON Transfer Station will be located 2,300 feet northeast of the intersection of FM 973 and Elroy Road/Burleson Road, in Travis County. The Applicant is requesting authorization to transfer municipal solid waste which includes non-putrescible solid waste, including construction and demolition debris and rubbish from municipal and commercial activities and recovers at least 10% recyclable. The registration application is available for viewing and copying at the Elroy Community Library, 13512 FM 812 Del Valle, Texas 78617 and may be viewed online at <http://www.earthcon.com/statepermits.html>. The following link to an electronic map of the site or facility's general location is provided as a public courtesy and is not part of the application or notice: <https://www.tceq.texas.gov/assets/public/hb610/index.html?lat=30.170222&lng=97.653000&zoom=12&type=r>. For exact location, refer to application.

Public Comment/Public Meeting. Written public comments or written requests for a public meeting must be submitted to the Office of Chief Clerk at the address included in the information section below. If a public meeting is held, comments may be made orally at the meeting or submitted in writing by the close of the public meeting. A public meeting will be held by the executive director if requested by a member of the legislature who represents the general area where the development is to be located, or if there is a substantial public interest in the proposed development. The purpose of the public meeting is for the public to provide input for consideration by the commission, and for the applicant and the commission staff to provide information to the public. A public meeting is not a contested case hearing. The executive director will review and consider public comments and written requests for a public meeting submitted during the comment period. The comment period shall begin on the date this notice is published and end 60 calendar days after this notice is published. The comment period shall be extended to the close of any public meeting. The executive director is not required to file a response to comments.

Executive Director Action. The executive director shall, after review of an application for registration, determine if the application will be approved or denied in whole or in part. If the executive director acts on an application, the chief clerk shall mail or otherwise transmit notice of the action and an explanation of the opportunity to file a motion to overturn the executive director's decision. The chief clerk shall mail this notice to the owner and operator, the public interest counsel, to adjacent landowners as shown on the required land ownership map and landowners list, and to other persons who timely filed public comment in response to public notice. Not all persons on the mailing list for this notice will receive the notice letter from the Office of the Chief Clerk.

Information. Written public comments or requests to be placed on the permanent mailing list for this application should be submitted to the Office of the Chief Clerk mail code MC 105, TCEQ, P.O. Box 13087, Austin, TX 78711-3087 or electronically submitted to <http://www14.tceq.texas.gov/epic/eComment/>. If you choose to communicate with the TCEQ electronically, please be aware that your e-mail address, like your physical mailing address, will become part of the agency's public record. For information about this application or the registration process, individual members of the general public may call the TCEQ Public Education Program at 1-800-687-4040. General information regarding the TCEQ can be found at our web site at [www.tceq.texas.gov](http://www.tceq.texas.gov). Further information may also be obtained from RECON SERVICES, INC. at the address stated above or by calling Mr. Walter Biel at (512) 894-4441.

TRD-201804169  
Bridget C. Bohac  
Chief Clerk  
Texas Commission on Environmental Quality  
Filed: September 26, 2018

◆ ◆ ◆  
Notice of Correction to Agreed Order Number 6

In the February 16, 2018, issue of the *Texas Register* (43 TexReg 936), the Texas Commission on Environmental Quality published notice of Agreed Orders, specifically Item Number 6, for the City of Plainview. The error is as submitted by the commission.

The reference to penalty should be corrected to read: "\$17,376".

The reference to Supplemental Environmental Project offset amount should be corrected to read: "\$13,901".

For questions concerning this error, please contact Michael Parrish at (512) 239-2548.

TRD-201804145  
Charmaine Backens  
Director, Litigation Division  
Texas Commission on Environmental Quality  
Filed: September 25, 2018

◆ ◆ ◆  
Notice of District Petition

Notice issued September 25, 2018

TCEQ Internal Control No. D-08092018-027; BEAZER HOMES TEXAS, L.P., a Delaware limited partnership, and GP 344, LTD., a Texas limited partnership (Petitioners) filed a petition for creation of Harris County Municipal Utility District No. 558 (District) with the Texas Commission on Environmental Quality (TCEQ). The petition was filed pursuant to Article XVI, Section 59 of the Texas Constitution; Chapters 49 and 54 of the Texas Water Code; Title 30 Texas Administrative Code Chapter 293; and the procedural rules of the TCEQ. The petition states that: (1) the Petitioners Jeff Anderson, Vice President of Beazer Homes Texas Holdings, Inc., a Delaware corporation and general partner of Beazer Homes Texas, L.P., a Delaware Limited Partnership, and Richard Hale, Executive Vice President of PSWA, Inc., a Texas corporation and sole general partner of GP 344, LTD., a Texas limited partnership, are the owners of a majority in value of the land to be included in the proposed District; (2) there are no lienholder, on the land to be included in the proposed District; (3) the proposed District will contain approximately 371.81 acres located within Harris County, Texas; and (4) all of the land within the proposed District is within the extraterritorial jurisdiction of the City of Houston (City), Texas, and no portion of land within the proposed District is within the corporate limits or extraterritorial jurisdiction of any other city, town or village in Texas. By Ordinance No. 2018-557, passed and approved July 31, 2018, the City Secretary of the City of Houston, Texas, gave its consent to the creation of the proposed District, pursuant to Texas Water Code §54.016. The petition further states that the proposed District will: (1) purchase, construct, acquire, maintain, operate, improve, and extend a waterworks and sanity sewer system for residential and commercial purposes; (2) construct, acquire, improve, extend, maintain and operate of works, improvements, facilities, plants, equipment and appliances helpful or necessary to provide more adequate drainage for the District; (3) control, abate and amend local storm waters or other harmful excesses of waters, all as more particularly described in an engineer's report filed simultaneously with the filing of this petition, to which reference is hereby made for more detailed description; and (4) purchase, construct, acquire, maintain, operate, improve, and extend of such additional facilities, including roads, parks, and recreation facilities, systems, plants and enterprises as shall be consonant with the purposes for which the District is created. According to the petition, a preliminary investigation has been made to determine the cost of the project, and it is estimated by the Petitioner, from such information available at this time, that the cost of said project will be approximately \$43,845,900 for utilities, \$950,541 for road projects, plus \$6,163,800 for recreational facilities.

INFORMATION SECTION

To view the complete issued notice, view the notice on our website at [www.tceq.texas.gov/agency/cc/pub\\_notice.html](http://www.tceq.texas.gov/agency/cc/pub_notice.html) or call the Office of the Chief Clerk at (512) 239-3300 to obtain a copy of the complete notice. When searching the website, type in the issued date range shown at the top of this document to obtain search results.

The TCEQ may grant a contested case hearing on the petition if a written hearing request is filed within 30 days after the newspaper publication of the notice. To request a contested case hearing, you must

submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) the name of the Petitioner and the TCEQ Internal Control Number; (3) the statement "I/we request a contested case hearing"; (4) a brief description of how you would be affected by the petition in a way not common to the general public; and (5) the location of your property relative to the proposed District's boundaries. You may also submit your proposed adjustments to the petition. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below. The Executive Director may approve the petition unless a written request for a contested case hearing is filed within 30 days after the newspaper publication of this notice. If a hearing request is filed, the Executive Director will not approve the petition and will forward the petition and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting. If a contested case hearing is held, it will be a legal proceeding similar to a civil trial in state district court. Written hearing requests should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Districts Review Team, at (512) 239-4691. Si desea información en español, puede llamar al (512) 239-0200. General information regarding TCEQ can be found at our website at [www.tceq.state.tx.us](http://www.tceq.state.tx.us).

TRD-201804159  
Bridget C. Bohac  
Chief Clerk  
Texas Commission on Environmental Quality  
Filed: September 26, 2018



#### Notice of Informational Meeting on an Air Quality Standard Permit for Permanent Rock and Concrete Crushers Proposed Air Quality Registration Number 152977

**APPLICATION.** Spicewood Crushed Stone, LLC, 3490 Farm-to-Market Road 78, McQueeney, Texas 78123-3542 has applied to the Texas Commission on Environmental Quality (TCEQ) for an Air Quality Standard Permit, Registration Number 152977, which would authorize construction of a permanent rock crusher. The facility is proposed to be located at 5550 East State Highway 71, Spicewood, Burnet County, Texas 78669. This link to an electronic map of the site or facility's general location is provided as a public courtesy and not part of the application or notice. For exact location, refer to application. <http://www.tceq.texas.gov/assets/public/hb610/index.html?lat=30.4925&lng=-98.21&zoom=13&type=r>. This application was submitted to the TCEQ on August 2, 2018. The executive director has determined the application was technically complete on August 28, 2018.

The executive director shall approve or deny the application not later than 30 days after the end of the public comment period, considering all comments received within the comment period, and base this decision on whether the application meets the requirements of the standard permit.

**CENTRAL/REGIONAL OFFICE.** The application will be available for viewing and copying at the TCEQ Central Office and the TCEQ Austin Regional Office, located at 12100 Park 35 Circle, Building A, Room 179, Austin, Texas 78753-1808, during the hours of 8:00 a.m. to 5:00 p.m., Monday through Friday.

The TCEQ will conduct an informational meeting to answer questions and discuss the application. The meeting will be held:

**Thursday, October 11, 2018, at 7:00 p.m.**

**Lakeside Pavilion**

**307 Buena Vista**

**Marble Falls, Texas 78654**

**INFORMATION.** For more information about this permit application or the permitting process, please call the Public Education Program toll free at (800) 687-4040. General information can be found at our website at [www.tceq.texas.gov](http://www.tceq.texas.gov). Si desea información en español, puede llamar al (800) 687-4040.

Further information may also be obtained from Spicewood Crushed Stone, LLC, 3490 Farm-to-Market Road 78, McQueeney, Texas 78123-3542, or by calling Mr. Jon Greene, Senior Engineer, Wood Environment & Infrastructure Solutions, Inc. at (512) 241-4384.

Persons with disabilities who need special accommodations at the meeting should call the Office of the Chief Clerk at (512) 239-3300 or (800) RELAY-TX (TDD) at least one week prior to the meeting.

Issued: September 26, 2018

TRD-201804170

Bridget C. Bohac

Chief Clerk

Texas Commission on Environmental Quality

Filed: September 26, 2018



#### Notice of Opportunity to Comment on Agreed Orders of Administrative Enforcement Actions

The Texas Commission on Environmental Quality (TCEQ or commission) staff is providing an opportunity for written public comment on the listed Agreed Orders (AOs) in accordance with Texas Water Code (TWC), §7.075. TWC, §7.075 requires that before the commission may approve the AOs, the commission shall allow the public an opportunity to submit written comments on the proposed AOs. TWC, §7.075 requires that notice of the opportunity to comment must be published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **November 5, 2018**. TWC, §7.075 also requires that the commission promptly consider any written comments received and that the commission may withdraw or withhold approval of an AO if a comment discloses facts or considerations that indicate that consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the statutes and rules within the commission's jurisdiction or the commission's orders and permits issued in accordance with the commission's regulatory authority. Additional notice of changes to a proposed AO is not required to be published if those changes are made in response to written comments.

A copy of each proposed AO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building A, 3rd Floor, Austin, Texas 78753, (512) 239-3400 and at the applicable regional office listed as follows. Written comments about an AO should be sent to the attorney designated for the AO at the commission's central office at P.O. Box 13087, MC 175, Austin, Texas 78711-3087 and must be **received by 5:00 p.m. on November 5, 2018**. Comments may also be sent by facsimile machine to the attorney at (512) 239-3434. The designated attorneys are available to discuss the AOs and/or the comment procedure at the listed phone numbers; however,



TWC, §7.075 provides that comments on an AO shall be submitted to the commission in **writing**.

(1) COMPANY: CINCO J., INC. dba Johnson Oil Bulk Plant; DOCKET NUMBER: 2018-0136-PST-E; TCEQ ID NUMBER: RN106518582; LOCATIONS: 1113 East Sarah Dewitt Drive, Gonzales, Gonzales County and 614 Scott Street, Tye, Taylor County; TYPE OF FACILITIES: common carrier; RULES VIOLATED: TWC, §26.3467(d) and 30 TAC §334.5(b)(1)(A), by depositing a regulated substance into a regulated underground storage system that was not covered by a valid, current TCEQ delivery certificate; PENALTY: \$3,010; STAFF ATTORNEY: Taylor Pearson, Litigation Division, MC 175, (512) 239-5937; REGIONAL OFFICE: Abilene Regional Office, 1977 Industrial Boulevard, Abilene, Texas 79602-7833, (325) 698-9674.

(2) COMPANY: MORGAN BUILDING & SPA MANUFACTURING CORPORATION; DOCKET NUMBER: 2017-1326-MLM-E; TCEQ ID NUMBER: RN101924793; LOCATION: 144 County Road 118, Hallettsville, Lavaca County; TYPE OF FACILITY: portable building manufacturing plant; RULES VIOLATED: 30 TAC §§330.15(c), 335.4, and 335.43(a), by causing, suffering, allowing, or permitting the unauthorized storage, processing, and/or disposal of municipal solid waste, industrial solid waste, and industrial hazardous waste at the plant; Texas Health and Safety Code (THSC), §382.085(b) and 30 TAC §111.201, by causing, suffering, allowing, or permitting outdoor burning within the State of Texas; TWC, §26.121, 30 TAC §281.25(a)(4), and 40 Code of Federal Regulations §122.26(c), by failing to obtain authorization under a Texas Pollutant Discharge Elimination System General Permit to discharge storm water associated with industrial activities; and THSC, §361.112(a) and 30 TAC §328.56(d)(2) and §328.60(a), by failing to obtain scrap tire storage site registration for the plant prior to storing more than 500 used or scrap tires on the ground or 2,000 used or scrap tires in enclosed and lockable containers; PENALTY: \$25,996; STAFF ATTORNEY: Jess Robinson, Litigation Division, MC 175, (512) 239-0455; REGIONAL OFFICE: Corpus Christi Regional Office, NRC Building, Suite 1200, 6300 Ocean Drive, Unit 5839, Corpus Christi, Texas 78412-5839, (361) 825-3100.

(3) COMPANY: Rene De La Hoya dba De La Hoya Motors; DOCKET NUMBER: 2017-0768-AIR-E; TCEQ ID NUMBER: RN109448472; LOCATION: 13418 Zacatal Drive, San Elizario, El Paso County; TYPE OF FACILITY: auto body refinishing shop; RULES VIOLATED: Texas Health and Safety Code, §382.0518(a) and §382.085(b) and 30 TAC §116.110(a), by failing to obtain authorization prior to operating a source of air emissions; PENALTY: \$1,312; STAFF ATTORNEY: Amanda Patel, Litigation Division, MC 175, (512) 239-3990; REGIONAL OFFICE: El Paso Regional Office, 401 East Franklin Avenue, Suite 560, El Paso, Texas 79901-1212, (915) 834-4949.

(4) COMPANY: STAFF WATER SUPPLY CORPORATION; DOCKET NUMBER: 2016-2010-PWS-E; TCEQ ID NUMBER: RN101198711; LOCATION: at the intersection of Highway 6 and County Road 278 near Eastland, Eastland County; TYPE OF FACILITY: public water system; RULES VIOLATED: Texas Health and Safety Code (THSC), §341.0315(c) and 30 TAC §290.115(f)(1), by failing to comply with the maximum contaminant level (MCL) of 0.080 milligrams per liter (mg/L) for total trihalomethanes, based on a locational running annual average (LRAA); and THSC, §341.0315(c) and 30 TAC §290.115(f)(1), by failing to comply with the MCL of 0.060 mg/L for haloacetic acids, based on a LRAA; PENALTY: \$690; STAFF ATTORNEY: Logan Harrell, Litigation Division, MC 175, (512) 239-1439; REGIONAL OFFICE: Abilene Regional Office, 1977 Industrial Boulevard, Abilene, Texas 79602-7833, (325) 698-9674.

(5) COMPANY: Winter Garden Park Corporation; DOCKET NUMBER: 2017-0561-MWD-E; TCEQ ID NUMBER: RN101527695; LOCATION: 9101 West Business 83, Lot 44, approximately 850 feet due west from the intersection of United States Highway 83 and Farm-to-Market Road 800, 85 feet south of United States Highway 83, Harlingen, Cameron County; TYPE OF FACILITY: wastewater treatment facility; RULES VIOLATED: 30 TAC §30.350(d) and §305.125(1), and Texas Pollutant Discharge Elimination System (TPDES) Permit Number WQ0011628001, Operational Requirements Number 9 and Other Requirements Number 1, by failing to employ or contract with one or more licensed wastewater treatment operators; 30 TAC §305.125(5) and TPDES Permit Number WQ0011628001, Operational Requirements Number 1, by failing to properly operate and maintain the facility and all of its systems of collection, treatment, and disposal; and 30 TAC §317.7(g), by failing to properly color code piping; PENALTY: \$16,876; STAFF ATTORNEY: Isaac Ta, Litigation Division, MC 175, (512) 239-0683; REGIONAL OFFICE: Harlingen Regional Office, 1804 West Jefferson Avenue, Harlingen, Texas 78550-5247, (956) 425-6010.

TRD-201804147

Charmaine Backens

Director, Litigation Division

Texas Commission on Environmental Quality

Filed: September 25, 2018



#### Notice of Opportunity to Comment on Default Orders of Administrative Enforcement Actions

The Texas Commission on Environmental Quality (TCEQ or commission) staff is providing an opportunity for written public comment on the listed Default Orders (DOs). The commission staff proposes a DO when the staff has sent the Executive Director's Preliminary Report and Petition (EDPRP) to an entity outlining the alleged violations; the proposed penalty; the proposed technical requirements necessary to bring the entity back into compliance; and the entity fails to request a hearing on the matter within 20 days of its receipt of the EDPRP or requests a hearing and fails to participate at the hearing. Similar to the procedure followed with respect to Agreed Orders entered into by the executive director of the commission, in accordance with Texas Water Code (TWC), §7.075, this notice of the proposed order and the opportunity to comment is published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **November 5, 2018**. The commission will consider any written comments received, and the commission may withdraw or withhold approval of a DO if a comment discloses facts or considerations that indicate that consent to the proposed DO is inappropriate, improper, inadequate, or inconsistent with the requirements of the statutes and rules within the commission's jurisdiction, or the commission's orders and permits issued in accordance with the commission's regulatory authority. Additional notice of changes to a proposed DO is not required to be published if those changes are made in response to written comments.

A copy of each proposed DO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building A, 3rd Floor, Austin, Texas 78753, (512) 239-3400 and at the applicable regional office listed as follows. Written comments about the DO should be sent to the attorney designated for the DO at the commission's central office at P.O. Box 13087, MC 175, Austin, Texas 78711-3087 and must be **received by 5:00 p.m. on November 5, 2018**. Comments may also be sent by facsimile machine to the attorney at (512) 239-3434. The commission's attorneys are available to discuss the DOs and/or the comment procedure at the listed phone numbers; however,



TWC, §7.075 provides that comments on the DOs shall be submitted to the commission in **writing**.

(1) COMPANY: FRANKSTON RURAL WATER SUPPLY CORPORATION; DOCKET NUMBER: 2017-0899-PWS-E; TCEQ ID NUMBER: RN101440857; LOCATION: 0.25 miles west of State Highway 155 on County Road 318 near Frankston, Anderson County; TYPE OF FACILITY: public water system; RULES VIOLATED: 30 TAC §290.117(c)(2)(A), (h), and (i)(1) and §290.122(c)(2)(A) and (f), by failing to collect lead and copper tap samples at the required 20 sample sites, have the samples analyzed, and report the results to the executive director (ED), and failing to provide public notification and submit a copy of the public notification to the ED regarding the failure to collect lead and copper tap samples; 30 TAC §290.117(c)(2)(B), (h), and (i)(1) and §290.122(c)(2)(A) and (f), by failing to collect lead and copper tap samples at the required ten sample sites, have the samples analyzed, and report the results to the ED, and failing to provide public notification and submit a copy of the public notification to the ED regarding the failure to collect lead and copper tap samples; and 30 TAC §290.117(c)(2)(C), (h), and (i)(1) and §290.122(c)(2)(A) and (f), by failing to collect lead and copper tap samples at the required ten sample sites, have the samples analyzed, and report the results to the ED, and failing to provide public notification and submit a copy of the public notification to the ED regarding the failure to collect lead and copper tap samples; PENALTY: \$852; STAFF ATTORNEY: Jake Marx, Litigation Division, MC 175, (512) 239-5111; REGIONAL OFFICE: Tyler Regional Office, 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

(2) COMPANY: Leland Duncan; DOCKET NUMBER: 2017-0146-MLM-E; TCEQ ID NUMBER: RN101810364; LOCATIONS: 1101 West Dogwood Street, Denver City and 501 East First Street, Idalou, Lubbock County; TYPE OF FACILITIES: property; RULES VIOLATED: 30 TAC §330.7(a), by causing, suffering, allowing, or permitting the unauthorized disposal of solid waste; 30 TAC §334.602(a), by failing to identify and designate for each underground storage tank (UST) facility at least one named individual for each class of operator - Class A, B, and C; and TWC, §26.3475(c)(1) and (d) and 30 TAC §334.47(a)(2) and §334.54(b)(2) and (c)(1) and (2), by failing to permanently remove from service, no later than 60 days after the prescribed implementation date, four USTs for which any applicable component of the system is not brought into timely compliance with the upgrade requirement; failing to maintain all piping, pumps, manways, tank access points and ancillary equipment in a capped, plugged, locked, and/or otherwise secured manner to prevent access, tampering, or vandalism by unauthorized persons; failing to adequately protect the UST system from corrosion; and failing to monitor an out-of-service UST system, which has not been emptied, for releases; PENALTY: \$9,500; STAFF ATTORNEY: Amanda Patel, Litigation Division, MC 175, (512) 239-3990; REGIONAL OFFICE: Lubbock Regional Office, 5012 50th Street, Suite 100, Lubbock, Texas 79414-3426, (806) 796-7092.

(3) COMPANY: Tommy Kear; DOCKET NUMBER: 2017-1537-MSW-E; TCEQ ID NUMBER: RN103045100; LOCATION: south of Freestone County Road 242 approximately 0.3 miles west of County Road 240 (Freestone County Parcel ID Number 51566), Fairfield, Freestone County; TYPE OF FACILITY: unauthorized municipal solid waste (MSW) disposal site; RULE VIOLATED: 30 TAC §330.15(a) and (c), by causing, suffering, allowing, or permitting the unauthorized disposal of MSW; PENALTY: \$11,250; STAFF ATTORNEY: Audrey Liter, Litigation Division, MC 175, (512) 239-0684; REGIONAL OFFICE: Waco Regional Office, 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

TRD-201804148

Charmaine Backens  
Director, Litigation Division  
Texas Commission on Environmental Quality  
Filed: September 25, 2018



Notice of Public Hearing on Assessment of Administrative Penalties and Requiring Certain Actions of Caroline Lyn Foley: SOAH Docket No. 582-19-0198; TCEQ Docket No. 2016-0807-EAQ-E

The Texas Commission on Environmental Quality (TCEQ or the Commission) has referred this matter to the State Office of Administrative Hearings (SOAH). An Administrative Law Judge with the State Office of Administrative Hearings will conduct a public hearing at:

**10:00 a.m. - October 18, 2018**

**William P. Clements Building**

**300 West 15th Street, 4th Floor**

**Austin, Texas 78701**

The purpose of the hearing will be to consider the Executive Director's Preliminary Report and Petition mailed May 17, 2018, concerning assessing administrative penalties against and requiring certain actions of Caroline Lyn Foley, for violations in Hays County, Texas, of: 30 Tex. Admin. Code §§213.4(a)(1) and 213.5(a) and (b).

The hearing will allow Caroline Lyn Foley, the Executive Director, and the Commission's Public Interest Counsel to present evidence on whether a violation has occurred, whether an administrative penalty should be assessed, and the amount of such penalty, if any. The first convened session of the hearing will be to establish jurisdiction, afford Caroline Lyn Foley, the Executive Director of the Commission, and the Commission's Public Interest Counsel an opportunity to negotiate and to establish a discovery and procedural schedule for an evidentiary hearing. Unless agreed to by all parties in attendance at the preliminary hearing, an evidentiary hearing will not be held on the date of this preliminary hearing. **Upon failure of Caroline Lyn Foley to appear at the preliminary hearing or evidentiary hearing, the factual allegations in the notice will be deemed admitted as true, and the relief sought in the notice of hearing may be granted by default. The specific allegations included in the notice are those set forth in the Executive Director's Preliminary Report and Petition, attached hereto and incorporated herein for all purposes.** Caroline Lyn Foley, the Executive Director of the Commission, and the Commission's Public Interest Counsel are the only designated parties to this proceeding.

Legal Authority: Tex. Water Code §7.054 and chs. 7 and 26, and 30 Tex. Admin. Code chs. 70 and 213; Tex. Water Code §7.058, and the Rules of Procedure of the Texas Commission on Environmental Quality and the State Office of Administrative Hearings, including 30 Tex. Admin. Code §§70.108 and 70.109 and ch. 80, and 1 Tex. Admin. Code ch. 155.

Further information regarding this hearing may be obtained by contacting Tracy Chandler, Staff Attorney, Texas Commission on Environmental Quality, Litigation Division, Mail Code 175, P.O. Box 13087, Austin, Texas 78711-3087, telephone (512) 239-3400. Information concerning your participation in this hearing may be obtained by contacting Vic McWherter, Public Interest Counsel, Mail Code 103, at the same P.O. Box address given above, or by telephone at (512) 239-6363.

**Any document filed prior to the hearing must be filed with TCEQ's Office of the Chief Clerk and SOAH. Documents filed**

with the Office of the Chief Clerk may be filed electronically at <http://www.tceq.texas.gov/goto/eFilings> or sent to the following address: TCEQ Office of the Chief Clerk, Mail Code 105, P.O. Box 13087, Austin, Texas 78711-3087. Documents filed with SOAH may be filed via fax at (512) 322-2061 or sent to the following address: SOAH, 300 West 15th Street, Suite 504, Austin, Texas 78701. When contacting the Commission or SOAH regarding this matter, reference the SOAH docket number given at the top of this notice.

**In accordance with 1 Tex. Admin. Code §155.401(a), Notice of Hearing, "Parties that are not represented by an attorney may obtain information regarding contested case hearings on the public website of the State Office of Administrative Hearings at [www.soah.texas.gov](http://www.soah.texas.gov), or in printed format upon request to SOAH."**

Persons who need special accommodations at the hearing should call the SOAH Docketing Department at (512) 475-3445, at least one week before the hearing.

Issued: September 19, 2018

TRD-201804163

Bridget C. Bohac

Chief Clerk

Texas Commission on Environmental Quality

Filed: September 26, 2018



Notice of Public Hearing on Assessment of Administrative Penalties and Requiring Certain Actions of City of Santa Rosa: SOAH Docket No. 582-19-0291; TCEQ Docket No. 2016-1657-MWD-E

The Texas Commission on Environmental Quality (TCEQ or the Commission) has referred this matter to the State Office of Administrative Hearings (SOAH). An Administrative Law Judge with the State Office of Administrative Hearings will conduct a public hearing at:

**10:00 a.m. - October 25, 2018**

**William P. Clements Building**

**300 West 15th Street, 4th Floor**

**Austin, Texas 78701**

The purpose of the hearing will be to consider the Executive Director's Preliminary Report and Petition mailed June 20, 2018, concerning assessing administrative penalties against and requiring certain actions of the City of Santa Rosa, for violations in Cameron County, Texas, of: 30 Tex. Admin. Code §§305.125(1) and (5), 317.3(b)(3) and (e)(5), 317.4(b)(4), 317.6(b)(1)(D) and (b)(1)(E), 317.7(e), 319.7(c), and 319.11(d) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010330001, Operational Requirements No. 1 and Monitoring and Reporting Requirements Nos. 2 and 3.b.

The hearing will allow the City of Santa Rosa, the Executive Director, and the Commission's Public Interest Counsel to present evidence on whether a violation has occurred, whether an administrative penalty should be assessed, and the amount of such penalty, if any. The first convened session of the hearing will be to establish jurisdiction, afford the City of Santa Rosa, the Executive Director of the Commission, and the Commission's Public Interest Counsel an opportunity to negotiate and to establish a discovery and procedural schedule for an evidentiary hearing. Unless agreed to by all parties in attendance at the preliminary hearing, an evidentiary hearing will not be held on the date of this preliminary hearing. **Upon failure of the City of Santa Rosa to appear at the preliminary hearing or evidentiary hearing, the factual**

**allegations in the notice will be deemed admitted as true, and the relief sought in the notice of hearing may be granted by default. The specific allegations included in the notice are those set forth in the Executive Director's Preliminary Report and Petition, attached hereto and incorporated herein for all purposes.** The City of Santa Rosa, the Executive Director of the Commission, and the Commission's Public Interest Counsel are the only designated parties to this proceeding.

Legal Authority: Tex. Water Code §7.054, Tex. Water Code chs. 7 and 26, and 30 Tex. Admin. Code chs. 70, 305, 317, and 319; Tex. Water Code §7.058, and the Rules of Procedure of the Texas Commission on Environmental Quality and the State Office of Administrative Hearings, including 30 Tex. Admin. Code §70.108, §70.109 and ch. 80, and 1 Tex. Admin. Code ch. 155.

Further information regarding this hearing may be obtained by contacting Audrey Liter, Staff Attorney, Texas Commission on Environmental Quality, Litigation Division, Mail Code 175, P.O. Box 13087, Austin, Texas 78711-3087, telephone (512) 239-3400. Information concerning your participation in this hearing may be obtained by contacting Vic McWherter, Public Interest Counsel, Mail Code 103, at the same P.O. Box address given above, or by telephone at (512) 239-6363.

**Any document filed prior to the hearing must be filed with TCEQ's Office of the Chief Clerk and SOAH. Documents filed with the Office of the Chief Clerk may be filed electronically at <http://www.tceq.texas.gov/goto/eFilings> or sent to the following address: TCEQ Office of the Chief Clerk, Mail Code 105, P.O. Box 13087, Austin, Texas 78711-3087. Documents filed with SOAH may be filed via fax at (512) 322-2061 or sent to the following address: SOAH, 300 West 15th Street, Suite 504, Austin, Texas 78701. When contacting the Commission or SOAH regarding this matter, reference the SOAH docket number given at the top of this notice.**

**In accordance with 1 Tex. Admin. Code §155.401(a), Notice of Hearing, "Parties that are not represented by an attorney may obtain information regarding contested case hearings on the public website of the State Office of Administrative Hearings at [www.soah.texas.gov](http://www.soah.texas.gov), or in printed format upon request to SOAH."**

Persons who need special accommodations at the hearing should call the SOAH Docketing Department at (512) 475-3445 at least one week before the hearing.

Issued: September 25, 2018

TRD-201804161

Bridget C. Bohac

Chief Clerk

Texas Commission on Environmental Quality

Filed: September 26, 2018



Notice of Public Hearing on Assessment of Administrative Penalties and Requiring Certain Actions of D.N.J.S., INC. dba Farmers Truck Center: SOAH Docket No. 582-19-0199; TCEQ Docket No. 2017-1306-PST-E

The Texas Commission on Environmental Quality (TCEQ or the Commission) has referred this matter to the State Office of Administrative Hearings (SOAH). An Administrative Law Judge with the State Office of Administrative Hearings will conduct a public hearing at:

**10:00 a.m. - October 18, 2018**

**William P. Clements Building**

**300 West 15th Street, 4th Floor  
Austin, Texas 78701**

The purpose of the hearing will be to consider the Executive Director's First Amended Report and Petition mailed May 9, 2018, concerning assessing administrative penalties against and requiring certain actions of D.N.J.S., INC. dba Farmers Truck Center, for violations in Bexar County, Texas, of: Tex. Water Code §26.3475(a) and (c)(1) and 30 Tex. Admin. Code §§334.10(b)(2), 334.50(b)(1)(A) and (b)(2), and 334.602(a).

The hearing will allow D.N.J.S., INC. dba Farmers Truck Center, the Executive Director, and the Commission's Public Interest Counsel to present evidence on whether a violation has occurred, whether an administrative penalty should be assessed, and the amount of such penalty, if any. The first convened session of the hearing will be to establish jurisdiction, afford D.N.J.S., INC. dba Farmers Truck Center, the Executive Director of the Commission, and the Commission's Public Interest Counsel an opportunity to negotiate and to establish a discovery and procedural schedule for an evidentiary hearing. Unless agreed to by all parties in attendance at the preliminary hearing, an evidentiary hearing will not be held on the date of this preliminary hearing. **Upon failure of D.N.J.S., INC. dba Farmers Truck Center to appear at the preliminary hearing or evidentiary hearing, the factual allegations in the notice will be deemed admitted as true, and the relief sought in the notice of hearing may be granted by default. The specific allegations included in the notice are those set forth in the Executive Director's First Amended Report and Petition, attached hereto and incorporated herein for all purposes.** D.N.J.S., INC. dba Farmers Truck Center, the Executive Director of the Commission, and the Commission's Public Interest Counsel are the only designated parties to this proceeding.

Legal Authority: Tex. Water Code §7.054 and chs. 7 and 26 and 30 Tex. Admin. Code chs. 70 and 334; Tex. Water Code §7.058, and the Rules of Procedure of the Texas Commission on Environmental Quality and the State Office of Administrative Hearings, including 30 Tex. Admin. Code §§70.108 and 70.109 and ch. 80, and 1 Tex. Admin. Code ch. 155.

Further information regarding this hearing may be obtained by contacting Taylor Pearson, Staff Attorney, Texas Commission on Environmental Quality, Litigation Division, Mail Code 175, P.O. Box 13087, Austin, Texas 78711-3087, telephone (512) 239-3400. Information concerning your participation in this hearing may be obtained by contacting Vic McWherter, Public Interest Counsel, Mail Code 103, at the same P.O. Box address given above, or by telephone at (512) 239-6363.

**Any document filed prior to the hearing must be filed with TCEQ's Office of the Chief Clerk and SOAH. Documents filed with the Office of the Chief Clerk may be filed electronically at <http://www.tceq.texas.gov/goto/eFilings> or sent to the following address: TCEQ Office of the Chief Clerk, Mail Code 105, P.O. Box 13087, Austin, Texas 78711-3087. Documents filed with SOAH may be filed via fax at (512) 322-2061 or sent to the following address: SOAH, 300 West 15th Street, Suite 504, Austin, Texas 78701. When contacting the Commission or SOAH regarding this matter, reference the SOAH docket number given at the top of this notice.**

**In accordance with 1 Tex. Admin. Code §155.401(a), Notice of Hearing, "Parties that are not represented by an attorney may obtain information regarding contested case hearings on the public website of the State Office of Administrative Hearings at [www.soah.texas.gov](http://www.soah.texas.gov), or in printed format upon request to SOAH."**

Persons who need special accommodations at the hearing should call the SOAH Docketing Department at (512) 475-3445, at least one week before the hearing.

Issued: September 19, 2018

TRD-201804162

Bridget C. Bohac

Chief Clerk

Texas Commission on Environmental Quality

Filed: September 26, 2018



**Notice of Public Hearing on Assessment of Administrative Penalties and Requiring Certain Actions of Donald S. Fletcher dba Cattail Creek Mobile Home Park: SOAH Docket No. 582-19-0290; TCEQ Docket No. 2017-1418-MWD-E**

The Texas Commission on Environmental Quality (TCEQ or the Commission) has referred this matter to the State Office of Administrative Hearings (SOAH). An Administrative Law Judge with the State Office of Administrative Hearings will conduct a public hearing at:

**10:00 a.m. - October 25, 2018**

**William P. Clements Building**

**300 West 15th Street, 4th Floor**

**Austin, Texas 78701**

The purpose of the hearing will be to consider the Executive Director's Preliminary Report and Petition mailed June 14, 2018, concerning assessing administrative penalties against and requiring certain actions of Donald S. Fletcher dba Cattail Creek Mobile Home Park, for violations in Erath County, Texas, of: Tex. Water Code §26.121(a)(1), 30 Texas Administrative Code §305.42(a), and TCEQ Agreed Order Docket No. 2015-0331-WQ-E, Section IV., Ordering Provision Nos. 2.a. and 2.c.

The hearing will allow Donald S. Fletcher dba Cattail Creek Mobile Home Park, the Executive Director, and the Commission's Public Interest Counsel to present evidence on whether a violation has occurred, whether an administrative penalty should be assessed, and the amount of such penalty, if any. The first convened session of the hearing will be to establish jurisdiction, afford Donald S. Fletcher dba Cattail Creek Mobile Home Park, the Executive Director of the Commission, and the Commission's Public Interest Counsel an opportunity to negotiate and to establish a discovery and procedural schedule for an evidentiary hearing. Unless agreed to by all parties in attendance at the preliminary hearing, an evidentiary hearing will not be held on the date of this preliminary hearing. **Upon failure of Donald S. Fletcher dba Cattail Creek Mobile Home Park to appear at the preliminary hearing or evidentiary hearing, the factual allegations in the notice will be deemed admitted as true, and the relief sought in the notice of hearing may be granted by default. The specific allegations included in the notice are those set forth in the Executive Director's Preliminary Report and Petition, attached hereto and incorporated herein for all purposes.**

Donald S. Fletcher dba Cattail Creek Mobile Home Park, the Executive Director of the Commission, and the Commission's Public Interest Counsel are the only designated parties to this proceeding.

Legal Authority: Tex. Water Code §7.054, Tex. Water Code chs. 7 and 26, and 30 Texas Administrative Code chs. 70 and 305; Tex. Water Code §7.058, and the Rules of Procedure of the Texas Commission on Environmental Quality and the State Office of Administrative Hearings, including 30 Texas Administrative Code §70.108 and §70.109 and ch. 80, and 1 Texas Administrative Code ch. 155.

Further information regarding this hearing may be obtained by contacting Audrey Liter, Staff Attorney, Texas Commission on Environmental Quality, Litigation Division, Mail Code 175, P.O. Box 13087, Austin, Texas 78711-3087, telephone (512) 239-3400. Information concerning your participation in this hearing may be obtained by contacting Vic McWherter, Public Interest Counsel, Mail Code 103, at the same P. O. Box address given above, or by telephone at (512) 239-6363.

**Any document filed prior to the hearing must be filed with TCEQ's Office of the Chief Clerk and SOAH. Documents filed with the Office of the Chief Clerk may be filed electronically at <http://www.tceq.texas.gov/goto/eFilings> or sent to the following address: TCEQ Office of the Chief Clerk, Mail Code 105, P.O. Box 13087, Austin, Texas 78711-3087. Documents filed with SOAH may be filed via fax at (512) 322-2061 or sent to the following address: SOAH, 300 West 15th Street, Suite 504, Austin, Texas 78701. When contacting the Commission or SOAH regarding this matter, reference the SOAH docket number given at the top of this notice.**

**In accordance with 1 Texas Administrative Code §155.401(a), Notice of Hearing, "Parties that are not represented by an attorney may obtain information regarding contested case hearings on the public website of the State Office of Administrative Hearings at [www.soah.texas.gov](http://www.soah.texas.gov), or in printed format upon request to SOAH."**

Persons who need special accommodations at the hearing should call the SOAH Docketing Department at (512) 475-3445, at least one week before the hearing.

Issued: September 25, 2018

TRD-201804160

Bridget C. Bohac

Chief Clerk

Texas Commission on Environmental Quality

Filed: September 26, 2018



#### Notice of Public Meeting Air Quality Standard Permit for Concrete Batch Plants Proposed Registration No. 151715

**Application.** Soto Ready Mix, Inc., has applied to the Texas Commission on Environmental Quality (TCEQ) for an Air Quality Standard Permit, Registration No. 151715, which would authorize construction of a permanent concrete batch plant located at 3411 De Soto Street, Houston, Harris County, Texas 77091. This link to an electronic map of the site or facility's general location is provided as a public courtesy and not part of the application or notice. For exact location, refer to application. <http://www.tceq.texas.gov/assets/public/hb610/index.html?lat=29.853611&lng=-95.458055&zoom=13&type=r>. The proposed facility will emit the following air contaminants: particulate matter including (but not limited to) aggregate, cement, road dust, and particulate matter with diameters of 10 microns or less and 2.5 microns or less.

The executive director has completed the administrative and technical reviews of the application and determined that the application meets all of the requirements of a standard permit authorized by 30 TAC §116.611, which would establish the conditions under which the plant must operate. The executive director has made a preliminary decision to issue the registration because it meets all applicable rules.

**Public Comment/Public Meeting.** You may submit public comments to the Office of the Chief Clerk at the address below. The TCEQ will consider all public comments in developing a final decision on the application. A public meeting will be held and will consist of two parts, an Informal Discussion Period and a Formal Comment

Period. A public meeting is not a contested case hearing under the Administrative Procedure Act. During the Informal Discussion Period, the public will be encouraged to ask questions of the applicant and TCEQ staff concerning the permit application. The comments and questions submitted orally during the Informal Discussion Period will not be considered before a decision is reached on the permit application and no formal response will be made. Responses will be provided orally during the Informal Discussion Period. During the Formal Comment Period on the permit application, members of the public may state their formal comments orally into the official record. At the conclusion of the comment period, all formal comments will be considered before a decision is reached on the permit application. A written response to all formal comments will be prepared by the Executive Director and will be sent to each person who submits a formal comment or who requested to be on the mailing list for this permit application and provides a mailing address. Only relevant and material issues raised during the Formal Comment Period can be considered if a contested case hearing is granted on this permit application.

**The Public Meeting is to be held:**

**Monday, October 22, 2018, at 7:00 p.m.**

**Ivy Court**

**6684 Antoine**

**Houston, Texas 77091**

**INFORMATION.** Citizens are encouraged to submit written comments anytime during the public meeting or by mail before the close of the public comment period to the Office of the Chief Clerk, TCEQ, Mail Code MC-105, P.O. Box 13087, Austin, Texas 78711-3087 or electronically at <http://www14.tceq.texas.gov/epic/eComment/>. If you need more information about the permit application or the permitting process, please call the TCEQ Public Education Program, toll free, at (800) 687-4040. General information can be found at our website at [www.tceq.texas.gov](http://www.tceq.texas.gov).

*Si desea información en español, puede llamar al (800) 687-4040.*

The application, executive director's preliminary decision, and standard permit will be available for viewing and copying at the TCEQ central office, the TCEQ Houston regional office, and the Collier Regional Library, 6200 Pinemont, Houston, Harris County, Texas. The facility's compliance file, if any exists, is available for public review at the TCEQ Houston Regional Office, 5425 Polk St. Ste H, Houston, Texas. Visit [www.tceq.texas.gov/goto/cbp](http://www.tceq.texas.gov/goto/cbp) to review the standard permit. Further information may also be obtained from Soto Ready Mix, Inc., 3411 De Soto Street, Houston, Texas 77091-3717 or by calling Mr. Venkata Godasi, Graduate Engineer, AARC Environmental, Inc. at (713) 974-2272.

Persons with disabilities who need special accommodations at the meeting should call the Office of the Chief Clerk at (512) 239-3300 or (800) RELAY-TX (TDD) at least one week prior to the meeting.

Notice Issuance Date: September 24, 2018

TRD-201804158

Bridget C. Bohac

Chief Clerk

Texas Commission on Environmental Quality

Filed: September 26, 2018



#### **Texas Ethics Commission**

List of Late Filers

Below is a list from the Texas Ethics Commission naming the filers who failed to pay the penalty fine for failure to file the report, or filing a late report, in reference to the specified filing deadline. If you have any questions, you may contact Sue Edwards at (512) 463-5800.

**Deadline: Semiannual Report due July 16, 2018, for Candidates and Officeholders**

- Bernardo T. Aldape, 530 Arvana., Houston, Texas 77034  
Roxanne M. Alvarez, 1712 E. Riverside Dr. #42, Austin, Texas 78741  
Johnathan B. Brohawn, 380 Lure Ln., Livingston, Texas 77351  
Joshua G. Burns, 905 S. Jennings Ave. #2117, Fort Worth, Texas 76104  
Melina B. Cain, 416 Westheimer, Houston, Texas 770066  
Steven M. Cantu, 514 Emmett Ave., San Antonio, Texas 78221  
Cynthia T. Cavazos, 104 S. San Eduardo, San Antonio, Texas 78237  
Andy M. Chatham, 9804 Spirehaven Ln., Dallas, Texas 75238-3464  
Pamela Curry, P.O. Box 836615, Richardson, Texas 75083-6615  
LaTronda T. Darnell, 6400 Bernia Dr., Austin, Texas 78739-2147  
Frances V. Dunham, 700 N. St. Mary's #1400, San Antonio, Texas 78205  
Gabriel D. Farias, 1122 Par Four, San Antonio, Texas 78221-3153  
Angela K. Hayes, 4848 Pin Oak Park Apt. 425, Houston, Texas 77081  
Caleb Homoth, 777 Texas, Graham, Texas 76850  
Teodulo Lucio Lopez, 210 W. Cano, Ste. B, Edinburg, Texas 78539  
Matthew L. Mackowiak, 807 Brazos Street, Ste. 810, Austin, Texas 78701  
Angus Kelly McGinty, c/o FCI Memphis Federal Correctional Institution, P.O. Box 34550, Memphis, Tennessee 38184  
David M. Medina, 1200 Smith Street, 14th Floor, Houston, Texas 77002-4310  
Borris Lee Miles, 5302 Almeda Rd., Houston, Texas 77004  
Chioma Okoro, P.O. Box 990, Manor, Texas 78653  
Shane B. Piel, 5225 Fort Buckner Dr., McKinney, Texas 75070  
Jeffery A. Rank, P.O. Box 18787, Corpus Christi, Texas 78480  
Zachary Reames-Zepeda, 1612 Ave. Y, Apt. B317, Lubbock, Texas 79410  
Janis M. Richards, 957 Nasa Road One #342, Houston, Texas 77058  
Osbert G. Rodriguez, 1020 Dennet Rd., Brownsville, Texas 78526  
Demetria Y. Smith, 2727 Synott Rd., Apt. 2210, Houston, Texas 77082-3561  
Louis S. Sorola, 1999 W. Jefferson, Brownsville, Texas 78520  
Paul K. Stafford, 3355 Blackburn St. #6305, Dallas, Texas 75204  
Kyle Brandon Stephenson, 17318 Lake Chelan Ln., Humble, Texas 77346  
Elizabeth R. Tarrant, 756 N. Barton St., Stephenville, Texas 76401-3157  
Tony C. Teal, 7819 Buford Dr., Dallas, Texas 75241-5435  
Robert Christopher Walden II, 1302 Leader Dr., Killeen, Texas 76549  
Kory D. Watkins, 7760 Cochise Dr., Lone Oak, Texas 75453

**Deadline: Monthly Report due March 5, 2018, for Committees**

Dennis Hatchett, Texas Southern University PAC, P.O. Box 27462, Houston, Texas 77227

Bonita C. Ocampo, Tarrant County Tejano Democrats, 8709 Hornbeam Dr., Fort Worth, Texas 76123

**Deadline: Monthly Report due April 5, 2018, for Committees**

Dennis Hatchett, Texas Southern University PAC, P.O. Box 27462, Houston, Texas 77227

Bonita C. Ocampo, Tarrant County Tejano Democrats, 8709 Hornbeam Dr., Fort Worth, Texas 76123

**Deadline: Monthly Report due May 7, 2018, for Committees**

Jessy Horton, Abilene Fire Fighters Association PAC, 101 Buckshot Rd., Abilene, Texas 79602

Daniel J. Kramer, Leander Firefighters for Responsible Government, 310 Leather Oak Loop, San Marcos, Texas 78666

Deana Everett Tollerton, Williamson County Young Democrats, 13224 Marrero Dr., Austin, Texas 78729

**Deadline: Monthly Report due June 5, 2018, for Committees**

Jessy Horton, Abilene Fire Fighters Association PAC, 101 Buckshot Rd., Abilene, Texas 79602

Deana Everett Tollerton, Williamson County Young Democrats, 13224 Marrero Dr., Austin, Texas 78729

TRD-201804091

Seana Willing

Executive Director

Texas Ethics Commission

Filed: September 20, 2018



**General Land Office**

Notice and Opportunity to Comment on Requests for Consistency Agreement/Concurrence Under the Texas Coastal Management Program

On January 10, 1997, the State of Texas received federal approval of the Coastal Management Program (CMP) (62 *Federal Register* pp. 1439 - 1440). Under federal law, federal agency activities and actions affecting the Texas coastal zone must be consistent with the CMP goals and policies identified in 31 TAC Chapter 501. Requests for federal consistency review were deemed administratively complete for the following project(s) during the period of September 18, 2018, through September 24, 2018. As required by federal law, the public is given an opportunity to comment on the consistency of proposed activities in the coastal zone undertaken or authorized by federal agencies. Pursuant to 31 TAC §§506.25, 506.32, and 506.41, the public comment period extends 30 days from the date published on the Texas General Land Office website. The notice was published on the website on Friday, September 28, 2018. The public comment period for this project will close at 5:00 p.m. on Sunday, October 28, 2018.

FEDERAL AGENCY ACTIONS:

**Applicant:** Watco Terminals and Port Services

**Location:** Project is located on the Houston Ship Channel, at 1755 Federal Road, in Houston, Harris County, Texas

**Latitude and Longitude (NAD 83):** 29.746835, -95.180930

**Project Description:** The applicant is requesting a modification to a previously authorized permit. This application proposes to dredge a 16.36-acre area consisting of 6.67 acres of upland and 9.69 acres of submerged area along the existing shoreline. The proposed dredging activity would remove a total of approximately 768,155 cubic yards of material. The purpose of this project is to align the bulkhead with the proposed bulkhead on the property to the east to provide a better berthing area for ships. The dredged material is proposed to be placed in 1 of 6 previously authorized Dredged Material Placement Areas.

**Type of Application:** U.S. Army Corps of Engineers (USACE) permit application # SWG-2018-00561. This application will be reviewed pursuant to Section 10 of the Rivers and Harbors Act of 1899.

**CMP Project No:** 19-1020-F1

Further information on the applications listed above, including a copy of the consistency certifications or consistency determinations for inspection, may be obtained from Ms. Allison Buchtien, P.O. Box 12873, Austin, Texas 78711-2873, or via email at [federal.consistency@glotexas.gov](mailto:federal.consistency@glotexas.gov). Comments should be sent to Ms. Buchtien at the above address or by email.

TRD-201804157

Mark A. Havens

Chief Clerk and Deputy Land Commissioner

General Land Office

Filed: September 26, 2018



## Texas Parks and Wildlife Department

### Notice of Hearing and Opportunity for Public Comment

This is a notice of an opportunity for public comment and a public hearing on a Richmond Material Company application to renew a Texas Parks and Wildlife Department (TPWD) permit to dredge state-owned sand and gravel from the Brazos River bed, starting approximately 3.8 miles downstream of the U.S. Highway 90A crossing and extending downstream to approximately 1.6 miles upstream of the State Highway 99 crossing, in Fort Bend County.

The hearing will be held at 1:30 p.m. on Friday, November 2, 2018, at TPWD headquarters, located at 4200 Smith School Road, Austin, Texas 78744. The hearing is not a contested case hearing under the Administrative Procedure Act.

Written comments must be submitted within 30 days of the publication of this notice in the *Texas Register* or the newspaper, whichever is later, or at the public hearing. Submit written comments, questions, or requests to review the application to: Tom Heger, TPWD, by mail: 4200 Smith School Road, Austin, Texas 78744; fax (512) 389-4405; email [tom.heger@tpwd.texas.gov](mailto:tom.heger@tpwd.texas.gov); or phone (512) 389-4583.

TRD-201804156

Robert D. Sweeney, Jr.

General Counsel

Texas Parks and Wildlife Department

Filed: September 25, 2018



## Public Utility Commission of Texas

### Notice of Application for Amendment to Certificate of Convenience and Necessity for a Proposed Transmission Line

Notice is given to the public of an application filed with the Public Utility Commission of Texas (commission) on September 20, 2018,

for an amendment to a certificate of convenience and necessity (CCN) for a proposed transmission line in Hale and Lubbock Counties.

**Docket Style and Number:** Joint Application of Sharyland Utilities, L.P. and City of Lubbock, acting by and through Lubbock Power & Light, for a Certificate of Convenience and Necessity for the Abernathy to Wadsworth 345-kV Transmission Line in Hale and Lubbock Counties, Docket Number 48668.

**The Application:** Sharyland Utilities, L.P. and City of Lubbock, acting by and through Lubbock Power & Light filed a joint application on September 20, 2018, for approval to construct a single 345-kilovolt (kV) transmission line located in Hale and Lubbock Counties. The transmission line will connect the Abernathy station to the Wadsworth station. The transmission line will be constructed on a combination of monopole and lattice structures within a typical right-of-way approximately 175 feet wide. Sharyland and Lubbock presented 18 alternative routes with miles of right-of-way ranging from 32.7 to 51 miles. The estimated costs for the project range from approximately \$65.3 million to \$90.4 million, depending on the route selected by the Commission. The Commission may approve any of the routes or route segments presented in the application.

Persons wishing to intervene or comment on the action sought should contact the Public Utility Commission of Texas by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll-free at (888) 782-8477. The deadline for intervention in this proceeding is November 4, 2018. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission through Relay Texas by dialing 7-1-1. All comments should reference Docket Number 48668.

TRD-201804171

Adriana Gonzales

Rules Coordinator

Public Utility Commission of Texas

Filed: September 26, 2018



### Notice of Application for Internal Stock Transfer

Notice is given to the public of an application filed with the Public Utility Commission of Texas (commission) on September 13, 2018.

**Docket Style and Number:** Application for Transfer of Corix Utilities (Texas) Inc. Stock, Docket Number 48684.

**The Application:** Currently, Corix is 100% owned by Inland Pacific Resources, Inc. (Inland Pacific). As part of an internal restructuring, Inland Pacific will implement a two-step process to transfer 100% of the stock it holds in Corix to Utilities, Inc. First, Inland Pacific will transfer the entirety of its Corix stock to Corix Utilities (Illinois) LLC. Then, Corix Utilities (Illinois) LLC will transfer the entirety of the Corix stock to the ultimate holder, Utilities, Inc. Both Corix Utilities (Illinois), LLC and Utilities, Inc. are 100% owned by Inland Pacific. Corix states the transaction puts all of the Corix group of companies' regulated utilities under the direction of Utilities, Inc.

Persons who wish to intervene in the proceeding or comment upon the action sought should contact the commission as soon as possible as an intervention deadline will be imposed. A comment or request to intervene should be mailed to Public Utility Commission of Texas, P.O. Box 13326, Austin, Texas 78711-3326. Further information may also be obtained by calling the commission's Office of Customer Protection at (512) 936-7120 or (888) 782-8477. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission through Relay Texas by dialing 7-1-1. All correspondence should refer to Docket Number 48684.

TRD-201804154  
Andrea Gonzalez  
Assistant Rules Coordinator  
Public Utility Commission of Texas  
Filed: September 25, 2018



#### Notice of Application for Sale, Transfer, or Merger

Notice is given to the public of an application filed with the Public Utility Commission of Texas (commission) on August 31, 2018, under the Public Utility Regulatory Act, Tex. Util. Code Ann. §39.154 and §39.158.

Docket Style and Number: Application of Trident Renewables Holdco, LLC Under §39.158 of the Public Utility Regulatory Act, Docket Number 48655.

The Application: On August 31, 2018, Trident Renewables Holdco, LLC filed an application for approval of the sale and transfer of tax equity interests in a portfolio of renewable electric generation assets currently held by its affiliate, GE Energy Financial Services, Inc. to Investor A and Investor B. Upon completion of the transaction, Investor A will hold all Class A interests in Trident, and Investor B will hold all Class B interests. Trident's three wind projects include the 218 MW Pattern Panhandle Wind, the 289 MW Miami Wind I Holdings, and the 161 MW Spinning Spur Wind Two. All three wind projects are interconnected to the Electric Reliability Council of Texas (ERCOT). The combined generation owned and controlled by Investor A, Investor B and its affiliates following the proposed purchase will not exceed twenty percent of the total electricity offered for sale in ERCOT.

Persons wishing to intervene or comment on the action sought should contact the commission as soon as possible as an intervention deadline will be imposed. A comment or request to intervene should be mailed to P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll-free at (888) 782-8477. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission through Relay Texas by dialing 7-1-1. All comments should reference Docket Number 48655.

TRD-201804153  
Andrea Gonzalez  
Assistant Rules Coordinator  
Public Utility Commission of Texas  
Filed: September 25, 2018



#### Notice of Application to Amend Water and Sewer Certificates of Convenience and Necessity

Notice is given to the public of an application filed with the Public Utility Commission of Texas (commission) on September 12, 2018, to amend water and sewer certificates of convenience and necessity (CCN).

Docket Style and Number: Application of the City of Granbury to Amend its Water and Sewer Certificates of Convenience and Necessity and to Decertify a Portion of Mesa Grande Water Supply Corporation's Water Service Area in Hood County, Docket Number 48681.

The Application: The City of Granbury requests to amend water and sewer CCN numbers 10904 and 20356 and decertify a portion of Mesa Grande Water Supply Corporation's water service area in Hood County. The City of Granbury proposes to incorporate areas it currently serves and areas planned for future development. The City of Granbury also requests to decertify a portion of Mesa Grande Water Supply Corpo-

ration's water service area that Mesa Grande can no longer adequately serve. Collectively, the requested area consists of approximately 1,351 acres.

Persons wishing to intervene or comment on the action sought should contact the commission by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll-free at (888) 782-8477. A deadline for intervention in this proceeding will be established. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission through Relay Texas by dialing 7-1-1. All comments should reference Docket Number 48681.

TRD-201804134  
Adriana Gonzales  
Rules Coordinator  
Public Utility Commission of Texas  
Filed: September 21, 2018



#### Notice of Petition for Amendment to Certificate of Convenience and Necessity by Expedited Release

Notice is given to the public of a petition filed with the Public Utility Commission of Texas (commission) on September 19, 2018, to amend a water certificate of convenience and necessity (CCN) in Denton County by expedited release.

Docket Style and Number: Petition of Denton Sorrells, LLC and Punkadilly, LTD., to Amend Aqua Texas, Inc.'s Certificate of Convenience and Necessity in Denton County by Expedited Release, Docket Number 48700.

The Petition: Denton Sorrells, LLC and Punkadilly, LTD., filed a petition requesting the expedited release of approximately 386 acres of land located within the boundaries of Aqua Texas, Inc.'s water CCN No. 13201 in Denton County. The total acreage of land subject to the request includes approximately 324 acres owned by Denton Sorrells and approximately 62 acres owned by Punkadilly.

Persons wishing to file a written protest or motion to intervene and file comments on the petition should contact the commission no later than November 4, 2018, by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll-free at (888) 782-8477. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission through Relay Texas by dialing 7-1-1. All comments should reference Docket Number 48700.

TRD-201804155  
Andrea Gonzalez  
Assistant Rules Coordinator  
Public Utility Commission of Texas  
Filed: September 25, 2018



#### Public Notice of Workshop

The staff of the Public Utility Commission of Texas (commission) will hold a workshop on Monday, October 15, 2018, regarding Project No. 48692, Rulemaking Proceeding to Amend 16 TAC §25.181 and Adopt New 16 TAC §25.182 Relating to Energy Efficiency Cost Recovery Factors. The workshop will be held from 9:30 a.m. to 3:00 p.m. in the Commissioners' Hearing Room on the 7th floor of the William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701.

On or before October 8, 2018, commission staff will make available in Central Records under Project No. 48692 a meeting agenda as well as proposed rule language for discussion at the workshop. The agenda will also be available for download by visiting the commission's

website at [www.puc.texas.gov](http://www.puc.texas.gov) and clicking on the Filings and Filings Search links.

Questions concerning the workshop or this notice should be referred to William Abbott, Director of Tariff and Rate Analysis, at (512) 936-7453 or [william.abbott@puc.texas.gov](mailto:william.abbott@puc.texas.gov). Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136.

TRD-201804164

Andrea Gonzalez

Assistant Rules Coordinator

Public Utility Commission of Texas

Filed: September 26, 2018

## Regional Water Planning Group - Area B

### Public Notice Solicitation of Nominations

The Regional Water Planning Group - Area B (RWPG-B) was established by state law, including Texas Water Code Chapter 16, TWDB rules, and 31 TAC Chapters 355, 357, and 358 on February 19, 1998. Region B includes the following counties: Archer, Baylor, Clay, Cottle, Foard, Hardeman, King, Montague, Wichita, Wilbarger, and the area of Young County that encompasses the City of Olney. The purpose of the RWPG-B is to provide comprehensive regional water planning and to carry out the related responsibilities placed on regional water planning groups by state law. Foremost among those responsibilities is the development of a regional water plan for Region B that identifies both short and long-term water supply needs and recommends water management strategies for addressing them.

Notice is hereby given that the Regional Water Planning Group - Area B is soliciting nominations for the following vacant seat with a term expiration of August 31, 2023:

#### Interest Group

Agricultural

#### Voting Member

Vacant

#### Location (City - County)

Area Wide

Nominees must represent the Agricultural Interest category within the Region B planning area, be willing to participate in the regional water planning process, and abide by the Bylaws of the planning group, to qualify for voting membership with the Region B Regional Water Planning Group.

If you would like to submit a nomination representative of the Agricultural Interest category, you may do so by sending your nomination letter to the administrative agency - Red River Authority of Texas, Attention: Randy Whiteman, Post Office Box 240, Wichita Falls, Texas 76307-0240, or email your nominations to [randy.whiteman@rra.texas.gov](mailto:randy.whiteman@rra.texas.gov). **Nominations must be received or postmarked by Friday, November 9, 2018, to be considered.** Consideration of nominations and voting will take place during the RWPG-B Public Meeting tentatively scheduled for Wednesday, February 6, 2019.

If you have any questions, please contact Red River Authority of Texas at (940) 723-2236 or email at [stacey.green@rra.texas.gov](mailto:stacey.green@rra.texas.gov).

TRD-201804144

Randy Whiteman

General Manager

Regional Water Planning Group - Area B

Filed: September 24, 2018

## Texas Department of Transportation

### Aviation Division - Request for Qualifications (RFQ) for Professional Engineering Services

The City of Coleman, through its agent, the Texas Department of Transportation (TxDOT), intends to engage a professional engineering firm for services pursuant to Chapter 2254, Subchapter A, of the Government Code. TxDOT Aviation Division will solicit and receive qualification statements for the current aviation project as described below.

**Current Project:** City of Coleman; TxDOT CSJ No.: 1823COLMN.

The TxDOT Project Manager is Ed Mayle.

Scope: Provide engineering and design services, including construction administration, to:

1. Rehabilitate Runway 15/33;
2. Mark Runway 15/33;
3. Rehabilitate Parallel and Cross Taxiways;
4. Rehabilitate and Mark Apron; and
5. Improve Runway Infield Ditch Drainage.

The Agent, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§2000d to 2000d-4) and the Regulations, hereby notifies all respondents that it will affirmatively ensure that for any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit in response to this solicitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

The proposed contract is subject to 49 CFR Part 26 concerning the participation of Disadvantaged Business Enterprises (DBE).

The DBE goal for the design phase of the current project is 11%. The goal will be re-set for the construction phase.

Utilizing multiple engineering/design and construction grants over the course of the next five years, future scope of work items at the Coleman Municipal Airport may include perimeter fencing installation.

The City of Coleman reserves the right to determine which of the services listed above may or may not be awarded to the successful firm and to initiate additional procurement action for any of the services listed above.

To assist in your qualification statement preparation, the criteria, project diagram, and most recent Airport Layout Plan are available online at <http://www.dot.state.tx.us/avn/avninfo/notice/consult/index.htm> by selecting "Coleman Municipal Airport." The qualification statement should address a technical approach for the current scope only. Firms shall use page 4, Recent Airport Experience, to list relevant past projects.

#### AVN-550 Preparation Instructions:

Interested firms shall utilize the latest version of Form AVN-550, titled "Qualifications for Aviation Architectural/Engineering Services." The form may be requested from TxDOT, Aviation Division, 125 E. 11th Street, Austin, Texas 78701-2483, phone number, (800) 68-PILOT (74568). The form may be emailed by request or downloaded from



the TxDOT website at <http://www.txdot.gov/inside-txdot/division/aviation/projects.html>. The form may not be altered in any way. Firms must carefully follow the instructions provided on each page of the form. Qualifications shall not exceed the number of pages in the AVN-550 template. The AVN-550 consists of eight pages of data plus one optional illustration page. A prime provider may only submit one AVN-550. If a prime provider submits more than one AVN-550, or submits a cover page with the AVN-550, that provider will be disqualified. Responses to this solicitation WILL NOT BE ACCEPTED IN ANY OTHER FORMAT.

ATTENTION: To ensure utilization of the latest version of Form AVN-550, firms are encouraged to download Form AVN-550 from the TxDOT website as addressed above. Utilization of Form AVN-550 from a previous download may not be the exact same format. Form AVN-550 is a PDF Template.

The completed Form AVN-550 must be received in the TxDOT Aviation eGrants system no later than October 30, 2018, 11:59 p.m. (CDST). Electronic facsimiles or forms sent by email or regular/overnight mail will not be accepted.

Firms that wish to submit a response to this solicitation must be a user in the TxDOT Aviation eGrants system no later than one business day before the solicitation due date. To request access to eGrants, please complete the Contact Us web form located at <http://txdot.gov/government/funding/egrants-2016/aviation.html>.

An instructional video on how to respond to a solicitation in eGrants is available at <http://txdot.gov/government/funding/egrants-2016/aviation.html>.

Step by step instructions on how to respond to a solicitation in eGrants will also be posted in the RFQ packet at <http://www.dot.state.tx.us/avn/avninfo/notice/consult/index.htm>.

The consultant selection committee will be composed of local government representatives. The final selection by the committee will generally be made following the completion of review of AVN-550s. The committee will review all AVN-550s and rate and rank each. The Evaluation Criteria for Engineering Qualifications can be found at <http://www.txdot.gov/inside-txdot/division/aviation/projects.html> under Information for Consultants. All firms will be notified and the top rated firm will be contacted to begin fee negotiations for the design and bidding phases. The selection committee does, however, reserve the right to conduct interviews for the top rated firms if the committee deems it necessary. If interviews are conducted, selection will be made following interviews.

Please contact TxDOT Aviation for any technical or procedural questions at (800) 68-PILOT (74568). For procedural questions, please contact Bobby Hidrogo, Grant Manager. For technical questions, please contact Ed Mayle, Project Manager.

For questions regarding responding to this solicitation in eGrants, please contact the TxDOT Aviation help desk at (800) 687-4568 or [avn-egrantshelp@txdot.gov](mailto:avn-egrantshelp@txdot.gov).

TRD-201804113  
Jack Ingram  
Associate General Counsel  
Texas Department of Transportation  
Filed: September 20, 2018



Aviation Division - Request for Qualifications (RFQ) for Professional Engineering Services

The City of Midlothian and City of Waxahachie, through their agent, the Texas Department of Transportation (TxDOT), intend to engage a professional engineering firm for services pursuant to Chapter 2254, Subchapter A, of the Government Code. TxDOT Aviation Division will solicit and receive qualification statements for the current aviation project as described below.

**Current Project:** City of Midlothian and City of Waxahachie; Airport: Mid-way Regional Airport; TxDOT CSJ No. 1818WAXCH. The TxDOT Project Manager is Ed Mayle.

Scope: Provide engineering and design services, including construction administration, to design and construct perimeter fence.

The Agent, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§2000d to 2000d-4) and the Regulations, hereby notifies all respondents that it will affirmatively ensure that for any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit in response to this solicitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

The proposed contract is subject to 49 CFR Part 26 concerning the participation of Disadvantaged Business Enterprises (DBE).

The DBE goal for the design phase of the current project is 0%. The goal will be re-set for the construction phase.

To assist in your qualification statement preparation, the criteria, project diagram, and most recent Airport Layout Plan are available online at <http://www.dot.state.tx.us/avn/avninfo/notice/consult/index.htm> by selecting "Mid-Way Regional Airport." The qualification statement should address a technical approach for the current scope only. Firms shall use page 4, Recent Airport Experience, to list relevant past projects.

#### AVN-550 Preparation Instructions:

Interested firms shall utilize the latest version of Form AVN-550, titled "Qualifications for Aviation Architectural/Engineering Services." The form may be requested from TxDOT, Aviation Division, 125 E. 11th Street, Austin, Texas 78701-2483, phone number, (800) 68-PILOT (74568). The form may be emailed by request or downloaded from the TxDOT website at <http://www.txdot.gov/inside-txdot/division/aviation/projects.html>. The form may not be altered in any way. Firms must carefully follow the instructions provided on each page of the form. Qualifications shall not exceed the number of pages in the AVN-550 template. The AVN-550 consists of eight pages of data plus one optional illustration page. A prime provider may only submit one AVN-550. If a prime provider submits more than one AVN-550, or submits a cover page with the AVN-550, that provider will be disqualified. Responses to this solicitation WILL NOT BE ACCEPTED IN ANY OTHER FORMAT.

ATTENTION: To ensure utilization of the latest version of Form AVN-550, firms are encouraged to download Form AVN-550 from the TxDOT website as addressed above. Utilization of Form AVN-550 from a previous download may not be the exact same format. Form AVN-550 is a PDF Template.

The completed Form AVN-550 must be received in the TxDOT Aviation eGrants system no later than October 30, 2018, 11:59 p.m. (CDST). Electronic facsimiles or forms sent by email or regular/overnight mail will not be accepted.

Firms that wish to submit a response to this solicitation must be a user in the TxDOT Aviation eGrants system no later than one business day before the solicitation due date. To request access to eGrants, please

complete the Contact Us web form located at <http://txdot.gov/government/funding/egrants-2016/aviation.html>.

An instructional video on how to respond to a solicitation in eGrants is available at <http://txdot.gov/government/funding/egrants-2016/aviation.html>.

Step by step instructions on how to respond to a solicitation in eGrants will also be posted in the RFQ packet at <http://www.dot.state.tx.us/avn/avninfo/notice/consult/index.htm>.

The consultant selection committee will be composed of local government representatives. The final selection by the committee will generally be made following the completion of review of AVN-550s. The committee will review all AVN-550s and rate and rank each. The Evaluation Criteria for Engineering Qualifications can be found at <http://www.txdot.gov/inside-txdot/division/aviation/projects.html> under Information for Consultants. All firms will be notified and the top rated firm will be contacted to begin fee negotiations for the design and bidding phases. The selection committee does, however, reserve the right to conduct interviews for the top rated firms if the committee deems it necessary. If interviews are conducted, selection will be made following interviews.

Please contact TxDOT Aviation for any technical or procedural questions at (800) 68-PILOT (74568). For procedural questions, please contact Sheri Quinlan, Grant Manager. For technical questions, please contact Ed Mayle, Project Manager.

For questions regarding responding to this solicitation in eGrants, please contact the TxDOT Aviation help desk at (800) 687-4568 or [avn-egrantshelp@txdot.gov](mailto:avn-egrantshelp@txdot.gov).

TRD-201804114

Jack Ingram

Associate General Counsel

Texas Department of Transportation

Filed: September 20, 2018

## Texas Workforce Commission

Jobs and Education for Texans (JET) Grant Program RFA

### Announcement

#### TWC now accepting applications for JET grant program

The Texas Workforce Commission (TWC) has published a Request for Applications (RFA) for the Jobs and Education for Texans (JET) Grant Program. Please pass this information on to those in your organization who can prepare applications to benefit your community's career and technical programs for students.

The complete RFA solicitation, which includes eligibility, requirements and submission documents can be downloaded from the Texas Comptroller of Public Accounts (CPA) web page at <http://www.txs-martbuy.com/sp/32019-00018>.

Karol Huntmoses is the authorized agency contact for this RFA. Questions should be emailed to [rfgroup@twc.state.tx.us](mailto:rfgroup@twc.state.tx.us).

Visit the TWC website to learn more about the Jobs and Education for Texans Grant Program at [www.twc.state.tx.us/partners/jobs-and-education-texans-jet-grant-program](http://www.twc.state.tx.us/partners/jobs-and-education-texans-jet-grant-program).

TWC Workforce Commission

(512) 463-8942

[www.texasworkforce.org](http://www.texasworkforce.org)

Equal Opportunity Employer/Program

Auxiliary aids and services are available upon request to individuals with disabilities.

Relay Texas: (800) 735-2988 (TDD) or 711 (Voice)

TRD-201804101

Les Trobman

General Counsel

Texas Workforce Commission

Filed: September 20, 2018

## Workforce Solutions Brazos Valley Board

### Public Notice

The Workforce Solutions Brazos Valley Board seeks public input on their local 2018-2021, Strategic Plan for Student HireAbility. This document outlines the Board's strategic and operational plans for the delivery of workforce development and vocational rehabilitation services for students ages 14-22 with disabilities. A copy of the draft plan may be reviewed at the Center for Regional Services office located at 3991 East 29th Street, Bryan, Texas 77802 between 8:00 a.m. to 5:00 p.m., Monday through Friday, for a period of October 1, 2018, to October 30, 2018. The Strategic Plan is also available for review at the website [www.bvjobs.org](http://www.bvjobs.org) or by request to Sylvia McMullen via email at [Sylvia.mcmullen@bvcog.org](mailto:Sylvia.mcmullen@bvcog.org) via phone at (979) 595-2801 ext. 2024. Comments about the Workforce Solutions Brazos Valley 2018-2021 Strategic Plan for Student HireAbility can be emailed to [Sylvia.mcmullen@bvcog.org](mailto:Sylvia.mcmullen@bvcog.org).

A proud partner of the American Job Center network.

Equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities.

Relay Texas (800) 735-2989

TDD (800) 735-2988 (Voice)

TTY (979) 595-2819

TRD-201804127

Vonda Morrison

Program Manager

Workforce Solutions Brazos Valley Board

Filed: September 21, 2018

## How to Use the Texas Register

**Information Available:** The sections of the *Texas Register* represent various facets of state government. Documents contained within them include:

**Governor** - Appointments, executive orders, and proclamations.

**Attorney General** - summaries of requests for opinions, opinions, and open records decisions.

**Texas Ethics Commission** - summaries of requests for opinions and opinions.

**Emergency Rules** - sections adopted by state agencies on an emergency basis.

**Proposed Rules** - sections proposed for adoption.

**Withdrawn Rules** - sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the Texas Register six months after the proposal publication date.

**Adopted Rules** - sections adopted following public comment period.

**Texas Department of Insurance Exempt Filings** - notices of actions taken by the Texas Department of Insurance pursuant to Chapter 5, Subchapter L of the Insurance Code.

**Review of Agency Rules** - notices of state agency rules review.

**Tables and Graphics** - graphic material from the proposed, emergency and adopted sections.

**Transferred Rules** - notice that the Legislature has transferred rules within the *Texas Administrative Code* from one state agency to another, or directed the Secretary of State to remove the rules of an abolished agency.

**In Addition** - miscellaneous information required to be published by statute or provided as a public service.

Specific explanation on the contents of each section can be found on the beginning page of the section. The division also publishes cumulative quarterly and annual indexes to aid in researching material published.

**How to Cite:** Material published in the *Texas Register* is referenced by citing the volume in which the document appears, the words “TexReg” and the beginning page number on which that document was published. For example, a document published on page 2402 of Volume 43 (2018) is cited as follows: 43 TexReg 2402.

In order that readers may cite material more easily, page numbers are now written as citations. Example: on page 2 in the lower-left hand corner of the page, would be written “43 TexReg 2 issue date,” while on the opposite page, page 3, in the lower right-hand corner, would be written “issue date 43 TexReg 3.”

**How to Research:** The public is invited to research rules and information of interest between 8 a.m. and 5 p.m. weekdays at the *Texas Register* office, James Earl Rudder Building, 1019 Brazos, Austin. Material can be found using *Texas Register* indexes, the *Texas Administrative Code* section numbers, or TRD number.

Both the *Texas Register* and the *Texas Administrative Code* are available online at: <http://www.sos.state.tx.us>. The *Texas Register* is available in an .html version as well as a .pdf version through the internet. For website information, call the Texas Register at (512) 463-5561.

## Texas Administrative Code

The *Texas Administrative Code (TAC)* is the compilation of all final state agency rules published in the *Texas Register*. Following its effective date, a rule is entered into the *Texas Administrative Code*. Emergency rules, which may be adopted by an agency on an interim basis, are not codified within the *TAC*.

The *TAC* volumes are arranged into Titles and Parts (using Arabic numerals). The Titles are broad subject categories into which the agencies are grouped as a matter of convenience. Each Part represents an individual state agency.

The complete *TAC* is available through the Secretary of State’s website at <http://www.sos.state.tx.us/tac>.

The Titles of the *TAC*, and their respective Title numbers are:

1. Administration
4. Agriculture
7. Banking and Securities
10. Community Development
13. Cultural Resources
16. Economic Regulation
19. Education
22. Examining Boards
25. Health Services
26. Health and Human Services
28. Insurance
30. Environmental Quality
31. Natural Resources and Conservation
34. Public Finance
37. Public Safety and Corrections
40. Social Services and Assistance
43. Transportation

**How to Cite:** Under the *TAC* scheme, each section is designated by a *TAC* number. For example in the citation 1 TAC §27.15: 1 indicates the title under which the agency appears in the *Texas Administrative Code*; *TAC* stands for the *Texas Administrative Code*; §27.15 is the section number of the rule (27 indicates that the section is under Chapter 27 of Title 1; 15 represents the individual section within the chapter).

**How to Update:** To find out if a rule has changed since the publication of the current supplement to the *Texas Administrative Code*, please look at the *Index of Rules*.

The *Index of Rules* is published cumulatively in the blue-cover quarterly indexes to the *Texas Register*.

If a rule has changed during the time period covered by the table, the rule’s *TAC* number will be printed with the *Texas Register* page number and a notation indicating the type of filing (emergency, proposed, withdrawn, or adopted) as shown in the following example.

### TITLE 1. ADMINISTRATION Part 4. Office of the Secretary of State Chapter 91. Texas Register

1 TAC §91.1.....950 (P)

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