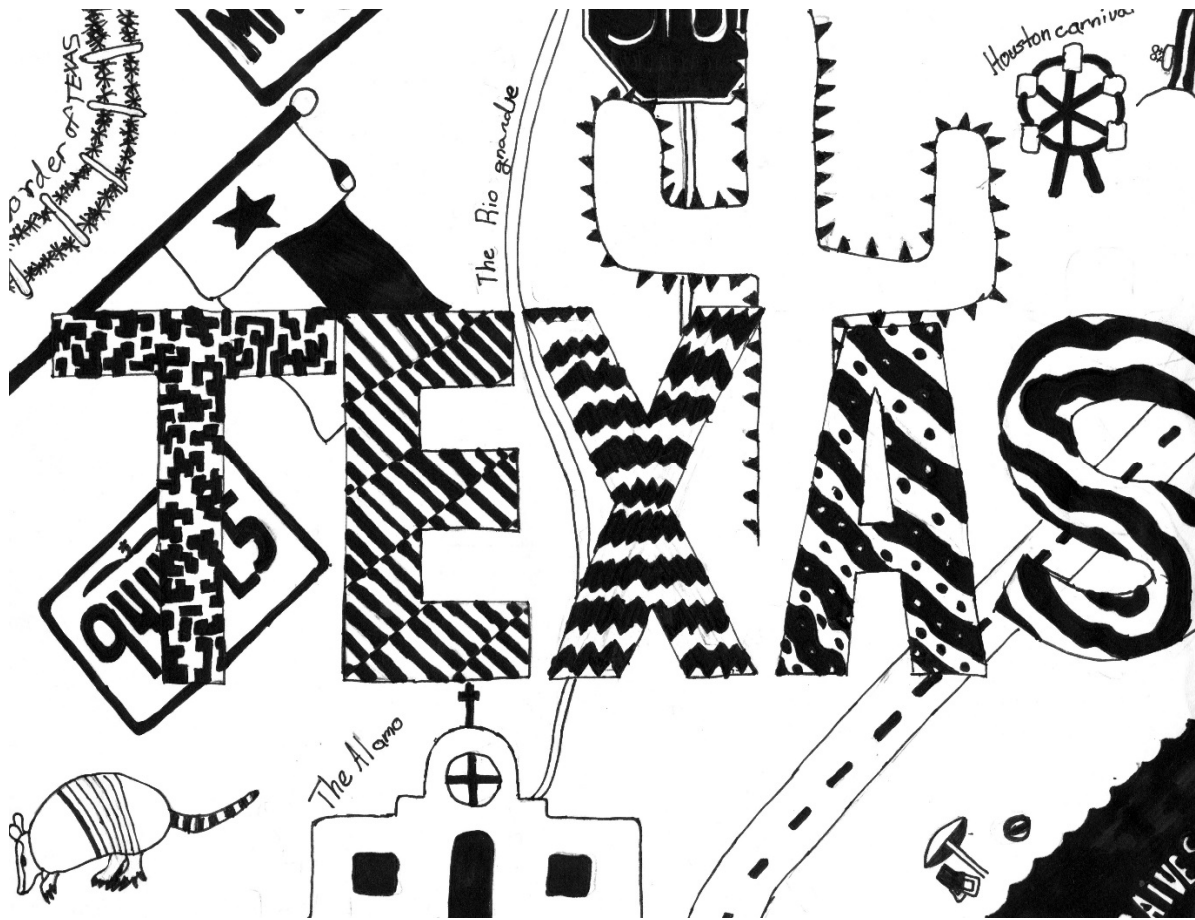


# TEXAS REGISTER

Volume 44 Number 20

May 17, 2019

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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.

The artwork featured on the front cover is chosen at random. Inside each issue, the artwork is published on what would otherwise be blank pages in the *Texas Register*. These blank pages are caused by the production process used to print the *Texas Register*.

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# 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 April 2, 2019

Appointed to the Texas Southern University Board of Regents, for a term to expire February 1, 2023, Marc C. Carter of Houston, Texas (replacing Kenneth R. Koncaba of Friendswood who resigned).

Appointed to the Texas Southern University Board of Regents, for a term to expire February 1, 2025, Pamela A. Medina of Houston, Texas (replacing Erik D. Salwen, Ph.D. of College Station whose term expired).

Appointed to the Texas Southern University Board of Regents, for a term to expire February 1, 2025, Albert H. Myers, Sr. of Liberty, Texas (replacing Glenn Lewis of Fort Worth whose term expired).

Appointed to the Texas Southern University Board of Regents, for a term to expire February 1, 2025, Jay S. Zeidman of Houston, Texas (replacing Sarah D. Monty of Houston whose term expired).

Appointed to the Stephen F. Austin State University Board of Regents, for a term to expire January 31, 2025, David R. Alders of Nacogdoches, Texas (Mr. Alders is being reappointed).

Appointed to the Stephen F. Austin State University Board of Regents, for a term to expire January 31, 2025, Judith A. Olson of Conroe, Texas (replacing Kenton E. Schaefer of Brownsville whose term expired).

Appointed to the Stephen F. Austin State University Board of Regents, for a term to expire January 31, 2025, Jennifer W. Winston of Lufkin, Texas (replacing John R. Garrett of Tyler whose term expired).

Appointed to the Finance Commission of Texas, for a term to expire February 1, 2022, Robin L. Armstrong, M.D. of Friendswood, Texas (replacing Matthew C. Moore of Amarillo who resigned).

### Appointments for April 3, 2019

Appointed to the Governing Board of the Texas School for the Deaf, for a term to expire January 31, 2021, Eric L. Hogue of Wylie, Texas (Mayor Hogue is being reappointed).

Appointed to the Governing Board of the Texas School for the Deaf, for a term to expire January 31, 2021, Angela O. Wolf of Dripping Springs, Texas (Ms. Wolf is being reappointed).

Appointed to the Governing Board of the Texas School for the Deaf, for a term to expire January 31, 2023, Shalia H. Cowan, Ed.D. of Dripping Springs, Texas (Dr. Cowan is being reappointed).

Appointed to the Governing Board of the Texas School for the Deaf, for a term to expire January 31, 2023, Christopher J. Moreland, M.D. of New Braunfels, Texas (replacing Jean F. Andrew, Ph.D. of Beaumont whose term expired).

Appointed to the Governing Board of the Texas School for the Deaf, for a term to expire January 31, 2023, Shawn Patrick Saladin, Ph.D. of Edinburg, Texas (Dr. Saladin is being reappointed).

Appointed to the Governing Board of the Texas School for the Deaf, for a term to expire January 31, 2025, David A. Saunders of Waxahachie, Texas (Mr. Saunders is being reappointed).

Appointed to the Governing Board of the Texas School for the Deaf, for a term to expire January 31, 2025, Keith E. Sibley of Bedford, Texas (replacing Tyran Paul Lee of Humble whose term expired).

Appointed to the Governing Board of the Texas School for the Deaf, for a term to expire January 31, 2025, Heather Lightfoot Withrow of Austin, Texas (replacing Susan K. Ridley of Sugar Land whose term expired).

Appointed to the Texas Health Services Authority Board of Directors, for a term to expire June 15, 2019, Paula E. Anthony-McMann, Ph.D. of Tyler, Texas (Dr. Anthony-McMann is being reappointed).

Appointed to the Texas Health Services Authority Board of Directors, for a term to expire June 15, 2019, Victoria Ai Linh Bryant, Pharm.D. of Houston, Texas (replacing Fredrick Joel Buckwold, M.D. of Houston whose term expired).

Appointed to the Texas Health Services Authority Board of Directors, for a term to expire June 15, 2019, Shannon S. Calhoun of Goliad, Texas (Ms. Calhoun is being reappointed).

Appointed to the Texas Health Services Authority Board of Directors, for a term to expire June 15, 2019, Lourdes M. Cuellar of Houston, Texas (replacing Matthew J. Hamlin of Argyle whose term expired).

Appointed to the Texas Health Services Authority Board of Directors, for a term to expire June 15, 2019, Salil V. Deshpande, M.D. of Houston, Texas (replacing Brandon C. Charles, M.D. of Dallas whose term expired).

Appointed to the Texas Health Services Authority Board of Directors, for a term to expire June 15, 2019, Emily F. Hartmann of El Paso, Texas (replacing Andrew Lombardo of Harlingen whose term expired).

Appointed to the Texas Health Services Authority Board of Directors, for a term to expire June 15, 2019, Kenneth S. James of Volente, Texas (replacing Mark S. Lane, M.D. of Lampasas whose term expired).

Appointed to the Texas Health Services Authority Board of Directors, for a term to expire June 15, 2019, Jerome P. Lisk, M.D. of Tyler, Texas (replacing David A. Allen, D.N.P. of San Antonio whose term expired).

Appointed to the Texas Health Services Authority Board of Directors, for a term to expire June 15, 2019, Leticia C. Rodriguez of Monahans, Texas (replacing William A. Phillips, Jr. of San Antonio whose term expired).

Appointed to the Texas Health Services Authority Board of Directors, for a term to expire June 15, 2019, Jonathan J. Sandstrom Hill of Lake-way, Texas (replacing Deborah Gray Marino of San Antonio whose term expired).

Appointed to the Texas Health Services Authority Board of Directors, for a term to expire June 15, 2019, Sibohan Shahan of Amarillo, Texas (replacing Stephen Yurco, M.D. of Austin whose term expired).

Appointed to the Texas Health Services Authority Board of Directors, for a term to expire June 15, 2019, Carlos J. Vital, M.D. of Friendswood, Texas (replacing David C. Fleeger, M.D. of Austin whose term expired).

#### **Appointments for April 4, 2019**

Appointed to the Statewide Health Coordinating Council, for a term to expire August 31, 2019, Nancy W. Yuill, Ph.D. of Sugar Land, Texas (replacing Andrew D. Crim of Fort Worth who resigned).

Appointed to the Statewide Health Coordinating Council, for a term to expire August 31, 2023, David A. Allen, D.N.P. of San Antonio, Texas (replacing Lourdes M. Cuellar of Houston whose term expired).

Appointed to the Statewide Health Coordinating Council, for a term to expire August 31, 2023, Chelsea L. Elliott of Austin, Texas (replacing Larry E. Safir of McAllen whose term expired).

Appointed to the Statewide Health Coordinating Council, for a term to expire August 31, 2023, Elizabeth J. Protas, Ph.D. of League City, Texas (Dr. Protas is being reappointed).

Appointed to the Statewide Health Coordinating Council, for a term to expire August 31, 2023, D. Bailey Wynne of Dallas, Texas (Ms. Wynne is being reappointed).

Appointed to the State Board for Educator Certification, for a term to expire February 1, 2025, Tommy L. Coleman of Livingston, Texas (Mr. Coleman is being reappointed).

Appointed to the Statewide Health Coordinating Council, for a term to expire August 31, 2023, Shareefah Nadir-Mason of Dallas, Texas (replacing Sandra D. Bridges of Rockwall whose term expired).

Appointed to the Texas Forensic Science Commission, for a term to expire September 1, 2020, Bruce Budowle, Ph.D. of North Richland Hills, Texas (Dr. Budowle is being reappointed).

Appointed to the Texas Forensic Science Commission, for a term to expire September 1, 2020, Patrick Buzzini, Ph.D. of Spring, Texas (replacing Sheree R. Hughes-Stamm, Ph.D. of The Woodlands whose term expired).

Appointed to the Texas Forensic Science Commission, for a term to expire September 1, 2020, Nancy R. Downing, Ph.D. of Bryan, Texas (Dr. Downing is being reappointed).

Appointed to the Texas Forensic Science Commission, for a term to expire September 1, 2020, Jasmine M. Drake, Ph.D. of Houston, Texas (Dr. Drake is being reappointed).

Appointed to the Texas Racing Commission, for a term to expire February 1, 2021, Arvel J. Waight, Jr. of Willow City, Texas (replacing Rolando Pablos of West Lake Hills who resigned).

Appointed to the Texas Racing Commission, for a term to expire February 1, 2023, Michael J. Moore of Fort Worth, Texas (replacing Robert H. Schmidt, M.D. of Aledo whose term expired).

Appointed to the Texas Racing Commission, for a term to expire February 1, 2023, Robert C. Pate of Corpus Christi, Texas (replacing Gloria M. Hicks of Corpus Christi whose term expired).

#### **Appointments for April 8, 2019**

Appointed to the Texas Facilities Commission, for a term to expire January 31, 2021, Brian A. Bailey of Austin, Texas (replacing Robert D. Thomas of Austin who resigned).

Appointed to the Texas Economic Development Corporation Board of Directors, for a term to expire at the pleasure of the Governor, James P. Hickman of Canyon, Texas (replacing Marcus R. Griffin of Lubbock).

Appointed to the Texas Economic Development Corporation Board of Directors, for a term to expire at the pleasure of the Governor, Vicki A. Hollub of Galveston, Texas (replacing Stephen C. Head, Ph.D. of The Woodlands).

Appointed to the Texas Economic Development Corporation Board of Directors, for a term to expire at the pleasure of the Governor, Woodley L. Hunt of El Paso, Texas (replacing Alejandro G. Meade, III of Mission).

Appointed to the Texas Economic Development Corporation Board of Directors, for a term to expire at the pleasure of the Governor, James E. Lentz, III of Westlake, Texas (replacing Michael W. Rollins of Austin).

Appointed to the Texas Economic Development Corporation Board of Directors, for a term to expire at the pleasure of the Governor, Robert McLane, Jr. of Temple, Texas (replacing Nancy C. Windham of Nacogdoches).

Appointed to the Texas Economic Development Corporation Board of Directors, for a term to expire at the pleasure of the Governor, Abidali Z. Neemuchwala of Coppell, Texas (replacing Sanjiv Yajnik of Dallas).

Appointed to the Texas Economic Development Corporation Board of Directors, for a term to expire at the pleasure of the Governor, Scott M. Prochazka of Houston, Texas (pursuant to Government Code Sec. 481.024).

Appointed to the Texas Economic Development Corporation Board of Directors, for a term to expire at the pleasure of the Governor, Bryan Sheffield of Austin, Texas (pursuant to Government Code Sec. 481.024).

Appointed to the State Securities Board, for a term to expire January 20, 2023, Kenneth R. Koncaba, Jr. of Friendswood, Texas (replacing Greg Waldrop of Austin whose term expired).

#### **Appointments for April 9, 2019**

Appointed to the Texas Public Finance Authority, for a term to expire February 1, 2023, Billy M. Atkinson, Jr. of Sugar Land, Texas (Mr. Atkinson is being reappointed).

Appointed to the Texas Public Finance Authority, for a term to expire February 1, 2023, Joseph E. Williams of Frisco, Texas (replacing Robert Thomas Roddy, Jr. of San Antonio whose term expired).

#### **Appointments for April 10, 2019**

Appointed to the Texas Private Security Board, for a term to expire January 31, 2025, Doyle Hayden of San Antonio, Texas (Mr. Hayden is being reappointed).

Appointed to the Texas Private Security Board, for a term to expire January 31, 2025, Debbra G. Ulmer of Houston, Texas (Ms. Ulmer is being reappointed).

Appointed to the State Pension Review Board, for a term to expire January 31, 2025, Marcia A. Dush of Austin, Texas (Ms. Dush is being reappointed).

#### **Appointments for April 11, 2019**

Appointed to the Advisory Committee to the Texas Board of Criminal Justice on Offenders with Medical or Mental Impairments, for a term to expire February 1, 2021, Sanjay G. Adhia, M.D. of Missouri City, Texas (replacing Kathryn J. Kotrla, M.D. of Leander whose term expired).

Appointed to the Advisory Committee to the Texas Board of Criminal Justice on Offenders with Medical or Mental Impairments, for a term to expire February 1, 2021, Denise Oncken of Houston, Texas (Ms. Oncken is being reappointed).

Appointed to the Advisory Committee to the Texas Board of Criminal Justice on Offenders with Medical or Mental Impairments, for a term to expire February 1, 2021, Rogelio C. Rodriguez of El Paso, Texas (replacing Eulon Ross Taylor, M.D. of Austin whose term expired).

Appointed to the Advisory Committee to the Texas Board of Criminal Justice on Offenders with Medical or Mental Impairments, for a term to expire February 1, 2023, Yolanda N. Waters, Ph.D. of La Marque, Texas (replacing Robert Dean Morgan of Lubbock whose term expired).

Appointed to the Advisory Committee to the Texas Board of Criminal Justice on Offenders with Medical or Mental Impairments, for a term to expire February 1, 2025, Robb D. Catalano of Fort Worth, Texas (Judge Catalano is being reappointed).

Appointed to the Advisory Committee to the Texas Board of Criminal Justice on Offenders with Medical or Mental Impairments, for a term to expire February 1, 2025, James B. Eby of Wichita Falls, Texas (replacing Kathy C. Flanagan, M.D. whose term expired).

Appointed to the Advisory Committee to the Texas Board of Criminal Justice on Offenders with Medical or Mental Impairments, for a term to expire February 1, 2025, Trenton R. Marshall of Burleson, Texas (Mr. Marshall is being reappointed).

**Appointments for April 12, 2019**

Appointed to the Texas Emergency Services Retirement System Board of Trustees, for a term to expire September 1, 2019, Francisco R. Torres of Raymondville, Texas (replacing Ronald V. Larson of Horizon City who no longer qualifies).

Appointed to the Texas Emergency Services Retirement System Board of Trustees, for a term to expire September 1, 2023, Edward J. Keenan of Houston, Texas (replacing Stephen K. Williams of Carthage whose term expired).

Appointed to the Texas Emergency Services Retirement System Board of Trustees, for a term to expire September 1, 2023, Rodney A. Ryalls of Burkburnett, Texas (replacing Francisco R. Torres of Raymondville whose term expired).

Appointed to the Texas Emergency Services Retirement System Board of Trustees, for a term to expire September 1, 2023, Stephanie L. Wagner of Austin, Texas (replacing Don Richard Shipman of Colleyville whose term expired).

Appointed to the Rick Management Board, for a term to expire February 1, 2023, Tomàs Gonzalez of El Paso, Texas (Mr. Gonzalez is being reappointed).

Greg Abbott, Governor  
TRD-201901309



Proclamation 41-3626

**TO ALL TO WHOM THESE PRESENTS SHALL COME:**

WHEREAS, I, GREG ABBOTT, Governor of the State of Texas, issued a disaster proclamation on August 23, 2017, certifying that Hurricane Harvey posed a threat of imminent disaster for Aransas, Austin, Bee, Brazoria, Calhoun, Chambers, Colorado, DeWitt, Fayette, Fort Bend, Galveston, Goliad, Gonzales, Harris, Jackson, Jefferson, Jim Wells, Karnes, Kleberg, Lavaca, Liberty, Live Oak, Matagorda, Nueces, Refugio, San Patricio, Victoria, Waller, Wharton and Wilson counties; and

WHEREAS, the disaster proclamation of August 23, 2017, was subsequently amended on August 26, August 27, August 28 and September 14 to add the following counties to the disaster proclamation: Angelina, Atascosa, Bastrop, Bexar, Brazos, Burleson, Caldwell, Cameron, Comal, Grimes, Guadalupe, Hardin, Jasper, Kerr, Lee, Leon, Madison, Milam, Montgomery, Newton, Orange, Polk, Sabine, San Augustine, San Jacinto, Trinity, Tyler, Walker, Washington and Willacy; and

WHEREAS, on September 20, 2017, and in each subsequent month effective through today, I issued proclamations renewing the disaster declaration for all counties listed above; and

WHEREAS, due to the catastrophic damage caused by Hurricane Harvey, a state of disaster continues to exist in those same counties;

NOW, THEREFORE, in accordance with the authority vested in me by Section 418.014 of the Texas Government Code, I do hereby renew the disaster proclamation for the 60 counties listed above.

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

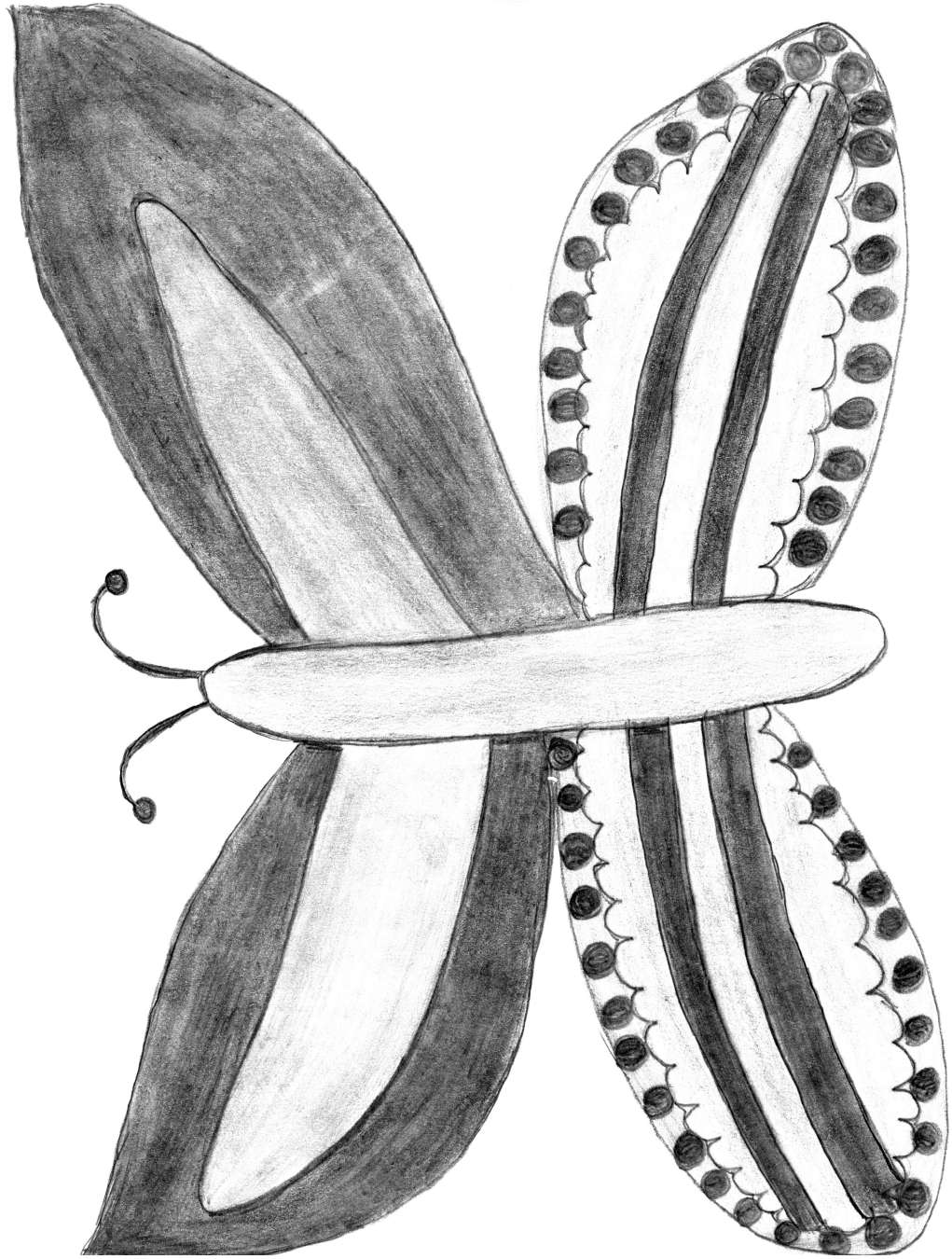
Pursuant to Section 418.016 of the code, any regulatory statute prescribing the procedures for conduct of state business or any order or rule of a state agency that would in any way prevent, hinder or delay necessary action in coping with this disaster shall be suspended upon written approval of the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

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

IN TESTIMONY WHEREOF, I have hereunto signed my name and have officially caused the Seal of State to be affixed at my office in the City of Austin, Texas, this the 7th day of May, 2019.

Greg Abbott, Governor  
TRD-201901352







# THE ATTORNEY GENERAL

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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>.)

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Requests for Opinions

**RQ-0286-KP**

**Requestor:**

The Honorable Ryan Guillen

Chair, Committee on Resolutions Calendars

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-0286-KP)

**Briefs requested by May 31, 2019**

*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-201901351

Ryan L. Bangert

Deputy Attorney General for Legal Counsel

Office of the Attorney General

Filed: May 7, 2019



Requests for Opinions

**RQ-0287-KP**

**Requestor:**

The Honorable Morgan Meyer

Chair, Committee on General Investigating

Texas House of Representatives

Post Office Box 2910

Austin, Texas 78768-2910

Re: Whether provisions of Dallas City Code regarding dangerous dogs conflict with chapter 822 of the Health and Safety Code (RQ-0287-KP)

**Briefs requested by June 5, 2019**

*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-201901356

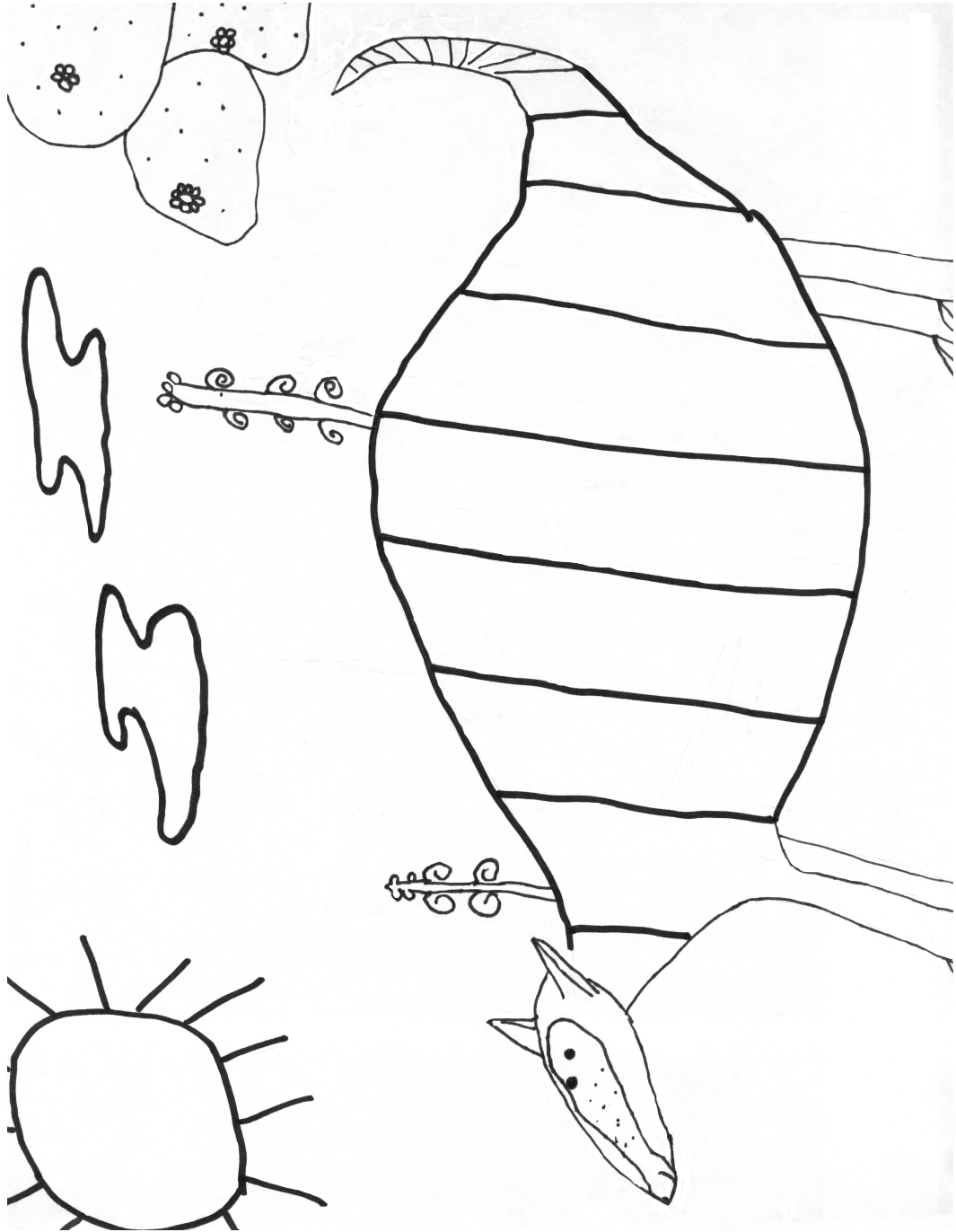
Ryan L. Bangert

Deputy Attorney General for Legal Counsel

Office of the Attorney General

Filed: May 8, 2019





# 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 4. AGRICULTURE

### PART 1. TEXAS DEPARTMENT OF AGRICULTURE

#### CHAPTER 30. COMMUNITY DEVELOPMENT SUBCHAPTER A. TEXAS COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM DIVISION 5. REALLOCATION OF PROGRAM FUNDS

##### 4 TAC §30.101

The Texas Department of Agriculture (Department) proposes the repeal of Title 4, Part 1, Chapter 30, Subchapter A, Division 5, §30.101, relating to Deobligated Funds, in order to remove detailed descriptions on the use of deobligated funds under the Texas Community Development Block Grant (CDBG) Program. The use and allocation of CDBG funds is more appropriately described in the CDBG annual action plan available on the Department's website and is submitted to the U.S. Department of Housing and Urban Development.

Suzanne Barnard, Director for CDBG Programs, has determined that for the first five years the proposal is in effect, there will be no adverse fiscal implications for state or local governments as a result of the proposal.

Ms. Barnard has also determined that for each year of the first five years the proposal is in effect, the public benefit anticipated as a result of repealing this rule is the flexibility with which the Department may transfer deobligated funds to other CDBG program funding categories in order to make grants to local communities in need. There will be no adverse economic effect on micro-businesses, small businesses or individuals as a result of the proposal. There will be no adverse impact to rural communities.

Ms. Barnard has provided the following information related to the government growth impact statement, as required pursuant to Texas Government Code, §2001.021. As a result of implementing the proposal, for the first five years the proposal is in effect:

- (1) no new or current government or Department programs will be created or eliminated;
- (2) no employee positions will be created, nor will any existing Department staff positions be eliminated; and
- (3) there will not be an increase or decrease in future legislative appropriations to the Department.

Additionally, Ms. Barnard has determined that for the first five years the proposal is in effect:

- (1) there will be no increase or decrease in fees paid to the Department;
- (2) there will be new regulations created by the proposal;
- (4) there will be no increase or decrease to the number of individuals subject to the proposal, as communities in Texas remain subject to CDBG program rules and eligibility requirements; and
- (5) the proposal is not anticipated to have an adverse effect on the Texas economy.

Written comments on the proposal may be submitted to Suzanne Barnard, Director for CDBG Programs, Texas Department of Agriculture, P.O. Box 12847, Austin, Texas 78711, or by email to [RuleComments@TexasAgriculture.gov](mailto:RuleComments@TexasAgriculture.gov). Comments must be received no later than June 3, 2019.

The proposal is made under Texas Government Code §487.051, which designates the Department as the agency to administer the federal community development block grant non-entitlement program, and §487.052, which provides authority for the Department to adopt rules as necessary to implement Chapter 487.

The code affected by the proposal is Texas Government Code, Chapter 487.

*§30.101. Deobligated Funds.*

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 April 30, 2019.

TRD-201901268

Jessica Escobar

Assistant General Counsel

Texas Department of Agriculture

Earliest possible date of adoption: June 16, 2019

For further information, please call: (512) 463-4075



## TITLE 16. ECONOMIC REGULATION

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

#### CHAPTER 130. PODIATRIC MEDICINE PROGRAM

The Texas Department of Licensing and Regulation (Department) proposes amendments to existing rules at 16 Texas

Administrative Code (TAC), Chapter 130, Subchapter C, §§130.30 - 130.32; Subchapter D, §130.40, and §§130.42 - 130.44; Subchapter E, §130.51; Subchapter F, §130.60; and Subchapter G, §130.72, regarding the Podiatric Medicine Program. The Department also propose new rules at 16 TAC, Chapter 130, Subchapter D, §130.49; Subchapter E, §130.58; Subchapter F, §130.61, and Subchapter G, §130.74, regarding the Podiatric Medicine Program. These proposed changes are referred to herein as "proposed rules."

#### EXPLANATION OF AND JUSTIFICATION FOR THE RULES

The proposed rules under 16 TAC, Chapter 130 implement Texas Occupations Code, Chapter 202, Podiatric Medicine.

The proposed rules implement a change from a one-year license to a two-year license term, provide for a reduction in license fees, and for the orderly transition between the license terms. The Sunset Advisory Commission recommended, along with the transfer of the Podiatric Medicine program from the Texas State Board of Podiatric Medical Examiners, that the Department be authorized to provide biennial license renewals. This brings the Doctor of Podiatric Medicine license term more in line with other similar health-related professions.

The proposed rules streamline and clarify certain provisions and bring the rules in line with current statutory requirements. These statutory requirements include implementing a voluntary charity care status as required by Texas Occupations Code, Chapter 112. Chapter 112 requires agencies to provide for reduced fees and continuing education requirements for certain retired health care practitioners whose only practice is voluntary charity care.

The proposed rules implement prescription monitoring guidelines for the responsible prescribing of opioids, benzodiazepines, barbiturates, or carisoprodol as required by House Bill 2561, 85th Legislature, Regular Session (2017), and Texas Health and Safety Code, Chapters 481 (Texas Controlled Substances Act) and 483 (Dangerous Drugs). House Bill 2561, the Texas State Board of Pharmacy Sunset bill, requires license holders who choose to prescribe opioids, benzodiazepines, barbiturates, or carisoprodol to access the Texas State Board of Pharmacy's Prescription Monitoring Program System, AWA Rx E, to review each patient's prescription history before prescribing.

The proposed rules also provide for the adoption of a penalty matrix by rule as required by House Bill 3078, 85th Legislature, Regular Session (2017), and Texas Occupations Code, Section 202.6011. This change implements another Sunset Advisory Commission recommendation from the Texas State Board of Podiatric Medical Examiners review.

The proposed rules were reviewed by the Licensing, Enforcement, and Standard of Care Workgroups of the Podiatric Medical Examiners Advisory Board (Advisory Board).

The proposed rules were presented to and discussed by the Advisory Board at its meeting on April 15, 2019. The Advisory Board voted and recommended that the proposed rules be published in the *Texas Register* for public comment.

#### SECTION-BY-SECTION SUMMARY

The proposed amendments regarding Subchapter C. Temporary Residency, §130.30 streamline provisions for Temporary Residency license requirements and applications by rewording certain provisions for clarity, adding statutory language into the rule, and creating consistency with other sections in the rule.

The proposed amendments to §130.31 allow Temporary Residency license holders to register with the U.S. Drug Enforcement Administration (DEA) to prescribe controlled substances.

The proposed amendments to §130.32 update the term currently used on the final year of residency memorandum of understanding from "Podiatry" to "Doctor of Podiatric Medicine."

The proposed amendments regarding Subchapter D. Doctor of Podiatric Medicine, §130.40 streamline provisions for Doctor of Podiatric Medicine license requirements and applications by rewording certain provisions for clarity, adding statutory language into the rule, and creating consistency with other sections in the rule.

The proposed amendments to §130.42 change the license term for the Doctor of Podiatric Medicine license from a one-year license to a two-year license.

The proposed amendments to §130.43 streamline provisions for the Doctor of Podiatric Medicine Provisional license by rewording certain provisions for clarity, adding statutory language into the rule, and creating consistency with other sections in the rule.

The proposed amendments to §130.44 add opioid topics to the list of courses, classes, seminars, or workshops acceptable for fulfilling continuing medical education requirements, and reword certain provisions for clarity.

The proposed new §130.49 implements voluntary charity care status provisions as required by Texas Occupations Code, Chapter 112.

The proposed amendments regarding Subchapter E. Practitioner Responsibilities and Code of Ethics, §130.51 remove the prohibition on testimonials and provides clarity on terms that are not acceptable in advertisements.

The proposed new §130.58 implements specific guidelines for the responsible prescribing of controlled substances and dangerous drugs as required by Health and Safety Code, Chapters 481 and 483.

The proposed amendments regarding Subchapter F. Fees, §130.60 reduce the fee for the Doctor of Podiatric Medicine Initial and Renewal license to address the two-year license term and establishes that there is no fee for voluntary charity care status.

The proposed new §130.61 provides for the orderly transition of licenses from a one-year to a two-year license term.

The proposed amendments regarding Subchapter G. Enforcement, §130.72 clarify that administrative penalties and sanctions may be instituted in accordance with the Department's enforcement plan.

The proposed new §130.74 outlines the penalty matrix as required by Texas Occupations Code, Section 202.6011.

#### FISCAL IMPACT ON STATE AND LOCAL GOVERNMENT

Tony Couvillon, Policy Research and Budget Analyst, has determined that for each year of the first five years the proposed rules are in effect, there will be an additional estimated cost to the state of \$200 as a result of enforcing or administering these proposed rules. The proposed rules reflect current procedure and clarify that the Department, not the applicant, queries the National Practitioner Data Bank (NPDB) and pays the fee. The Department uses the NPDB query report to determine if an applicant has been disciplined in another jurisdiction. The cost to the De-

partment is \$2.00 per query. On average, there are about 100 initial Temporary Residency licenses, Doctor of Podiatric Medicine licenses, and provisional licenses issued per year.

Mr. Couvillon has determined that for each of the first five years the proposed rules are in effect, there are no estimated reductions in costs to the state as a result of enforcing or administering the proposed rules.

Mr. Couvillon has determined that for the first five years the proposed rules are in effect, there will be an estimated increase in revenue to the state in the first year and loss in revenue in the subsequent years as a result of enforcing or administering the proposed rules. Proposed amendments to §130.42 change the Doctor of Podiatric Medicine (DPM) license term from one year to two years. This change will reduce the number of renewals received and processed by the Department by approximately 500 each fiscal year. Additionally, proposed amendments to §130.60 reduce the initial and renewal DPM application fees. Applicants for initial and renewal licenses will initially pay an increased fee as compared to the previous fee but will receive a two-year license instead of a one-year license. This will result in an increase in state revenue of \$63,500 for the first year the proposed rules are in effect and then a decrease of \$136,000 for each of the four subsequent years. The fee for the one-year initial license was \$534 and the proposed new two-year initial license fee will be \$750. The one-year renewal fee was \$530, and the proposed new two-year renewal fee will be \$700.

To balance the revenue between years, about half of renewing licensees will receive a one-year license in the first year and about half will receive a two-year license. Licensees who received their initial license in an even-numbered year will pay a one-time renewal fee of \$350 and receive a one-year license. Those licensees who received their initial license in an odd-numbered year will pay the regular renewal fee of \$700 and receive a two-year license.

Mr. Couvillon has determined that for each of the first five years the proposed rules are in effect, there are no additional estimated costs or reductions in costs to local governments as a result of enforcing or administering the proposed rules.

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

#### LOCAL EMPLOYMENT IMPACT STATEMENT

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

#### PUBLIC BENEFITS

Mr. Couvillon also has determined that for each year of the first five-year period the proposed rules are in effect, the public benefit will be for more effective and efficient regulation of podiatrists, which enhances the public health, safety, and welfare. Persons applying for an initial Temporary Residency license, Provisional DPM license, or full DPM license are no longer required to pay the fee to perform the self-query of the National Practitioner Data Bank and full DPM licensees will receive a two-year license at an overall lower cost. This saves each applicant and licensee approximately \$160-\$180.

Additionally, the prescribing guidelines for the responsible prescribing of opioids, benzodiazepines, barbiturates, or carisoprodol help address the growing concern with the opioid crisis and over prescribing of certain controlled substances.

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

Mr. Couvillon has determined that for each year of the first five-year period the proposed rules are in effect, there are no anticipated economic costs to persons who are required to comply with the proposed rules. The proposed rules implement prescription monitoring guidelines for the responsible prescribing of opioids, benzodiazepines, barbiturates, or carisoprodol. Licensees who choose to prescribe these medications are now required by law to access the Texas State Board of Pharmacy's Prescription Monitoring Program System, AWARxE, to review each patient's prescription history. The Texas State Board of Pharmacy determines any associated costs of administering the Prescription Monitoring Program through the legislative appropriations process. The proposed rules create no new economic costs to persons 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 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

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 proposed rules will be in effect, the agency has determined the following:

- (1) The proposed rules do not create or eliminate a government program.
- (2) Implementation of the proposed rules does not require the creation of new employee positions or the elimination of existing employee positions.
- (3) Implementation of the proposed rules does not require an increase or decrease in future legislative appropriations to the agency.
- (4) The proposed rules do require an increase or decrease in fees paid to the agency. Proposed rule §130.60 reduces the initial and renewal DPM application fee. Applicants for initial and renewal licenses will initially pay an increased fee but will receive a two-year license. This will result in an increase in state revenue for the first year the proposed rules are in effect but then a decrease for each of the four subsequent years. The fee for the one-year initial license was \$534 and the proposed new two-year initial license fee will be \$750. The one-year renewal

fee was \$530 and the proposed new two-year renewal fee will be \$700. The result of this proposed rule is an overall reduction in fee to licensees by approximately \$160-\$180.

(5) The proposed rules do create a new regulation. The proposed rules provide guidelines for licensed podiatrists who prescribe opioids, benzodiazepines, barbiturates, or carisoprodol to review a patient's Schedule II, III, IV, and V prescription drug history report prior to prescribing such medications. License holders who choose to prescribe these medications must access the Texas State Board of Pharmacy's Prescription Monitoring Program System, AWARe, to review each patient's prescription history. This proposed rule is required by Health and Safety Code, Chapter 481.

(6) The proposed rules do expand, limit, or repeal an existing regulation. The proposed rules implement a voluntary charity care status for DPMs as required by Texas Occupations Code, Chapter 112.

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

(8) The proposed rules do 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 to Vanessa Vasquez, Legal Assistant, Texas Department of Licensing and Regulation, P.O. Box 12157, Austin, Texas 78711, or facsimile (512) 475-3032, or electronically: [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 C. TEMPORARY RESIDENCY

#### 16 TAC §§130.30 - 130.32

#### STATUTORY AUTHORITY

The amendments and new rules are proposed under Texas Occupations Code, Chapters 51 and 202, which authorize the Texas Commission of Licensing and Regulation, 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, 102, 112, and 202 and Texas Health and Safety Code, Chapters 181, 311, 481 and 483.

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

*§130.30. Temporary Residency License--General Requirements and Application.*

(a) A person who is enrolled in an accredited graduate podiatric medical education (GPME) program in Texas must hold a temporary residency license [A temporary residency license will be issued to an applicant who is enrolled in an accredited graduate podiatric medical education (GPME) program].

(b) The GPME program must be accredited by the Council on Podiatric Medical Education of the American Podiatric Medical Association [It shall be the sole responsibility of the applicant to ascertain the accreditation status of the applicant's GPME program].

(c) An applicant granted a temporary residency license for the purpose of pursuing a GPME program in the State of Texas shall not engage in the practice of podiatric medicine, whether for compensation or free of charge, outside the scope and limits of the GPME program in which the applicant is enrolled.

(d) A temporary residency license granted by the department for the purpose of pursuing a GPME program in the State of Texas is valid until the licensee leaves or is terminated from said GPME program.

(e) All temporary residency licensees shall be subject to the same fees and penalties as all other licensees as set forth in the Act and this chapter, except that temporary residency licensees are not subject to continuing medical education requirements.

(f) To be eligible for a temporary residency license an applicant must:

(1) be at least 21 years of age;

(2) successfully complete at least 90 semester hours of undergraduate college courses acceptable at the time of completion for credit toward a bachelor's degree at an institution of higher education determined by the department to have acceptable standards;

(3) successfully graduate from a reputable college of podiatry approved by the Council on Podiatric Medical Education of the American Podiatric Medical Association, and the college must have been so approved during the entire period of the applicant's course of instruction;

(4) successfully pass all required sections of the American Podiatric Medical Licensing Examination;

(5) pay all applicable fees;

(6) [(+) submit a completed application on a department-approved form;

[(2) pay the required fee;]

(7) [(3) submit all transcripts [a transcript(s)] of [all] relevant college coursework, acceptable to the department;

[(4) provide proof of successfully passing required sections of the American Podiatric Medical Licensing Examination;]

(8) [(5) successfully pass a criminal history background check performed by the department;

(9) [(6) provide proof of successful completion of [having successfully completed] a course in cardiopulmonary resuscitation (CPR) [and provide a current certification to that effect];

(10) [(7) complete the "Memorandum of Understanding for Approved Residency [Residence] Program";

(11) [(8) complete the "Certificate of Acceptance for Postgraduate Training Program"; and

(12) [(9) successfully pass a [submit a Self-Query report from the] National Practitioner Data Bank query check performed by the department.

(g) The department approves and adopts by reference the Standards and Requirements for Approval of Residencies in Podiatric Medicine and Surgery and Procedures for Approval of Residencies in

Podiatric Medicine and Surgery adopted by the Council on Podiatric Medical Education of the American Podiatric Medical Association.

(h) The department approves and adopts by reference the Standards and Requirements for Accrediting Colleges of Podiatric Medicine and Procedures for Accrediting Colleges of Podiatric Medicine adopted by the Council on Podiatric Medical Education of the American Podiatric Medical Association.

(i) The applicant shall submit evidence sufficient for the department to determine that the applicant has met all the requirements and any other information reasonably required by the department. Any application, diploma or certification, or other document required to be submitted to the department that is not in the English language must be accompanied by a certified translation into English.

*§130.31. Temporary Residency License--Residency Requirements; Program Responsibilities; License Term.*

(a) All residency programs requesting temporary residency licenses for their enrollees must meet all American Podiatric Medical Association/Council on Podiatric Medical Education (APMA/CPME) requirements for accreditation.

(b) The residency director will be held responsible for the entire program including but not limited to:

(1) ensuring that the temporary residency licensee is practicing within the scope of the residency program requirements;

(2) ensuring that the temporary residency licensee has read and understood the Act and Rules governing the practice of podiatric medicine; and

(3) ensuring that all residency program attendees are properly licensed with the department prior to participation in the program. A temporary residency license to practice podiatric medicine expires on June 30 of each year.

(c) Within thirty (30) days after the start date of the program each year, the residency director must report to the department a list of all residents enrolled in the program.

(d) A temporary residency license is valid for one year and the licensee must renew on a department-approved application and pay the required fee. The annual renewal application notification will be deemed to be written notice of the impending license expiration forwarded to the person at the person's last known address.

(e) A temporary license holder shall not be considered to be a fully licensed podiatrist who independently practices podiatric medicine without supervision. A temporary residency license holder is a person in training and is limited by the GPME program for residency based supervised patient encounters, supervision of which is designed to protect patients and the citizens of Texas.

(f) A person enrolled in a GPME program must hold a temporary residency license at all times and shall not be considered to be qualified for a Doctor of Podiatric Medicine license until all residency program requirements have been completed and fulfilled as certified by the GPME program residency director, and all other requirements for licensure have been attained.

(g) Residents enrolled in an accredited GPME residency program who hold a temporary residency license (i.e. denoted with the letter "T" followed by numerals) may register with the ~~[prescribe controlled substances under the facility's]~~ U.S. Drug Enforcement Administration (DEA) to prescribe controlled substances ~~[registration and remain]~~ subject to the supervision of the program and residency director. Under no circumstances are residents allowed to prescribe controlled substances for purposes outside of the approved residency program.

*§130.32. Temporary Residency License--Final Year of Residency.*

(a) A holder of a temporary residency license who has entered the final year of an accredited GPME program, who is in good standing with the GPME program, and who is on course to complete the course in a timely manner, may be permitted to apply for the Doctor of Podiatric Medicine license in the spring, provided that the resident has entered and signed the "Memorandum of Understanding for Conditional Issuance of Texas Doctor of Podiatric Medicine [Podiatry] License" (MOU).

(b) A holder of a temporary residency license who passes the jurisprudence examination, and who is in compliance with the resident's MOU(s), and who meets all other requirements of the law regarding licensure may be issued a Doctor of Podiatric Medicine license prior to completion of the last year of the residency. The Doctor of Podiatric Medicine license issued under this subsection will be subject to the resident's MOU and to the following conditions and restrictions, in addition to any other provisions in statute and rule applicable to a license to practice podiatry, in general that:

(1) the resident must successfully complete and graduate from the resident's accredited GPME program by the date noted in the resident's MOU with the department, and must submit to the department proof of successful completion and graduation within 30 days after the end date of the residency as noted on the MOU. Failure to timely provide the proof the department requires subjects the Doctor of Podiatric Medicine license to automatic revocation; and

(2) the resident who has received a Doctor of Podiatric Medicine license prior to successful completion and graduation from an accredited GPME program, and for such period of time while still a resident, shall practice podiatry only under the temporary residency license, and subject to the scope and limits of the GPME program, and shall not practice podiatry under the Doctor of Podiatric Medicine license until after successful completion and graduation from the GPME program and after providing to the department proof of such completion and graduation.

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 May 6, 2019.

TRD-201901316

Brad Bowman

General Counsel

Texas Department of Licensing and Regulation

Earliest possible date of adoption: June 16, 2019

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



## SUBCHAPTER D. DOCTOR OF PODIATRIC MEDICINE

**16 TAC §§130.40, 130.42 - 130.44, 130.49**

STATUTORY AUTHORITY

The amendments and new rules are proposed under Texas Occupations Code, Chapters 51 and 202, which authorize the Texas Commission of Licensing and Regulation, 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, 102, 112, and 202 and Texas Health and Safety Code, Chapters 181, 311, 481 and 483. No other statutes, articles, or codes are affected by the proposal.

*§130.40. Doctor of Podiatric Medicine License--General Requirements and Application.*

(a) Any person who wishes to practice podiatric medicine in this state must:

(1) be at least 21 years of age;

(2) successfully complete at least 90 semester hours of undergraduate college courses acceptable at the time of completion for credit toward a bachelor's degree at an institution of higher education determined by the department to have acceptable standards;

(3) successfully graduate from a reputable college of podiatry approved by the Council on Podiatric Medical Education of the American Podiatric Medical Association, and the college must have been so approved during the entire period of the applicant's course of instruction;

(4) ~~[(2)]~~ successfully pass all required sections of the American Podiatric Medical Licensing Examination and the jurisprudence examination;

~~[(3)]~~ complete at least one year of GPME in a program approved by the Council on Podiatric Medical Education of the American Podiatric Medical Association with a hospital, clinic, or institution acceptable to the department;

(5) ~~[(4)]~~ successfully complete at least one year of GPME in a program approved by the Council on Podiatric Medical Education of the American Podiatric Medical Association with a hospital, clinic, or institution acceptable to the department (successful completion means the GPME program which was actually begun/matriculated is completed; the applicant must have successfully completed the entire program; partial program attendance is not acceptable);

(6) ~~[(5)]~~ pay all applicable fees;

(7) ~~[(6)]~~ submit a completed application on a department-approved form;

(8) ~~[(7)]~~ submit all transcripts of relevant college coursework, acceptable to the department; ~~[and]~~

(9) ~~[(8)]~~ successfully pass a criminal history background check performed by the department;

(10) ~~[(9)]~~ provide proof of successful completion of a course in cardiopulmonary resuscitation (CPR); and

(11) ~~[(10)]~~ successfully pass a [submit a Self-Query report from the] National Practitioner Data Bank query check performed by the department.

(b) The department approves and adopts by reference the Standards and Requirements for Approval of Residencies in Podiatric Medicine and Surgery and Procedures for Approval of Residencies in Podiatric Medicine and Surgery adopted by the Council on Podiatric Medical Education of the American Podiatric Medical Association.

(c) The department approves and adopts by reference the Standards and Requirements for Accrediting Colleges of Podiatric Medicine and Procedures for Accrediting Colleges of Podiatric Medicine adopted by the Council on Podiatric Medical Education of the American Podiatric Medical Association.

(d) The department may require additional information from an applicant who has been out of practice for more than two years and require the applicant to complete additional education, examinations, or training before issuing a license to ensure the podiatrist possesses reasonable knowledge, skill and competence for the safe care and treatment of patients.

(e) ~~[(d)]~~ The applicant shall submit evidence sufficient for the department to determine that the applicant has met all the requirements and any other information reasonably required by the department. Any application, diploma or certification, or other document required to be submitted to the department that is not in the English language must be accompanied by a certified translation into English.

*§130.42. Doctor of Podiatric Medicine License--Term; Renewal.*

(a) A Doctor of Podiatric Medicine license is valid for two years [one year].

(b) To renew a Doctor of Podiatric Medicine license the licensee must:

(1) submit a department-approved renewal application;

(2) complete all required continuing medical education hours as required by §130.44; and

(3) pay the required fee.

*§130.43. Doctor of Podiatric Medicine License--Provisional License.*

(a) An applicant for a provisional license must:

(1) be at least 21 years of age;

(2) successfully complete at least 90 semester hours of undergraduate college courses acceptable at the time of completion for credit toward a bachelor's degree at an institution of higher education determined by the department to have acceptable standards;

(3) successfully graduate from a reputable college of podiatry approved by the Council on Podiatric Medical Education of the American Podiatric Medical Association, and the college must have been so approved during the entire period of the applicant's course of instruction;

(4) successfully pass all required sections of the American Podiatric Medical Licensing Examination;

(5) successfully complete at least one year of GPME in a program approved by the Council on Podiatric Medical Education of the American Podiatric Medical Association with a hospital, clinic, or institution acceptable to the department (successful completion means the GPME program which was actually begun/matriculated is completed; the applicant must have successfully completed the entire program; partial program attendance is not acceptable);

(6) ~~[(4)]~~ be licensed in good standing as a podiatric physician in another state, the District of Columbia, or a territory of the United States that has licensing requirements that are substantially equivalent to the requirements of the Act, subsequent amendments, and rules;

(7) ~~[(2)]~~ furnish proof of such licensure to the department;

~~[(3)]~~ have passed and submitted a score report for a national or other examination recognized by the department relating to the practice of podiatric medicine;

~~[(4)]~~ not have been subject to denial for a license by virtue of having violated any provision under Texas Occupations Code Chapter 53 or the Act;



(8) [(5)] not have been revoked or suspended in any jurisdiction; ~~and]~~

(9) [(6)] successfully pass the jurisprudence exam;

~~[(7) submit an application on a department-approved form; and]~~

(10) [(8)] pay all applicable fees; [-]

(11) submit a completed application on a department-approved form;

(12) submit all transcripts of relevant college coursework, acceptable to the department;

(13) successfully pass a criminal history background check performed by the department;

(14) provide proof of successful completion of a course in cardiopulmonary resuscitation (CPR); and

(15) successfully pass a National Practitioner Data Bank query check performed by the department.

(b) An applicant for provisional licensure must be sponsored by a person currently licensed by the department for at least five years and in good standing under the Act with the following conditions applicable.

(c) Prior to beginning practice in Texas, the sponsor licensee must ensure the following:

(1) that the applicant for provisional licensure will be working within the same office as the licensee, under the direct supervision of the sponsor licensee; and

(2) that such sponsor licensee is aware of the Act and rules governing provisional licensure and that the sponsorship will cease upon the invalidity of the provisional license.

(d) Sponsor licensee will be held responsible for the unauthorized practice of podiatric medicine should such provisional license expire.

(e) An applicant for a provisional license may be excused from the requirement of sponsorship of this rule if the department determines that compliance with this subsection constitutes a hardship to the applicant.

(f) A provisional license is valid for 180 days or until successful passage or failure of the jurisprudence exam ~~[required exams]~~ and may be renewed three times. It shall be the responsibility of the applicant and sponsor to return the provisional license to the department upon expiration.

(g) If at any time during the provisional licensure period it is determined that the holder of such provisional license has violated the Act or department rules, such provisional license will be subject to disciplinary action including revocation.

(h) At the discretion of the executive director, the GPME requirement may be waived if the applicant has been in active podiatric practice for at least five continuous years in another state under license of that state, and upon application to the department demonstrates an acceptable record from that state and from all other states under which the applicant has ever been licensed. (The GPME requirement became effective in Texas on July 1, 1995).

(i) At the discretion of the executive director, the executive director may excuse an applicant for a license from the National Board Part III (formerly known as PM Lexis) requirement if the executive director determines that an applicant with substantially equivalent ex-

perience was not required to pass a part of an examination related to the testing of clinical skills when the applicant was licensed in this or another state with an acceptable record, provided that the applicant has been in active licensed practice for at least five continuous years and has successfully completed any other course of training reasonably required by the executive director relating to the safe care and treatment of patients. (The National Board Part III/PM Lexis came to be in existence in June 1987. Texas began the National Board Part III/PM Lexis requirement for licensure on January 29, 1992.)

(j) A showing of an acceptable record under this section is defined to include, but is not limited to:

(1) a showing that the applicant has not had entered against him a judgment, civil or criminal, in state or federal court or other judicial forum, on a podiatric medical-related cause of action; no conviction of or deferred adjudication for a felony; no disciplinary action recorded from any medical institution or agency or organization, including, but not limited to, any licensing board, hospital, surgery center, clinic, professional organization, governmental health organization, or extended-care facility; and no dishonorable discharge from military service.

(2) If any judgment or disciplinary determination under this subsection, has been on appeal, reversed, reversed and rendered, or remanded and later dismissed, or in any other way concluded in favor of the applicant, it shall be the applicant's responsibility to bring such result to the notice of the department by way of certified letter along with any such explanation of the circumstances as the applicant deems pertinent to the determination of admittance to licensure in the State of Texas.

(3) The applicant shall obtain and submit to the department a letter directly from all state boards under which he or she has ever been previously licensed stating that the applicant is a licensee in good standing with each said board or that said prior license or licenses were terminated or expired with the licensee in good standing.

(k) The department approves and adopts by reference the Standards and Requirements for Approval of Residencies in Podiatric Medicine and Surgery and Procedures for Approval of Residencies in Podiatric Medicine and Surgery adopted by the Council on Podiatric Medical Education of the American Podiatric Medical Association.

(l) The department approves and adopts by reference the Standards and Requirements for Accrediting Colleges of Podiatric Medicine and Procedures for Accrediting Colleges of Podiatric Medicine adopted by the Council on Podiatric Medical Education of the American Podiatric Medical Association.

(m) The department may require additional information from an applicant who has been out of practice for more than two years and require the applicant to complete additional education, examinations, or training before issuing a license to ensure the podiatrist possesses reasonable knowledge, skill and competence for the safe care and treatment of patients.

(n) The applicant shall submit evidence sufficient for the department to determine that the applicant has met all the requirements and any other information reasonably required by the department. Any application, diploma or certification, or other document required to be submitted to the department that is not in the English language must be accompanied by a certified translation into English.

*§130.44. Continuing Medical Education--General Requirements.*

(a) Each person licensed to practice podiatric medicine in the State of Texas is required to have 50 hours of continuing medical education (CME) every two years for the renewal of the license to practice podiatric medicine. One hour of training is equal to one hour of CME.

(b) Two hours of the required 50 hours of department approved CME shall be a course, class, seminar, or workshop in: Ethics in the Delivery of Health Care Services and/or Rules and Regulations pertaining to Podiatric Medicine in Texas. Topics on Healthcare Fraud, Professional Boundaries, Practice Risk Management or Podiatric Medicine related Ethics or Jurisprudence courses, Abuse and Misuse of Controlled Substances, Opioid Prescription Practices, and/or Pharmacology, including those sponsored by an entity approved by CPME, APMA, APMA affiliated organizations, AMA, AMA affiliated organizations, or governmental entities, or the entities described in subsections (c) and (d) are acceptable.

(c) A licensee shall receive credit for each hour of [for] podiatric medical meetings and training sponsored by APMA, APMA affiliated organizations, TPMA, state, county or regional podiatric medical association podiatric medical meetings, university sponsored podiatric medical meetings, hospital podiatric medical meetings or hospital podiatric medical grand rounds, medical meetings sponsored by the Foot & Ankle Society or the orthopedic community relating to foot care, and others at the discretion of the Board. A practitioner may receive credit for giving a lecture, equal to the credit that a podiatrist attending the lecture obtains.

(d) A licensee shall receive credit for each hour of training for non-podiatric medical sponsored meetings that are relative to podiatric medicine and department approved. The department may assign credit for hospital grand rounds, hospital CME programs, corporate sponsored meetings, and meetings sponsored by the American Medical Association, the orthopedic community, the American Diabetes Association, the Nursing Association, the Physical Therapy Association, and others if approved.

(e) It shall be the responsibility of the licensee to ensure that all CME hours being claimed meet the standards for CME as set by the commission. Practice management, home study and self-study programs will be accepted for CME credit hours only if the provider is approved by the Council on Podiatric Medical Education. The licensee may obtain up to, but not exceed twenty (20) hours of the aforementioned hours per biennium.

(f) Cardiopulmonary Resuscitation (CPR) certification is eligible for up to three (3) hours of CME credit and Advanced Cardiac Life Support (ACLS) certification for up to six (6) hours of CME credit. Practitioners may only receive credit for one, not both. No on-line CPR certification will be accepted for CME credit.

(g) If a practitioner has an article published in a peer review journal, the practitioner may receive one (1) hour of CME credit for the article, with credit for the article being provided only once, regardless of the number of times or the number of journals in which the article is published.

(h) These hours of continuing education must be obtained in the 24-month period immediately preceding the year for which the license was issued. The two-year period will begin on November 1 and end on October 31 two years later. The year in which the 50-hour credit requirement must be completed after the original license is issued is every odd-numbered year if the original license was issued in an odd-numbered year and is every even-numbered year if the original license was issued in an even-numbered year. A licensee who completes more than the required 50 hours during the preceding CME period may carry forward a maximum of ten (10) hours for the next CME period.

(i) The department shall employ an audit system for continuing education reporting. The license holder shall be responsible for maintaining a record of his or her continuing education experiences. The certificates[, diplomas,] or other documentation verifying earning

of continuing education hours are not to be forwarded to the department at the time of renewal unless the license holder has been selected for audit.

(j) The audit process shall be as follows:

(1) The department shall select for audit a random sample of license holders to ensure compliance with CME hours.

(2) If selected for an audit, the license holder shall submit copies of certificates, transcripts or other documentation satisfactory to the department, verifying the license holder's attendance, participation and completion of the continuing education.

(3) Failure to timely furnish this information within thirty (30) calendar days or providing false information during the audit process or the renewal process are grounds for disciplinary action against the license holder.

(4) If selected for continuing education audit during the renewal period, the license holder may renew and pay renewal fees.

(k) Licensees that are deficient in CME hours must complete all deficient CME hours and current biennium CME requirement in order to maintain licensure.

(l) Continuing education obtained as a part of a disciplinary action is not acceptable credit towards the total of fifty (50) hours required every two years.

§130.49. Voluntary Charity Care Status.

(a) As used in this section:

(1) "Voluntary charity care" means medical care provided for no compensation to:

(A) indigent populations;

(B) in medically underserved areas; or

(C) for a disaster relief organization.

(2) "Compensation" means direct or indirect payment of anything of monetary value, except payment or reimbursement of reasonable, necessary, and actual travel and related expenses.

(b) To be eligible for voluntary charity care status, a practitioner must:

(1) apply on a department approved form; and

(2) pay any required fee.

(c) The practice by a podiatrist on voluntary charity care status:

(1) does not include the provision of podiatric services for compensation which has monetary value of any kind;

(2) is limited to voluntary charity care for which the practitioner receives no compensation of any kind for podiatric services rendered;

(3) does not include the provision of podiatric services to members of the practitioner's family; and

(4) does not include the self-prescribing of controlled substances or dangerous drugs.

(d) A podiatrist on voluntary charity care status must:

(1) renew the voluntary charity status every two years in a manner prescribed by the department; and

(2) complete twenty-five (25) hours of CME during each renewal cycle.

(e) A podiatrist on voluntary charity care status is subject to disciplinary action for:

(1) a violation of the Act or rule adopted under this chapter;

(2) obtaining, or attempting to obtain, voluntary charity care status by submitting false or misleading information to the department; or

(3) unprofessional or dishonorable conduct likely to deceive, defraud, or injure the public if the practitioner engages in the compensated practice of podiatric medicine, the provision of podiatric services to members of the practitioner's family, or the self-prescribing of controlled substances or dangerous drugs.

(f) A podiatrist on voluntary charity care status must apply with the department before returning to active status by:

(1) submitting a department approved application;

(2) providing a description of the work performed while on voluntary charity care status;

(3) paying the required doctor of podiatric medicine renewal fee; and

(4) completing an additional 25 hours of CME to meet the doctor of podiatric medicine renewal requirements;

(g) The department may require additional information, education, examinations, or training from a podiatrist who has been on voluntary charity care status for more than two years before returning to active status.

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

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## SUBCHAPTER E. PRACTITIONER RESPONSIBILITIES AND CODE OF ETHICS

### 16 TAC §130.51, §130.58

#### STATUTORY AUTHORITY

The amendments and new rules are proposed under Texas Occupations Code, Chapters 51 and 202, which authorize the Texas Commission of Licensing and Regulation, 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, 102, 112, and 202 and Texas Health and Safety Code, Chapters 181, 311, 481 and 483. No other statutes, articles, or codes are affected by the proposal.

#### *§130.51. Advertising.*

(a) A practitioner may advertise. A practitioner shall not use or participate in the use of any publication, including advertisements,

news stories, press releases, and periodical articles, that contains a false, misleading, or deceptive statement.

(b) A practitioner may not include any of the following types of statements in any advertisements or press releases:

(1) a misrepresentation of fact, or claims as fact something that has not been generally accepted among the podiatric community or by the department as having been proven or established as fact;

(2) a statement that is likely to mislead or deceive or entice or persuade a reasonable person because it fails to make full disclosure of relevant facts whether regarding fees, modes of treatment, conditions or techniques of surgery, post-operative conditions such as degree of pain, length of time of recovery, mobility and strength during recovery, and the like;

(3) a statement that is intended or likely to create in an ordinary reasonable person false or unjustified expectations of favorable results;

(4) a laudatory statement, or other statement or implication that the practitioner's services are of exceptional quality;

(5) a statistical data or information that reflects or is intended to reflect quality or degree of success of past performance, or prediction of future success;

(6) a representation that podiatric services can or will be completely performed for a stated fee amount when this is not the case, or makes representations with respect to fees that do not disclose all variables affecting the fees, or makes representations that might reasonably cause an ordinary prudent person to misunderstand or be deceived about the fee amount;

~~{(7) a testimonial;}~~

(7) ~~[(8)]~~ a representation that health care insurance deductibles or co-payments may be waived or are not applicable to health care services to be provided if the deductibles or co-payments are required; or

(8) ~~[(9)]~~ a representation that the benefits of a health benefit plan will be accepted as full payment when deductibles or co-payments are required.

(c) Information contained in a public communication by a practitioner may include, but is not limited to the following:

(1) name, address, telephone numbers, office hours, and telephone-answering hours;

(2) biographical and educational background;

(3) professional memberships and attainments and certifications, subject, however, to the provisions of subsection (e);

(4) description of services offered, subject, however to the provisions of subsection (f);

(5) foreign language ability;

(6) acceptable credit arrangements, subject, however, to the provisions of subsection (b)(2) and (b)(6);

(7) the limitation of practice to certain areas of podiatric medicine;

(8) the opening or change in location of any office and change in personnel;

(9) fees charged for the initial consultation, provided that if the time for the consultation is to be limited, any such limitation on the time shall be stated;

(10) fixed fees for specific podiatric treatments and services, subject, however, to the provisions of subsection (b)(2) and (b)(6); and

(11) a statement that a schedule of fees or an estimate of fees to be charged for specific treatments or services will be available on request.

(d) All practitioners shall retain recordings, transcripts, or copies of all public communications by date of publication for a period of at least two years after such communication was made.

(e) A practitioner may advertise or publish the name of any board of certification under which the practitioner has fully and validly become certified provided that the full name of the certifying board is included in the publication: except as provided by this subsection, practitioners may not list in any type of advertisement or public communication any certifying board that is not approved or recognized by the Council on Podiatric Medical Education of the American Podiatric Medical Association.

(f) Each certifying board that is not recognized by the Council on Podiatric Medical Education of the American Podiatric Medical Association must meet each of the following requirements:

(1) the certifying board requires all practitioners who are seeking certification to successfully pass a written or an oral examination or both, which tests the applicant's knowledge and skills in the specialty or subspecialty area of podiatric medicine. All or part of the examination may be delegated to a testing organization. All examinations require a psychometric evaluation for validation;

(2) the certifying board has written proof of a determination by the Internal Revenue Service that the certifying board is tax exempt under the Internal Revenue Code pursuant to §501(c);

(3) the certifying board has a permanent headquarters and staff;

(4) the certifying board has at least 100 duly licensed certificants from at least one-third of the states; and

(5) the certifying board requires all practitioners who are seeking certification to have satisfactorily completed identifiable and substantial training in the specialty or subspecialty area of podiatric medicine in which the practitioner is seeking certification, and the certifying organization utilizes appropriate peer review. This identifiable training shall be deemed acceptable unless determined by the department, with the advice of the advisory board, to be inadequate in scope, content, and duration in that specialty or subspecialty area of podiatric medicine in order to protect the public health and safety.

(g) The terms "board eligible", "board qualified", or any similar words or phrase calculated to convey the same meaning may not be used in advertising.

(h) [(g)] If a publication by or for a practitioner includes mention of a particular surgical technique or device, the publication must also include a specific and true statement that reveals to an ordinary reasonable person the limits and scope and specific purpose of the technique so as not to mislead an ordinary reasonable person regarding the difficulty, pain or discomfort, length of time for surgery or recuperation, or possibility of complications.

§130.58. Standards for Prescribing Controlled Substances and Dangerous Drugs.

(a) Podiatrists shall comply with all federal and state laws and regulations relating to the ordering and prescribing of controlled substances in Texas, including but not limited to requirements set forth by the United States Drug Enforcement Administration, United States

Food & Drug Administration, Texas Health & Human Services Commission, Texas Department of Public Safety, Texas State Board of Pharmacy, and the department.

(b) A podiatrist may not prescribe a controlled substance except for a valid podiatric medical purpose and in the course of podiatric practice.

(c) A podiatrist may not confer upon and may not delegate prescriptive authority (the act of prescribing or ordering a drug or device) to any other person.

(d) Responsible prescribing of controlled substances requires that a podiatrist consider certain elements prior to issuing a prescription, including, but not limited to:

(1) reviewing the patient's Schedule II, III, IV, and V prescription drug history report by accessing the Texas State Board of Pharmacy's - Texas Prescription Monitoring Program (PMP) database;

(2) the patient's date of birth matches with proper identification;

(3) an initial comprehensive history and physical examination is performed;

(4) the Schedule II prescription copy is in the chart or record found for each prescription written; and

(5) alternative therapy (e.g. ultrasound, TENS) discussed and prescribed for the patient.

(e) Prior to prescribing opioids, benzodiazepines, barbiturates, or carisoprodol, a podiatrist shall review the patient's Schedule II, III, IV, and V prescription drug history report by accessing the Texas State Board of Pharmacy's - Texas Prescription Monitoring Program (PMP) database. Failure to do so is grounds for disciplinary action by the department.

(f) Prior to prescribing any controlled substance, a podiatrist may review the patient's Schedule II, III, IV, and V prescription drug history report by accessing the Texas State Board of Pharmacy's - Texas Prescription Monitoring Program (PMP) database.

(g) An employee of the podiatrist acting at the direction of the podiatrist may perform the function described in subsection (e) and (f) of this section so long as that employee acts in compliance with HIPAA and only accesses information related to a particular patient of the podiatrist.

(h) A podiatrist or an employee of a podiatrist acting at the direction of the podiatrist may access the Texas State Board of Pharmacy's - Texas Prescription Monitoring Program (PMP) database to inquire about the podiatrist's own Schedule II, III, IV, and V prescription drug activity.

(i) If a podiatrist uses an electronic medical records management system (health information exchange) that integrates a patient's Schedule II, III, IV, and V prescription drug history data from the Texas State Board of Pharmacy's - Texas Prescription Monitoring Program (PMP) database, a review of the electronic medical records management system (health information exchange) with the integrated data shall be deemed compliant with the review of the Texas State Board of Pharmacy's - Texas Prescription Monitoring Program (PMP) database as required under §481.0764(a) of the Texas Health and Safety Code and these rules.

(j) The duty to access a patient's Schedule II, III, IV, and V prescription drug history report through the Texas State Board of Pharmacy's - Texas Prescription Monitoring Program (PMP) database as described in subsection (e) of this section does not apply in the follow-

ing circumstances: (1) it is clearly noted in the patient's medical record that the patient has a diagnosis of cancer or is in hospice care; or (2) the podiatrist or an employee of the podiatrist makes a good faith attempt to access the Texas State Board of Pharmacy's - Texas Prescription Monitoring Program (PMP) database but is unable to access the information because of circumstances outside the control of the podiatrist or an employee of the podiatrist and the good faith attempt and circumstances are clearly documented in the patient's medical record for prescribing a controlled substance.

(k) Information obtained from the Texas State Board of Pharmacy's - Texas Prescription Monitoring Program (PMP) database may be included in any form in the searched patient's medical record and is subject to any applicable state or federal confidentiality, privacy or security laws.

(l) In accordance with Texas Health and Safety Code Chapter 483, Subchapter E., a podiatrist may prescribe an opioid antagonist to a person at risk of experiencing an opioid-related drug overdose or to a family member, friend, or other person in a position to assist the person who is at risk of experiencing an opioid-related drug overdose. A podiatrist who prescribes an opioid antagonist shall document the basis for the prescription in the medical record of the person who is at risk of experiencing an opioid-related drug overdose.

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## SUBCHAPTER F. FEES

### 16 TAC §130.60, §130.61

#### STATUTORY AUTHORITY

The amendments and new rules are proposed under Texas Occupations Code, Chapters 51 and 202, which authorize the Texas Commission of Licensing and Regulation, 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, 102, 112, and 202 and Texas Health and Safety Code, Chapters 181, 311, 481 and 483. No other statutes, articles, or codes are affected by the proposal.

#### §130.60. Fees.

(a) Fees paid to the department are non-refundable.

(b) Fees are as follows:

- (1) Temporary Residency License (Initial and Renewal) --\$125
- (2) Extended Temporary License extension--\$50
- (3) Provisional License--\$125

(4) Doctor of Podiatric Medicine Initial License--\$750 [Licensing Fee--\$534]

(5) Doctor of Podiatric Medicine [Annual] Renewal License--\$700[--530]

(6) Voluntary Charity Care Status License (Initial and Renewal)--\$0

(7) [(6)] Hyperbaric Oxygen Certificate--\$25

(8) [(7)] Nitrous Oxide Registration--\$25

(9) [(8)] Podiatric Medical Radiological Technicians--\$0

(10) [(9)] Duplicate License/replacement license--\$25

(11) [(10)] The fee for a criminal history evaluation letter is the fee prescribed under §60.42 of this title (relating to Criminal History Evaluation Letters).

(12) [(11)] A dishonored/returned check or payment fee is the fee prescribed under §60.82 of this title (relating to Dishonored Payment Device).

(13) [(12)] Late renewal fees for licenses issued under this chapter are provided under §60.83 of this title (relating to Late Renewal Fees).

#### §130.61. Transition Rule For Two-year License Terms.

(a) The 85th Texas Legislature enacted changes to Chapter 202, Occupations Code, providing the commission with authority to establish a one or two-year license term for Doctors of Podiatric Medicine licensees. See H.B.3078, 85th Legislature, Regular Session (2017).

(b) The purpose of this transition rule is to provide guidance on how the fees will be assessed when transitioning from a one to two-year license term. This rule applies only to licenses expiring on or after September 1, 2019.

(c) Beginning September 1, 2019, the department shall stagger the renewal of licenses and issue a one-year license for renewal fee of \$350 to a practitioner whose initial license was issued in an even-numbered year.

(d) This rule expires on August 31, 2020.

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

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## SUBCHAPTER G. ENFORCEMENT

### 16 TAC §130.72, §130.74

#### STATUTORY AUTHORITY

The amendments and new rules are proposed under Texas Occupations Code, Chapters 51 and 202, which authorize the Texas Commission of Licensing and Regulation, 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, 102, 112, and 202 and Texas Health and Safety Code, Chapters 181, 311, 481 and 483. No other statutes, articles, or codes are affected by the proposal.

§130.72. Administrative Penalties and Sanctions.

If a person or entity violates any provision of Texas Occupations Code, Chapters 51 or 202, this chapter, or any rule or order of the executive director or commission, proceedings may be instituted to impose administrative penalties, administrative sanctions, or both in accordance with the provisions of Texas Occupations Code, Chapters 51 and 202, ~~and~~ any associated rules, and consistent with the department's enforcement plan.

§130.74. Penalty Matrix.

(a) In this section the following statutes and rules are referenced:

- (1) Texas Health and Safety Code, Chapter 181;
- (2) Texas Health and Safety Code, Chapter 311;
- (3) Texas Health and Safety Code, Chapter 481;
- (4) Texas Health and Safety Code, Chapter 483;
- (5) Texas Occupations Code, Chapter 51;
- (6) Texas Occupations Code, Chapter 102;
- (7) Texas Occupations Code, Chapter 202;
- (8) 16 Texas Administrative Code, Chapter 60;
- (9) 25 Texas Administrative Code, Chapter 130; and
- (10) 16 Texas Administrative Code, Chapter 601.

(b) In this section:

- (1) "TAC" means Texas Administrative Code. and
- (2) "TxHSC" means Texas Health and Safety Code.

(c) Class A Violations:

Figure: 16 TAC §130.74(c)

(d) Class B Violations:

Figure: 16 TAC §130.74(d)

(e) Class C Violations:

Figure: 16 TAC §130.74(e)

(f) Class D Violations:

Figure: 16 TAC §130.74(f)

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## TITLE 19. EDUCATION

### PART 2. TEXAS EDUCATION AGENCY

#### CHAPTER 109. BUDGETING, ACCOUNTING, AND AUDITING

##### SUBCHAPTER DD. COMMISSIONER'S RULES CONCERNING FISCAL PEER GROUPS

###### 19 TAC §109.4001

The Texas Education Agency (TEA) proposes new §109.4001, concerning fiscal peer groups. The proposed new section would establish the criteria to be used to place school districts and open-enrollment charter schools into fiscal peer groups for purposes of an online financial information tool.

BACKGROUND INFORMATION AND JUSTIFICATION: Texas Education Code, §39.001, authorizes the commissioner of education to adopt rules as necessary to administer TEC, Chapter 39, Public School System Accountability, and TEC, §39.085, authorizes the commissioner to adopt rules to administer TEC, Chapter 39, Subchapter D, Financial Accountability. TEC, §39.082(a)(2)(A), directs the commissioner to provide additional transparency to public education finance, and TEC, §39.082(h), authorizes the commissioner to adopt rules to administer the section.

Proposed new 19 TAC §109.4001 would promote transparency by allowing users of the txschools.gov website, which is designed to provide an in-depth look into how campuses and districts are performing overall and in different areas, to compare the financial data of similar school districts and open-enrollment charter schools based upon specific criteria. The criteria include whether the school district is eligible to receive the sparsity adjustment and student enrollment levels as established in proposed new subsection (a)(2). Open-enrollment charter schools will be placed in fiscal peer groups that do not receive the sparsity adjustment. A list of fiscal peer groups categorized using the criteria in the proposed new rule is posted on the TEA website at [https://tea.texas.gov/Finance\\_and\\_Grants/State\\_Funding/Financial\\_Information\\_Tool\\_\(FIT\)](https://tea.texas.gov/Finance_and_Grants/State_Funding/Financial_Information_Tool_(FIT)).

The establishment of fiscal peer groups is for informational purposes only and has no effect upon a school district's or an open-enrollment charter school's financial accountability rating. Groupings will be reevaluated on an ongoing basis.

FISCAL IMPACT: Leo Lopez, associate commissioner for school finance, has determined that for the first five-year period the proposal is in effect there are no additional costs to state or local government, including school districts and open-enrollment charter schools, required to comply with the proposal.

LOCAL EMPLOYMENT IMPACT: The proposal has no effect on local economy; therefore, no local employment impact statement is required under Texas Government Code, §2001.022.

SMALL BUSINESS, MICROBUSINESS, AND RURAL COMMUNITY IMPACT: The proposal has no direct adverse economic impact for small businesses, microbusinesses, or rural communities; therefore, no regulatory flexibility analysis, specified in Texas Government Code, §2006.002, is required.

COST INCREASE TO REGULATED PERSONS: The proposal does not impose a cost on regulated persons, another state

agency, a special district, or a local government and, therefore, is not subject to Texas Government Code, §2001.0045.

**TAKINGS IMPACT ASSESSMENT:** The proposal does not impose a burden on private real property and, therefore, does not constitute a taking under Texas Government Code, §2007.043.

**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 AND COST TO PERSONS:** Mr. Lopez has determined that for each year of the first five years the proposal is in effect, the public benefit anticipated as a result of enforcing the proposal would be promoting transparency by ensuring that rule language provides for comparison of fiscal peer groups as determined by the commissioner. There is no anticipated economic cost to persons who are required to comply with the proposal.

**DATA AND REPORTING IMPACT:** The proposal would have no data and reporting impact.

**PRINCIPAL AND CLASSROOM TEACHER PAPERWORK REQUIREMENTS:** The TEA has determined that the proposal would not require a written report or other paperwork to be completed by a principal or classroom teacher.

**PUBLIC COMMENTS:** The public comment period on the proposal begins May 17, 2019, and ends June 17, 2019. A public hearing to solicit testimony and input on the proposal will be held at 9:00 a.m. on May 29, 2019, in Room 1-104, William B. Travis Building, 1701 North Congress Avenue, Austin, Texas, 78701. Anyone wishing to testify at the hearing must sign in between 8:00 a.m. and 9:00 a.m. on the day of the hearing. The hearing will conclude once all who have signed in have been given the opportunity to comment. A form for submitting public comments is available on the TEA website at [https://tea.texas.gov/About\\_TEA/Laws\\_and\\_Rules/Commissioner\\_Rules\\_\(TAC\)/Proposed\\_Commissioner\\_of\\_Education\\_Rules/](https://tea.texas.gov/About_TEA/Laws_and_Rules/Commissioner_Rules_(TAC)/Proposed_Commissioner_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.

**STATUTORY AUTHORITY.** The new section is proposed under Texas Education Code (TEC), §39.001, which authorizes the commissioner to adopt rules as necessary to administer TEC, Chapter 39; TEC, §39.082(a)(2)(A), which directs the commissioner of education to provide additional transparency to public education finance; TEC, §39.082(h), which authorizes the commissioner to adopt rules to administer TEC, §39.082; and TEC, §39.085, which authorizes the commissioner to adopt rules to administer TEC, Chapter 39, Subchapter D.

**CROSS REFERENCE TO STATUTE.** The new section implements Texas Education Code, §§39.001; 39.082(a)(2)(A) and (h); and 39.085.

*§109.4001. Establishment of Fiscal Peer Groups.*

(a) The criteria selected by the Texas Education Agency for use in an online financial information tool to place school districts and open-enrollment charter schools in fiscal peer groups include:

(1) whether the school district is eligible to receive the sparsity adjustment; and

(2) student enrollment levels, which are determined by districtwide enrollment of:

(A) 1 through 499 students;

(B) 500 through 999 students;

(C) 1,000 through 1,599 students;

(D) 1,600 through 4,999 students;

(E) 5,000 through 24,999 students; or

(F) 25,000 or more students.

(b) Open-enrollment charter schools will be placed in fiscal peer groups that do not receive the sparsity adjustment.

(c) The establishment of fiscal peer groups is for informational purposes only and has no effect upon a school district's or an open-enrollment charter school's financial accountability rating.

(d) Fiscal peer groups will be reevaluated on an ongoing basis.

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 May 6, 2019.

TRD-201901315

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Earliest possible date of adoption: June 16, 2019

For further information, please call: (512) 475-1497



## CHAPTER 151. COMMISSIONER'S RULES CONCERNING PASSING STANDARDS FOR EDUCATOR CERTIFICATION EXAMINATIONS

### 19 TAC §151.1001

The Texas Education Agency (TEA) proposes an amendment to §151.1001, concerning passing standards for educator certification examinations. The proposed amendment would specify the satisfactory scores for the new Principal as Instructional Leader examination and the new Performance Assessment for School Leaders as well as update the passing standards for several other examinations.

**BACKGROUND INFORMATION AND JUSTIFICATION:** Texas Education Code (TEC), §21.048(a), requires the commissioner of education to establish the satisfactory levels of performance required on educator certification examinations and require a satisfactory level of performance on each core subject covered by an examination.

The proposed amendment would adopt passing standards for the new Principal as Instructional Leader certification examination and the new Performance Assessment for School Leaders. Most of the passing standards previously set by the commissioner would be maintained, but others would change as follows.

Beginning July 29, 2019, passing standards would be updated for the following Texas Examinations of Educator Standards (TExES) to reflect the average raw cut score based on all active forms of a test as changed by new test forms being introduced and/or some test forms being discontinued or revised:

- 801 Core Subjects EC-6 English Language Arts and Reading and the Science of Teaching Reading
- 802 Core Subjects EC-6 Mathematics
- 803 Core Subjects EC-6 Social Studies
- 804 Core Subjects EC-6 Science
- 113 English Language Arts and Reading/Social Studies 4-8
- 114 Mathematics/Science 4-8
- 115 Mathematics 4-8
- 806 Core Subjects 4-8: English Language Arts and Reading
- 808 Core Subjects 4-8: Social Studies
- 235 Mathematics 7-12
- 238 Life Science 7-12
- 231 English Language Arts and Reading 7-12
- 256 Journalism 7-12
- 177 Music EC-12
- 158 Physical Education EC-12
- 242 Technology Applications EC-12
- 272 Agriculture, Food, and Natural Resources 6-12
- 273 Health Science 6-12
- 276 Business and Finance 6-12
- 184 American Sign Language EC-12
- 610 LOTE: French EC-12
- 611 LOTE: German EC-12
- 613 LOTE: Spanish EC-12
- 161 Special Education EC-12
- 182 Visually Impaired
- 283 Braille
- 154 English as a Second Language Supplemental
- 163 Special Education Supplemental
- 160 Pedagogy and Professional Responsibilities EC-12
- 270 Pedagogy and Professional Responsibilities for Trade and Industrial Education 6-12
- 153 Educational Diagnostician
- 068 Principal

The average passing standard is expressed as an average raw cut score of all active forms of a test or the minimum proficiency level. It is critical to note that the actual raw cut scores may vary slightly from form to form to account for differences in test item difficulty across forms and to ensure equitability.

FISCAL IMPACT: Ryan Franklin, associate commissioner for educator leadership and quality, has determined that for the first five-year period the proposal is in effect there are no additional

costs to state or local government required to comply with the proposal.

LOCAL EMPLOYMENT IMPACT: The proposal has no effect on local economy; therefore, no local employment impact statement is required under Texas Government Code, §2001.022.

SMALL BUSINESS, MICROBUSINESS, AND RURAL COMMUNITY IMPACT: The proposal has no direct adverse economic impact for small businesses, microbusinesses, or rural communities; therefore, no regulatory flexibility analysis, specified in Texas Government Code, §2006.002, is required.

COST INCREASE TO REGULATED PERSONS: The proposal does not impose a cost on regulated persons, another state agency, a special district, or a local government and, therefore, is not subject to Texas Government Code, §2001.0045.

TAKINGS IMPACT ASSESSMENT: The proposal does not impose a burden on private real property and, therefore, does not constitute a taking under Texas Government Code, §2007.043.

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 AND COST TO PERSONS: Mr. Franklin has determined that for each year of the first five years the proposal is in effect, the public benefit anticipated as a result of enforcing the proposal would be providing clarity to educators and others regarding the required passing standards for Texas certification examinations. There is no anticipated economic cost to persons who are required to comply with the proposal.

DATA AND REPORTING IMPACT: The proposal would have no data and reporting impact.

PRINCIPAL AND CLASSROOM TEACHER PAPERWORK REQUIREMENTS: The TEA has determined that the proposal would not require a written report or other paperwork to be completed by a principal or classroom teacher.

PUBLIC COMMENTS: The public comment period on the proposal begins May 17, 2019, and ends June 17, 2019. A request for a public hearing on the proposal 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* on May 17, 2019. A form for submitting public comments is available on the TEA website at [https://tea.texas.gov/About\\_TEA/Laws\\_and\\_Rules/Commissioner\\_Rules\\_\(TAC\)/Proposed\\_Commissioner\\_of\\_Education\\_Rules/](https://tea.texas.gov/About_TEA/Laws_and_Rules/Commissioner_Rules_(TAC)/Proposed_Commissioner_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.

STATUTORY AUTHORITY. The amendment is proposed under Texas Education Code, §21.048(a), which requires the commissioner to determine the level of performance considered to be



satisfactory on educator certification examinations and further authorizes the commissioner to require a satisfactory level of performance on each core subject covered by an examination.

CROSS REFERENCE TO STATUTE. The amendment implements Texas Education Code, §21.048(a).

*§151.1001. Passing Standards.*

(a) As required by the Texas Education Code, §21.048(a), the commissioner of education shall determine the satisfactory level of performance for each educator certification examination and require a satisfactory level of performance on each core subject covered by an examination. The figures in this section identify the passing standards established by the commissioner for educator certification examinations.

(b) The figures in this subsection identify the passing standards established by the commissioner for classroom teacher examinations.

(1) The figure in this paragraph identifies the passing standards for early childhood through Grade 6 examinations.

Figure: 19 TAC §151.1001(b)(1)

[Figure: 19 TAC §151.1001(b)(1)]

(2) The figure in this paragraph identifies the passing standards for Grades 4-8 examinations.

Figure: 19 TAC §151.1001(b)(2)

[Figure: 19 TAC §151.1001(b)(2)]

(3) The figure in this paragraph identifies the passing standards for secondary mathematics and science examinations.

Figure: 19 TAC §151.1001(b)(3)

[Figure: 19 TAC §151.1001(b)(3)]

(4) The figure in this paragraph identifies the passing standards for secondary English language arts and social studies examinations.

Figure: 19 TAC §151.1001(b)(4)

[Figure: 19 TAC §151.1001(b)(4)]

(5) The figure in this paragraph identifies the passing standards for speech and journalism examinations.

Figure: 19 TAC §151.1001(b)(5)

[Figure: 19 TAC §151.1001(b)(5)]

(6) The figure in this paragraph identifies the passing standards for fine arts examinations.

Figure: 19 TAC §151.1001(b)(6)

[Figure: 19 TAC §151.1001(b)(6)]

(7) The figure in this paragraph identifies the passing standards for health and physical education examinations.

Figure: 19 TAC §151.1001(b)(7)

[Figure: 19 TAC §151.1001(b)(7)]

(8) The figure in this paragraph identifies the passing standards for computer science and technology applications examinations.

Figure: 19 TAC §151.1001(b)(8)

[Figure: 19 TAC §151.1001(b)(8)]

(9) The figure in this paragraph identifies the passing standards for career and technical education examinations.

Figure: 19 TAC §151.1001(b)(9)

[Figure: 19 TAC §151.1001(b)(9)]

(10) The figure in this paragraph identifies the passing standards for bilingual examinations.

Figure: 19 TAC §151.1001(b)(10) (No change.)

(11) The figure in this paragraph identifies the passing standards for languages other than English (LOTE) examinations.

Figure: 19 TAC §151.1001(b)(11)

[Figure: 19 TAC §151.1001(b)(11)]

(12) The figure in this paragraph identifies the passing standards for special education examinations.

Figure: 19 TAC §151.1001(b)(12)

[Figure: 19 TAC §151.1001(b)(12)]

(13) The figure in this paragraph identifies the passing standards for supplemental examinations.

Figure: 19 TAC §151.1001(b)(13)

[Figure: 19 TAC §151.1001(b)(13)]

(14) The figure in this paragraph identifies the passing standards for pedagogy and professional responsibilities examinations.

Figure: 19 TAC §151.1001(b)(14)

[Figure: 19 TAC §151.1001(b)(14)]

(c) The figure in this subsection identifies the passing standards established by the commissioner for student services examinations.

Figure: 19 TAC §151.1001(c)

[Figure: 19 TAC §151.1001(c)]

(d) The figure in this subsection identifies the passing standards established by the commissioner for administrator examinations.

Figure: 19 TAC §151.1001(d)

[Figure: 19 TAC §151.1001(d)]

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 May 6, 2019.

TRD-201901318

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Earliest possible date of adoption: June 16, 2019

For further information, please call: (512) 475-1497





# WITHDRAWN RULES

Withdrawn Rules include proposed rules and emergency rules. A state agency may specify that a rule is withdrawn immediately or on a later date after filing the notice with the Texas Register. A proposed rule is withdrawn six months after the date of publication of the proposed rule in the Texas Register if a state agency has failed by that time to adopt, adopt as amended, or withdraw the proposed rule. Adopted rules may not be withdrawn. (Government Code, §2001.027)

## TITLE 22. EXAMINING BOARDS

### PART 34. TEXAS STATE BOARD OF SOCIAL WORKER EXAMINERS

#### CHAPTER 781. SOCIAL WORKER LICENSURE

##### SUBCHAPTER E. LICENSE RENEWAL AND CONTINUING EDUCATION

###### 22 TAC §781.505, §781.509

The Texas State Board of Social Worker Examiners withdraws the proposed repeal of §781.505 and §781.509 which appeared in the February 1, 2019, issue of the *Texas Register* (44 TexReg 465).

Filed with the Office of the Secretary of State on May 6, 2019.

TRD-201901328

Timothy Martel Brown, LCSW

Chair

Texas State Board of Social Worker Examiners

Effective date: May 6, 2019

For further information, please call: (512) 776-6972



###### 22 TAC §781.505, §781.509

The Texas State Board of Social Worker Examiners withdraws the proposed new §781.505 and §781.509 which appeared in the February 1, 2019, issue of the *Texas Register* (44 TexReg 465).

Filed with the Office of the Secretary of State on May 6, 2019.

TRD-201901329

Timothy Martel Brown, LCSW

Chair

Texas State Board of Social Worker Examiners

Effective date: May 6, 2019

For further information, please call: (512) 776-6972



## TITLE 37. PUBLIC SAFETY AND CORRECTIONS

### PART 13. TEXAS COMMISSION ON FIRE PROTECTION

#### CHAPTER 427. TRAINING FACILITY CERTIFICATION

##### SUBCHAPTER C. TRAINING PROGRAMS FOR ON-SITE AND DISTANCE TRAINING PROVIDERS

###### 37 TAC §427.307

The Texas Commission on Fire Protection (the commission) withdraws the proposed amended §427.307 which appeared in the February 15, 2019, issue of the *Texas Register* (44 TexReg 689).

Filed with the Office of the Secretary of State on April 30, 2019.

TRD-201901269

Tim Rutland

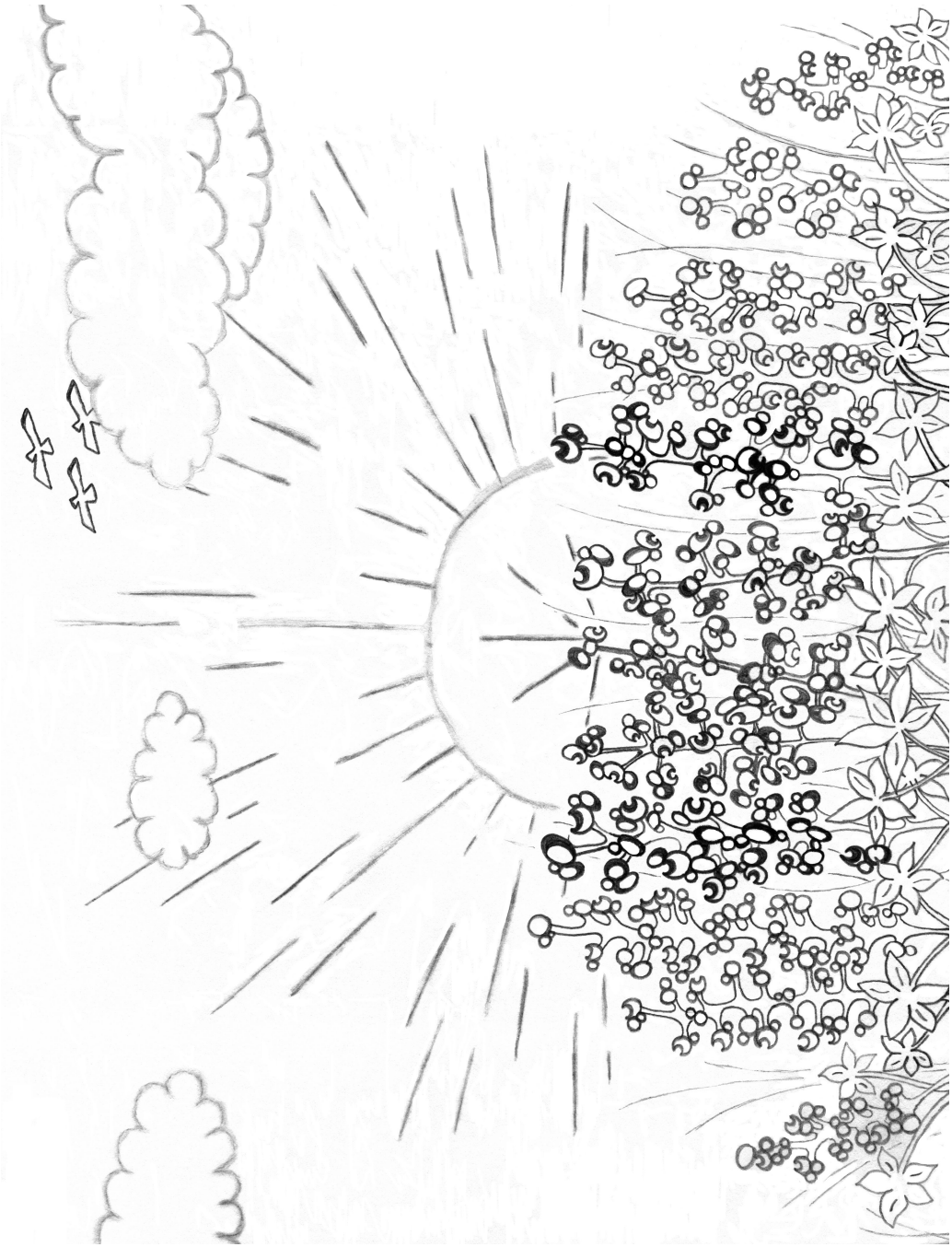
Executive Director

Texas Commission on Fire Protection

Effective date: April 30, 2019

For further information, please call: (512) 936-3812





# 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 19. EDUCATION

### PART 1. TEXAS HIGHER EDUCATION COORDINATING BOARD

#### CHAPTER 1. AGENCY ADMINISTRATION

##### SUBCHAPTER A. GENERAL PROVISIONS

###### 19 TAC §1.16

The Texas Higher Education Coordinating Board (Coordinating Board) adopts amendments to Chapter 1, Subchapter A, §1.16, concerning enhanced monitoring of contracts and grants without changes to the proposed text as published in the January 25, 2019, issue of the *Texas Register* (44 TexReg 383). The rule will not be republished. Specifically, the amendments add a new subsection (l) that will address Texas Government Code 2261.253(c). Each state agency by rule shall establish a procedure to identify each contract that requires enhanced contract or performance monitoring and submit information on the contract to the agency's governing body or, if the agency is not governed by a multimember governing body, the officer who governs the agency. The agency's contract management office or procurement director shall immediately notify the agency's governing body or governing official, as appropriate, of any serious issue or risk that is identified with respect to a contract monitored under this subsection.

There were no comments received regarding the amendments.

The amendments are adopted under the Texas Government Code §2261.253(c), Required Posting of Certain Contracts; Enhanced Contract and Performance Monitoring.

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 May 2, 2019.

TRD-201901288

Bill Franz

General Counsel

Texas Higher Education Coordinating Board

Effective date: May 22, 2019

Proposal publication date: January 25, 2019

For further information, please call: (512) 427-6104



#### CHAPTER 4. RULES APPLYING TO ALL PUBLIC INSTITUTIONS OF HIGHER EDUCATION IN TEXAS

##### SUBCHAPTER A. GENERAL PROVISIONS

###### 19 TAC §§4.8 - 4.12

The Texas Higher Education Coordinating Board (Coordinating Board) adopts the repeal of §§4.8 - 4.12 of Chapter 4, Rules Applying to All Public Institutions of Higher Education in Texas, Subchapter A, General Provisions, without changes to the proposed text as published in the January 25, 2019, issue of the *Texas Register* (44 TexReg 384). Specifically, this repeal will remove a section of rules which are no longer supported by statute.

No comments were received regarding the repeal of these sections.

The repeal of these sections is adopted under the Texas Education Code, §61.0815, which was repealed effective September 1, 2011.

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 May 2, 2019.

TRD-201901290

Bill Franz

General Counsel

Texas Higher Education Coordinating Board

Effective date: May 22, 2019

Proposal publication date: January 25, 2019

For further information, please call: (512) 427-6104



###### 19 TAC §§4.8 - 4.11

The Texas Higher Education Coordinating Board (Coordinating Board) adopts new §§4.8 - 4.11 of Chapter 4, Subchapter A, Rules Applying to All Public Institutions of Higher Education in Texas, General Provisions, allowing these rules to receive new section numbers as part of the repeal of the Expert Witnesses rules which are no longer supported by statute. The new rules are adopted without changes to the proposed text as published in the January 25, 2019 issue of the *Texas Register* (44 TexReg 384). The rules will not be republished.

No comments were received regarding these new sections.

The new sections are adopted under the Texas Education Code, §61.0815, which was repealed effective September 1, 2011.

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 May 2, 2019.

TRD-201901289  
Bill Franz  
General Counsel  
Texas Higher Education Coordinating Board  
Effective date: May 22, 2019  
Proposal publication date: January 25, 2019  
For further information, please call: (512) 427-6104

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**SUBCHAPTER B. TRANSFER OF CREDIT,  
CORE CURRICULUM AND FIELD OF STUDY  
CURRICULA**

**19 TAC §4.32, §4.33**

The Texas Higher Education Coordinating Board (Board) adopts amendments to Chapter 4, Subchapter B, §4.32, concerning students enrolled at more than one institution, and §4.33, concerning the review schedules for Field of Study curricula, without changes to the proposed text as published in the January 25, 2019, issue of the *Texas Register* (44 TexReg 387). The amendments will not be re-published.

The amendments eliminate a contradiction in the two sections about the scheduling of compliance reports. Section 4.32(f) required a report every ten years, and §4.33 required a report every five years. Section 4.32(f) is repealed in the proposed changes and §4.33 is clarified to state that the compliance report shall follow the same schedule as accreditation reports. Section 4.33(c) is added to establish a review schedule for updating existing Fields of Study.

No comments were received regarding these amendments.

The amendments are adopted under the Texas Government Code, Chapter 61, §61.823(e), which provides the Texas Higher Education Coordinating Board the authority to periodically review Field of Study curricula.

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 May 2, 2019.

TRD-201901291  
Bill Franz  
General Counsel  
Texas Higher Education Coordinating Board  
Effective date: May 22, 2019  
Proposal publication date: January 25, 2019  
For further information, please call: (512) 427-6104

◆ ◆ ◆  
**SUBCHAPTER D. DUAL CREDIT  
PARTNERSHIPS BETWEEN SECONDARY  
SCHOOLS AND TEXAS PUBLIC COLLEGES**

**19 TAC §4.84, §4.85**

The Texas Higher Education Coordinating Board adopts amendments to Chapter 4, Rules Applying to All Public Institutions of Higher Education in Texas, Subchapter D, Dual Credit Partnerships Between Secondary Schools and Texas Public Colleges,

§4.84, concerning institutional agreements; and §4.85, concerning dual credit requirements, with changes to correct grammar issues to the proposed text as published in the January 25, 2019 issue of the *Texas Register* (44 TexReg 388). The amendments renew the committee for another four years and align the membership terms with the projected meeting schedule. The rules will be republished.

The following comments were received regarding the amendments:

**Comment:** Cypress Ridge High School submitted a comment on February 11, 2019 by the Associate Principal and on March 8, 2019, after the comment period ended, by the Principal.

Cypress Ridge High School comments expressed concerns about their perceived impact resulting from the proposed changes to §4.85 (d), which states:

(d) Composition of Class. Dual credit courses may be composed of dual credit students only or of dual and college credit students. Notwithstanding the requirements of subsection (e) of this section, exceptions for a mixed class that combines college credit and high school credit-only students [; which would also include high school credit-only students.] may be allowed only when the creation of a high school credit-only class is not financially viable for the high school and only under one of the following conditions:

- (1) If the course involved is required for completion under the State Board of Education High School Program graduation requirements, and the high school involved is otherwise unable to offer such a course.
- (2) If the high school credit-only students are College Board Advanced Placement or International Baccalaureate students.
- (3) If the course is a career and technical/college workforce education course and the high school credit-only students are eligible to earn articulated college credit.

Cypress Ridge High School's Principal and Associate Principal commented that they perceived the rule change would prohibit the school from combining College Board Advanced Placement (AP) and dual credit students in the same class. They indicated that this would cause challenges in the creation of the school's master schedule.

**Staff Response:** Staff disagree with the Cypress Ridge High School regarding the impact the rule change would have on the ability for the school to combine AP and dual credit students. The rule change adds a condition that the high school may only combine college credit and high school credit-only students when the creation of a high school credit-only class is not financially viable for the high school. When this condition is met, the proposed rule continues to allow the high school to combine AP or International Baccalaureate students with college credit students.

No changes were made as a result of the comments.

The amendments are adopted under the Texas Education Code, §28.009(b) and §130.001(b)(3) - (4), which provide the Coordinating Board with the authority to regulate dual credit partnerships between public two-year associate degree-granting institutions and public universities with secondary schools.

*§4.84. Institutional Agreements.*

(a) Need for Institutional Agreements. For any dual credit partnership between a secondary school and a public college, an agreement must be approved by the governing boards or designated authorities (e.g., principal and chief academic officer) of both the public school

district or private secondary school and the public college prior to the offering of such courses.

(b) Elements of Institutional Agreements. Any dual credit agreement must address the following elements:

- (1) Eligible Courses;
- (2) Student Eligibility;
- (3) Location of Class;
- (4) Student Composition of Class;
- (5) Faculty Selection, Supervision, and Evaluation;
- (6) Course Curriculum, Instruction, and Grading;
- (7) Academic Policies and Student Support Services;
- (8) Transcribing of Credit;
- (9) Funding; and
- (10) Defined sequences of courses, where applicable.

(c) Institutional Agreement between Public Institution of Higher Education and Public School District. Any agreement entered into or renewed between a public institution of higher education and public school district, including a memorandum of understanding or articulation agreement, must:

(1) include specific program goals aligned with the statewide goals developed under TEC 28.009, Subsection (b-1);

(2) establish, or provide a procedure for establishing, the course credits that may be earned under the agreement, including developing a course equivalency crosswalk or other method of equating high school courses with college courses and identifying the number of credits that may be earned for each course completed through the program;

(3) describe the academic supports and, if applicable, guidance that will be provided to students participating in the program;

(4) establish the institution of higher education's and the school district's respective roles and responsibilities in providing the program and ensuring the quality and instructional rigor of the program; and

(5) be posted each year on the institution of higher education's and the school district's respective Internet websites.

#### §4.85. Dual Credit Requirements.

(a) Eligible Courses.

(1) Courses offered for dual credit by public two-year associate degree granting institutions must be identified as college-level academic courses in the current edition of the Lower Division Academic Course Guide Manual adopted by the Board or as college-level workforce education courses in the current edition of the Workforce Education Course Manual adopted by the Board.

(2) Courses offered for dual credit by public universities must be in the approved undergraduate course inventory of the university.

(3) A college course offered for dual credit must be:

- (A) in the core curriculum of the public institution of higher education providing the credit;
- (B) a career and technical education course; or
- (C) a foreign language course.

(i) This provision does not apply to a college course for dual credit offered as part of an approved early college education program established under TEC §29.908 or an early college program as defined in this subchapter.

(ii) Any college course for dual credit offered as part of an early college program as defined in this subchapter must be a core curriculum course of the public institution of higher education providing the credit, a career and technical education course, a foreign language course, or a course that satisfies specific degree plan requirements leading to the completion of a Board approved certificate, AA, AS, AAS degree program, or FOSC.

(4) Public colleges may not offer remedial and developmental courses for dual credit.

(b) Student Eligibility.

(1) A high school student is eligible to enroll in academic dual credit courses if the student:

(A) demonstrates college readiness by achieving the minimum passing standards under the provisions of the Texas Success Initiative as set forth in §4.57 of this title (relating to College Ready and Adult Basic Education (ABE) Standards) on relevant section(s) of an assessment instrument approved by the Board as set forth in §4.56 of this title (relating to Assessment Instrument); or

(B) demonstrates that he or she is exempt under the provisions of the Texas Success Initiative as set forth in §4.54 of this title (relating to Exemptions, Exceptions, and Waivers).

(2) A high school student is also eligible to enroll in academic dual credit courses that require demonstration of TSI college readiness in reading, writing, and/or mathematics under the following conditions:

(A) Courses that require demonstration of TSI college readiness in reading and/or writing:

(i) if the student achieves a minimum score of 4000 on the English II State of Texas Assessment of Academic Readiness End of Course (STAAR EOC); or

(ii) if the student achieves one of the following scores on the PSAT/NMSQT (Mixing or combining scores from the PSAT/NMSQT administered prior to October 15, 2015 and the PSAT/NMSQT administered on or after October 15, 2015 is not allowable):

(I) a combined score of 107 with a minimum of 50 on the reading test on a PSAT/NMSQT exam administered prior to October 15, 2015; or

(II) a score of 460 on the evidence-based reading and writing (EBRW) test on a PSAT/NMSQT exam administered on or after October 15, 2015; or

(iii) if the student achieves a composite score of 23 on the PLAN with a 19 or higher in English or an English score of 435 on the ACT-Aspire.

(B) Courses that require demonstration of TSI college readiness in mathematics:

(i) if the student achieves a minimum score of 4000 on the Algebra I STAAR EOC and passing grade in the Algebra II course; or

(ii) if the student achieves one of the following scores on the PSAT/NMSQT (Mixing or combining scores from the PSAT/NMSQT administered prior to October 15, 2015 and the

PSAT/NMSQT administered on or after October 15, 2015 is not allowable.):

(I) a combined score of 107 with a minimum of 50 on the mathematics test on a PSAT/NMSQT exam administered prior to October 15, 2015; or

(II) a score of 510 on the mathematics test on a PSAT/NMSQT exam administered on or after October 15, 2015; or

(iii) if the student achieves a composite score of 23 on the PLAN with a 19 or higher in mathematics or a mathematics score of 431 on the ACT-Aspire.

(3) A high school student is eligible to enroll in workforce education dual credit courses contained in a postsecondary Level 1 certificate program, or a program leading to a credential of less than a Level 1 certificate, at a public junior college or public technical institute and shall not be required to provide demonstration of college readiness or dual credit enrollment eligibility.

(4) A high school student is eligible to enroll in workforce education dual credit courses contained in a postsecondary Level 2 certificate or applied associate degree program under the following conditions:

(A) Courses that require demonstration of TSI college readiness in reading and/or writing:

(i) if the student achieves a minimum score of 4000 on the English II STAAR EOC; or

(ii) if the student achieves one of the following scores on the PSAT/NMSQT (Mixing or combining scores from the PSAT/NMSQT administered prior to October 15, 2015 and the PSAT/NMSQT administered on or after October 15, 2015 is not allowable.):

(I) a combined score of 107 with a minimum of 50 on the reading test on a PSAT/NMSQT exam administered prior to October 15, 2015; or

(II) a score of 460 on the evidence-based reading and writing (EBRW) test on a PSAT/NMSQT exam administered on or after October 15, 2015; or

(iii) if the student achieves a composite score of 23 on the PLAN with a 19 or higher in English or an English score of 435 on the ACT-Aspire.

(B) Courses that require demonstration of TSI college readiness in mathematics:

(i) if the student achieves a minimum score of 4000 on the Algebra I STAAR EOC and passing grade in the Algebra II course; or

(ii) if the student achieves one of the following scores on the PSAT/NMSQT (Mixing or combining scores from the PSAT/NMSQT administered prior to October 15, 2015 and the PSAT/NMSQT administered on or after October 15, 2015 is not allowable.):

(I) a combined score of 107 with a minimum of 50 on the mathematics test on a PSAT/NMSQT exam administered prior to October 15, 2015; or

(II) a score of 510 on the mathematics test on a PSAT/NMSQT exam administered on or after October 15, 2015; or

(iii) if the student achieves a composite score of 23 on the PLAN with a 19 or higher in mathematics or a mathematics score of 431 on the ACT-Aspire.

(C) A student who is exempt from taking STAAR EOC assessments may be otherwise evaluated by an institution to determine eligibility for enrolling in workforce education dual credit courses.

(5) Students who are enrolled in private or non-accredited secondary schools or who are home-schooled must satisfy paragraphs (1) - (4) of this subsection.

(6) To be eligible for enrollment in a dual credit course offered by a public college, students must meet all the college's regular prerequisite requirements designated for that course (e.g., minimum score on a specified placement test, minimum grade in a specified previous course, etc.).

(7) An institution may impose additional requirements for enrollment in courses for dual credit that do not conflict with this section.

(8) An institution is not required, under the provisions of this section, to offer dual credit courses for high school students.

(c) Location of Class. Dual credit courses may be taught on the college campus or on the high school campus. For dual credit courses taught exclusively to high school students on the high school campus and for dual credit courses taught electronically, public colleges shall comply with applicable rules and procedures for offering courses at a distance in Subchapters P and Q of this chapter (relating to Approval of Distance Education Courses and Programs for Public Institutions and Approval of Off-Campus and Self-Supporting Courses and Programs for Public Institutions). In addition, dual credit courses taught electronically shall comply with the Board's adopted Principles of Good Practice for Courses Offered Electronically.

(d) Composition of Class. Dual credit courses may be composed of dual credit students only or of dual and college credit students. Notwithstanding the requirements of subsection (e) of this section, exceptions for a mixed class that combines college credit and high school credit-only students may be allowed only when the creation of a high school credit-only class is not financially viable for the high school and only under one of the following conditions:

(1) If the course involved is required for completion under the State Board of Education High School Program graduation requirements, and the high school involved is otherwise unable to offer such a course.

(2) If the high school credit-only students are College Board Advanced Placement or International Baccalaureate students.

(3) If the course is a career and technical/college workforce education course and the high school credit-only students are eligible to earn articulated college credit.

(e) Faculty Selection, Supervision, and Evaluation.

(1) The college shall select instructors of dual credit courses. These instructors must meet the same standards (including minimal requirements of the Southern Association of Colleges and Schools Commission on Colleges) and approval procedures used by the college to select faculty responsible for teaching the same courses at the main campus of the college.

(2) The college shall supervise and evaluate instructors of dual credit courses using the same or comparable procedures used for faculty at the main campus of the college.

(f) Course Curriculum, Instruction, and Grading. The college shall ensure that a dual credit course and the corresponding course offered at the main campus of the college are equivalent with respect to the curriculum, materials, instruction, and method/rigor of student



evaluation. These standards must be upheld regardless of the student composition of the class.

(g) Academic Policies and Student Support Services.

(1) Regular academic policies applicable to courses taught at the college's main campus must also apply to dual credit courses. These policies could include the appeal process for disputed grades, drop policy, the communication of grading policy to students, when the syllabus must be distributed, etc.

(2) Students in dual credit courses must be eligible to utilize the same or comparable support services that are afforded college students on the main campus. The college is responsible for ensuring timely and efficient access to such services (e.g., academic advising and counseling), to learning materials (e.g., library resources), and to other benefits for which the student may be eligible.

(h) Transcribing of Credit. For dual credit courses, high school as well as college credit should be transcribed immediately upon a student's completion of the performance required in the course.

(i) Funding.

(1) The state funding for dual credit courses will be available to both public school districts and colleges based on the current funding rules of the State Board of Education (TEC 42.005 (g)) and the Board (TEC 61.059 (p) and (q)).

(2) The college may only claim funding for students getting college credit in core curriculum, career and technical education, and foreign language dual credit courses.

(3) This provision does not apply to students enrolled in approved early college education programs under TEC 29.908.

(4) All public colleges, universities, and health-related institutions may waive all or part of tuition and fees for a Texas high school student enrolled in a course for which the student may receive dual course credit.

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

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Bill Franz

General Counsel

Texas Higher Education Coordinating Board

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For further information, please call: (512) 427-6104



## SUBCHAPTER G. EARLY COLLEGE HIGH SCHOOLS

### 19 TAC §§4.151 - 4.153, 4.155 - 4.158, 4.160

The Texas Higher Education Coordinating Board (Coordinating Board) adopts amendments to Chapter 4, Rules Applying to All Public Institutions of Higher Education in Texas, Subchapter G, Early College High Schools, §§4.151 - 4.153; 4.155 - 4.158, and 4.160, concerning alignment of rules with the addition of Texas Education Code, Chapter 29, Subchapter N, Pathways in Technology Early College High School (P-TECH) Program from the

85th Texas Legislature, Regular Session, and standardizes language throughout Chapter 4, Subchapter G, with changes to the proposed text as published in the January 25, 2019, issue of the *Texas Register* (44 TexReg 391). A correction was made to §4.155(d), therefore, the rule will be republished.

The adopted amendments align the rules with the addition of Texas Education Code, Chapter 29, Subchapter N, Pathways in Technology Early College High School (P-TECH) Program from the 85th Texas Legislature, Regular Session, and standardize language throughout Chapter 4, Subchapter G.

No comments were received regarding these amendments.

The amendments are adopted under the Texas Education Code, Sections §§29.908, 29.557, and 130.001(b)(3) - (4), which provide the Coordinating Board with the authority to regulate dual credit partnerships between public two-year associate degree-granting institutions and public universities with secondary schools.

### §4.155. Student Eligibility

(a) Students participating in an ECHS or P-TECH must meet eligibility requirements in accordance with §§4.81 - 4.85 of this title (relating to Dual Credit Partnerships Between Secondary Schools and Texas Public Colleges) to enroll in college level courses for dual credit.

(b) A student participating in an ECHS or P-TECH is eligible to enroll in workforce education dual credit courses contained in a postsecondary Level 1 certificate program, or a program leading to a credential of less than a postsecondary Level 1 certificate, at a public junior college or public technical institute and shall not be required to provide demonstration of college readiness or dual credit enrollment eligibility.

(c) An ECHS shall assess each student for readiness to enroll in any academic course, or course contained in a workforce education postsecondary Level 2 certificate or applied associate degree program, prior to the student's enrollment in the course.

(d) For this assessment, an ECHS or P-TECH may use any instrument otherwise approved by the Board for Texas Success Initiative purposes in accordance with §4.54 (relating to Exemptions, Exceptions, and Waivers), §4.56 (relating to Assessment Instrument), and §4.57 (relating to College Ready Standards) of this title.

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

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Bill Franz

General Counsel

Texas Higher Education Coordinating Board

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### 19 TAC §§4.154, 4.159, 4.161

The Texas Higher Education Coordinating Board (Coordinating Board) adopts the repeal of Chapter 4, Rules Applying to All Public Institutions of Higher Education in Texas, Subchapter G, Early College High Schools, §§4.154, 4.159, and 4.161, concerning removing sections of rules which are not supported by statute

or current practices pertaining to early college high schools by the Texas Higher Education Coordinating Board or Texas Education Agency without changes to proposed text as published in the January 25, 2019, issue of the *Texas Register* (44 TexReg 392). The rules will not be republished. The repeal of these sections better aligns the Texas Administrative Code with the Texas Education Code and current practices pertaining to early college high schools by the Texas Higher Education Coordinating Board and Texas Education Agency.

No comments were received regarding the repeal of these sections.

The repeal of these sections is adopted under the Texas Education Code, §§29.908, 29.557, and 130.001(b)(3) - (4), which provide the Coordinating Board with the authority to regulate dual credit partnerships between public two-year associate degree-granting institutions and public universities with secondary schools.

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Bill Franz

General Counsel

Texas Higher Education Coordinating Board

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## CHAPTER 23. EDUCATION LOAN REPAYMENT PROGRAMS

### SUBCHAPTER D. LOAN REPAYMENT PROGRAM FOR MENTAL HEALTH PROFESSIONALS

#### 19 TAC §§23.94 - 23.98, 23.100

The Texas Higher Education Coordinating Board (Coordinating Board) adopts amendments to Chapter 23, Subchapter D, §§23.94 - 23.98; §23.100, concerning Loan Repayment Program for Mental Health Professionals without changes to the proposed text as published in the January 25, 2019, issue of the *Texas Register* (44 TexReg 393). Specifically, the amendments will incorporate into existing rules new provisions enacted by House Bill 3803 and House Bill 3088, 85th Texas Legislature, Regular Session, which require the Coordinating Board to seek the maximum amount of federal grant matching funds available through the National Health Service Corps State Loan Repayment Program (SLRP). The U.S. Health Resources and Services Administration approved the Coordinating Board's first application for SLRP providers beginning in FY 2020.

The amendments to §23.94 clarify the definition of "full-time service" for SLRP and non-SLRP providers: 40 hours per week for SLRP providers and 32 hours per week for non-SLRP providers. Additionally, a new definition for "SLRP-State Loan Repayment Program" has been added to provide the federal authority under which the SLRP is authorized.

The amendments to §23.95(6) specify the degree requirements for licensed chemical dependency counselors applying for enrollment in the SLRP.

The amendments to §23.96(6) describe the contract terms, including monetary penalties for failure to meet the service obligation and completion of counseling procedures, to which SLRP applicants must agree. The former language has been stricken.

The amendments to §23.97(d)(2) and (f) add SLRP providers to the priority ranking order for each practice specialty and allow the maximum award amounts to be adjusted in the event state funds for all eligible applicants are not sufficient.

The amendments to §23.98 add new language to address additional requirements that SLRP providers must meet to receive SLRP funds.

No comments were received regarding these amendments.

The amendments are adopted under the Texas Education Code, §61.608, which authorizes the Coordinating Board to adopt rules for the administration of the Loan Repayment Program for Mental Health Professionals.

This 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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Bill Franz

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Texas Higher Education Coordinating Board

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## CHAPTER 27. FIELDS OF STUDY

### SUBCHAPTER A. ENGINEERING FIELD OF STUDY ADVISORY COMMITTEE

#### 19 TAC §§27.101 - 27.107

The Texas Higher Education Coordinating Board (Coordinating Board) adopts the repeal of Chapter 27, Subchapter A, §§27.101 - 27.107 concerning the Engineering Field of Study Advisory Committee without changes to proposed text as published in the January 25, 2019, issue of the *Texas Register* (44 TexReg 395). The rules will not be republished. The adopted repeal eliminates the Engineering Field of Study Advisory Committee in anticipation of establishing separate advisory committees for the sub-disciplines of Civil Engineering, Mechanical Engineering, Chemical Engineering, Electrical Engineering, and other engineering fields.

No comments were received regarding the repeal of these sections.

The repeal is adopted under the Texas Government Code, Chapter 61, §61.823, which provides the Texas Higher Education Coordinating Board the authority to form advisory committees to develop Field of Study curricula.

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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Bill Franz  
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## SUBCHAPTER B. MUSIC FIELD OF STUDY ADVISORY COMMITTEE

### 19 TAC §27.123, §27.124

The Texas Higher Education Coordinating Board (Coordinating Board) adopts amendments to Chapter 27, Subchapter B, §27.123 and §27.124, concerning the duration and committee membership terms for the Music Field of Study Advisory Committee without changes to proposed text as published in the January 25, 2019, issue of the *Texas Register* (44 TexReg 396). The rules will not be republished. The amendments renew the committee for another four years and align the membership terms with the projected meeting schedule.

No comments were received regarding these amendments.

The amendments are adopted under the Texas Government Code, Chapter 61, §61.823, which provides the Texas Higher Education Coordinating Board the authority to form advisory committees to develop Field of Study curricula.

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 C. NURSING FIELD OF STUDY ADVISORY COMMITTEE

### 19 TAC §27.143, §27.144

The Texas Higher Education Coordinating Board (Coordinating Board) adopts amendments to Chapter 27, Subchapter C, §27.143 and §27.144 concerning the duration and committee membership terms for the Nursing Field of Study Advisory Committee without changes to proposed text as published in the January 25, 2019, issue of the *Texas Register* (44 TexReg 396). The rule will not be republished. The adopted amendments renew the committee for another four years and align the membership terms with the projected meeting schedule.

No comments were received regarding these amendments.

The amendments are adopted under the Texas Government Code, Chapter 61, §61.823, which provides the Texas Higher

Education Coordinating Board the authority to form advisory committees to develop Field of Study curricula.

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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Bill Franz  
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## SUBCHAPTER D. BUSINESS FIELD OF STUDY ADVISORY COMMITTEE

### 19 TAC §27.163, §27.164

The Texas Higher Education Coordinating Board (Coordinating Board) adopts amendments to Chapter 27, Subchapter D, §27.163 and §27.164 concerning the duration and committee membership terms for the Business Field of Study Advisory Committee without changes to proposed text as published in the January 25, 2019, issue of the *Texas Register* (44 TexReg 397). The rules will not be republished. The adopted amendments renew the committee for another four years and align the membership terms with the projected meeting schedule.

No comments were received regarding these amendments.

The amendments are adopted under the Texas Education Code, §61.823(a), which provides the Coordinating Board with the authority to develop fields of study curricula with the assistance of advisory committees and Texas Government Code, §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.

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Bill Franz  
General Counsel  
Texas Higher Education Coordinating Board  
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## SUBCHAPTER E. COMMUNICATIONS FIELD OF STUDY ADVISORY COMMITTEE

### 19 TAC §27.183, §27.184

The Texas Higher Education Coordinating Board (Coordinating Board) adopts amendments to Chapter 27, Subchapter E, §27.183 and §27.184 concerning the duration and committee membership terms for the Communications Field of Study Advisory Committee without changes to proposed text as published

in the January 25, 2019, issue of the *Texas Register* (44 TexReg 398). The rules will not be republished. The amendments renew the committee for another four years and align the membership terms with the projected meeting schedule.

No comments were received regarding these amendments.

The amendments are adopted under the Texas Government Code, Chapter 61, §61.823, which provides the Texas Higher Education Coordinating Board the authority to form advisory committees to develop Field of Study curricula.

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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Bill Franz

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Texas Higher Education Coordinating Board

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## SUBCHAPTER G. MEXICAN AMERICAN STUDIES FIELD OF STUDY ADVISORY COMMITTEE

### 19 TAC §27.223, §27.224

The Texas Higher Education Coordinating Board (Coordinating Board) adopts amendments to Chapter 27, Subchapter G, §27.223 and §27.224, concerning the duration and committee membership terms for the Mexican American Studies Field of Study Advisory Committee without changes to the proposed text as published in the January 25, 2019 issue of the *Texas Register* (44 TexReg 399). The amendments renew the committee for another four years and align the membership terms with the projected meeting schedule.

No comments were received regarding the amendments.

The amendments are adopted under the Texas Government Code, Chapter 61, §61.823, which provides the Texas Higher Education Coordinating Board the authority to form advisory committees to develop Field of Study curricula.

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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Bill Franz

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Texas Higher Education Coordinating Board

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## SUBCHAPTER H. ARCHITECTURE FIELD OF STUDY ADVISORY COMMITTEE

### 19 TAC §27.243, §27.244

The Texas Higher Education Coordinating Board (Coordinating Board) adopts amendments to Chapter 27, Subchapter H, §27.243 and §27.244, concerning the duration and committee membership terms for the Architecture Field of Study Advisory Committee without changes to the proposed text as published in the January 25, 2019 issue of the *Texas Register* (44 TexReg 399). The amendments renew the committee for another four years and align the membership terms with the projected meeting schedule.

No comments were received regarding these amendments.

The amendments are adopted under the Texas Government Code, Chapter 61, §61.823, which provides the Texas Higher Education Coordinating Board the authority to form advisory committees to develop Field of Study curricula.

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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Bill Franz

General Counsel

Texas Higher Education Coordinating Board

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## SUBCHAPTER LL. CHEMISTRY FIELD OF STUDY ADVISORY COMMITTEE

### 19 TAC §§27.841 - 27.847

The Texas Higher Education Coordinating Board (Board) adopts new Chapter 27, Subchapter LL, §§27.841 - 27.847, concerning the duration and committee membership terms for the Chemistry Field of Study Advisory Committee, without changes to the proposed text as published in the January 25, 2019, issue of the *Texas Register* (Volume 44, Number 4, Page 400). The amended rules will not be re-published.

The adopted new sections renew the committee for another four years and align the membership terms with the projected meeting schedule.

No comments were received regarding the new sections.

The new sections are adopted under the Texas Education Code, §61.823(a), which provides the Coordinating Board with the authority to develop fields of study curricula with the assistance of advisory committees and Texas Government Code, §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.

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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Bill Franz

General Counsel

Texas Higher Education Coordinating Board

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For further information, please call: (512) 427-6104



## TITLE 22. EXAMINING BOARDS

### PART 34. TEXAS STATE BOARD OF SOCIAL WORKER EXAMINERS

#### CHAPTER 781. SOCIAL WORKER LICENSURE

The Texas State Board of Social Worker Examiners (board) adopts amendments to §§781.402, 781.405, 781.413, and the repeal of and new §781.603, concerning the licensing and regulation of social workers. The amendments to §§781.402, 781.405, 781.413, and the repeal of and new §781.603 are adopted without changes to the proposed text as published in the February 1, 2019, issue of the *Texas Register* (44 TexReg 465). Therefore, these sections will not be republished.

The proposed repeal of and new §781.505 and §781.509, published in the February 1, 2019, issue of the *Texas Register*, are withdrawn and do not appear in this rulemaking.

#### BACKGROUND AND JUSTIFICATION

The amendments to the rules eliminate the Advanced Practitioner specialty recognition and clarify requirements for supervision towards licensure, modify the board processing times for applications, and provide a more detailed timeline for participants in the Alternate Method of Examining Competency program. The new rules modify the process for complaints, aligned to recommendations set forth by the Sunset Advisory Commission.

#### COMMENTS

The 30-day comment period ended March 3, 2019.

During this period, the board received comments regarding the proposed rules from one association, the National Association of Social Workers-Texas Chapter. A summary of comments relating to the rules and the board's responses follows.

#### §781.205

Comment: A commenter proposes a comment relating to sexual misconduct, and states that the rule continues to put providers in the position of maintaining records well past the time required and recommended by liability experts. "Older complaints are extremely hard to prove and leave providers open to false allegations. If there is a legal conviction, wouldn't the board take action based on the conviction? Having a shorter time limit would encourage clients to report and would provide more timely protection to the public."

Response: The board appreciates the comment but cannot make a change at this time because this rule is not included in this rulemaking. The current record retention policies are necessary to protect the citizens of Texas.

#### §781.402

Comment: A commenter supports the changes.

Response: The board appreciates the supportive comment.

#### §781.405

Comment: A commenter did not support the change because it prolongs the processing of paperwork which is a critical factor in the issues surrounding board effectiveness. The commenter was not in favor of extending paperwork acknowledgment times.

Response: The board appreciates the comment but declines to keep the current fifteen working day requirement. The board's current goal is to process an application within two weeks, but it is not always practical to respond within fifteen days. A thirty-working day period response time is more reasonable.

#### §781.413

Comment: A commenter supports the changes.

Response: The board appreciates the supportive comment.

#### §781.505

Comment: A commenter supports the changes.

Response: The board appreciates the supportive comment, but the board withdraws the proposed rule for further discussion of the proposed rule.

#### §781.509

Comment: A commenter supports the changes.

Response: The board appreciates the supportive comment, but the board withdraws the proposed rule for further discussion of the proposed rule.

#### §781.603

Comment: A commenter supports the changes.

Response: The board appreciates the supportive comment.

### SUBCHAPTER D. LICENSES AND LICENSING PROCESS

#### 22 TAC §§781.402, 781.405, 781.413

#### STATUTORY AUTHORITY

The amendments are adopted under the following sections of the Texas Occupations Code, which authorize the board to adopt rules: §505.201, to establish the board's procedures; and §505.204, to standardize information concerning complaints made to the board; and §505.356, to establish rules regarding alternative methods of examining competency.

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 May 6, 2019.

TRD-201901323

Timothy Martel Brown, LCSW

Chair

Texas State Board of Social Worker Examiners

Effective date: May 26, 2019

Proposal publication date: February 1, 2019

For further information, please call: (512) 776-6972

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## SUBCHAPTER F. COMPLAINTS AND VIOLATIONS

### 22 TAC §781.603

#### STATUTORY AUTHORITY

The repeal is adopted under Texas Occupations Code, §505.201, which authorizes the board to adopt rules necessary for the performance of its duties.

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 May 6, 2019.

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Timothy Martel Brown, LCSW

Chair

Texas State Board of Social Worker Examiners

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For further information, please call: (512) 776-6972

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### 22 TAC §781.603

#### STATUTORY AUTHORITY

The new section is adopted under Texas Occupations Code, §505.201, which authorizes the board to adopt rules necessary for the performance of its duties.

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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Timothy Martel Brown, LCSW

Chair

Texas State Board of Social Worker Examiners

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For further information, please call: (512) 776-6972

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## PART 35. TEXAS STATE BOARD OF EXAMINERS OF MARRIAGE AND FAMILY THERAPISTS

### CHAPTER 801. LICENSURE AND REGULATION OF MARRIAGE AND FAMILY THERAPISTS

On January 26, 2019, the Texas State Board of Examiners of Marriage and Family Therapists (board) deferred action on the proposed amendments to §801.18, §801.262, and §801.268; new §801.263, §801.264 and §801.266; and the repeal of §§801.263 - 801.267 to allow further consideration of Sunset Advisory Commission recommendations and public comment.

The board adopts amendments to §801.18, §801.262, and §801.268; new §801.263, §801.264, and §801.266; and the repeal of §§801.263 - 801.267 concerning continuing education in regard to the licensing and regulation of marriage and family therapists.

New §801.263 and §801.264 and the amendment to §801.268 are adopted with changes to the proposed text as published in the December 14, 2018, issue of the *Texas Register* (43 TexReg 8006). These rules will be republished. Previously the board organized supervisors' renewal requirements under §801.143, which became effective on March 7, 2019, published in the March 1, 2019, issue of the *Texas Register* (44 TexReg 1131). The board removes redundant language regarding supervisors' renewal requirements from §801.263(d). The amendments to §801.18 and §801.262; new §801.266; and the repeal of §§801.263 - 801.267 are adopted without changes. Therefore, these sections will not be republished.

#### BACKGROUND AND JUSTIFICATION

Texas Government Code, §2001.039, requires that each state agency review and consider for readoption each rule adopted by that agency. All sections of Chapter 801 have been reviewed, and the board has determined that the reasons for adopting the sections continue to exist in that rules concerning the licensing and regulation of marriage and family therapists are still needed. However, changes are needed as described in this preamble and are the result of the comprehensive rule review undertaken by the board and the board's staff.

In general, each section was reviewed and proposed for re-adoption in order to ensure appropriate subchapter, section, and paragraph organization; to ensure clarity; to improve spelling, grammar, and punctuation; to ensure the rules reflect current legal and policy considerations; to ensure accuracy of legal citations; to eliminate unnecessary catch-titles; to delete repetitive, obsolete, unenforceable, or unnecessary language; to improve draftsmanship; and to make the rules more accessible, understandable, and usable.

#### COMMENTS

The 30-day comment period ended January 14, 2019.

During this period, the board received comments regarding the proposed rules from five individuals and two associations, including Texas Counseling Association (TCA), and Texas Association for Marriage and Family Therapy (TAMFT). A summary of comments relating to the rules and the board's responses follows.

Comment: Regarding proposed rule §801.18(a)(9), concerning repeal of the \$50 annual continuing education sponsor fee, two individual commenters oppose this action. One individual commenter questions why the board wants to remove this income source, how the board will handle complaints against continuing education providers (CEPRs), how the board will ensure CEPRs adhere to minimum requirements, wonders if the board's proposed repeal is in response to a board member who forgot to renew his or her CEPR approval, and opines a CEPR "free for all" does not protect licensees.

Response: The board disagrees. After a lengthy discussion, the board has determined the language is sufficient to ensure ample and quality continuing education is available for its licensees. The fees collected are not a significant source of income for the state.

The second individual commenter states most professions require a minimum registration standard with fee for CEPRs because this "automatically separate{s} the 'wheat from the chaff'"; "mandates...minimum quality control and accountability to both the CE provider and...licensees"; and "provide{s} additional revenue stream." The second commenter opines a number of possible adverse effects if the fee is repealed, reports "the LPC Board agreed to revisit this issue," and reminds the board of its responsibility to protect the public.

Response: The board agrees there is a responsibility of the board to protect the public. The board does not agree that these amendments will have an adverse impact on the public. The fees collected are not a significant source of income for the state.

Comment: Regarding proposed rules in Subchapter K (§§801.262 - 801.268), concerning Continuing Education Requirements, TCA opposes the proposed modifications to Subchapter K and is very concerned the proposed changes "will not protect the public, will limit the Board's ability to ensure some measure of quality in continuing education, and will not necessarily reduce the time to assess the qualifications of CE providers." TCA recommends the board "reinstate the requirement that a percentage of CE hours be earned in face-to-face settings." TCA reports "The Texas State Board of Examiners of Psychologists rules require that at least half of the required CE hours be delivered by designated entities" and opines "This model insures a reasonably high quality of CE providers while reducing the amount of staff time spent on oversight."

Similarly, TAMFT notes "tremendous...concern...over the language for Continuing Education" and "respectfully ask{s} the...Board to reconsider...oversight for CEU {continuing education unit} credits." TAMFT reports "Many of our members have gone to great lengths to make sure the CEU's they provide offer the upmost in quality education to further enhance MFT's field of study. Changing these requirements have the risk of our licensees ultimately being delivered a product that is inferior."

In addition, two individual commenters oppose changes to continuing education processes (collecting CEPR renewal forms and fees, maintaining a registration of approved CEPRs, assuring presenters are duly credentialed, ensure CEPRs adhere to the minimum requirements, reviewing complaints against CEPRs). One of the commenters notes "concern...the board will no longer monitor CEU providers" and "fear{s} this...will decrease the quality of training and the ongoing competency of marriage and family therapists."

Response: After a lengthy discussion, the board has determined the language is sufficient to ensure ample and quality continuing education is available for its licensees. The fees collected are not a significant source of income for the state.

Comment: Regarding proposed rule §801.263(a) and (b), requiring an LMFT to complete 30 clock hours of continuing education (CE) each renewal period and an LMFT Associate to complete 15 clock hours each renewal period, TCA recommends reinstatement of "the requirement that a percentage of CE hours be earned in face-to-face settings" (referring to the proposed repeal of §801.264(1)(E) which limited courses "in which real-time interaction with a facilitator(s) is not possible" to "no more than 12 hours per renewal period") and suggests requiring at least 18 hours of CE in a face-to-face setting for an LMFT and at least 6 hours of CE in a face-to-face setting for an LMFT Associate.

Similarly, TAMFT requests the board to require "that direct face to face hours still be at least half of a licensees CEU hours."

Also, an individual commenter expresses "concern...that the repeal of the limit on non-interactive study for CEUs may decrease the quality of training received by licensees and thus decrease the competency of providers serving the Texas public" and request "the board require at least half, if not the majority, of CEU hours be earned in face-to-face settings."

Response: The board disagrees. After a lengthy discussion, the board has determined the language is sufficient to ensure ample and quality continuing education is available for its licensees.

Comment: Regarding proposed rule §801.263(d), requiring a supervisor to complete at least three hours of clinical supervision continuing education each renewal period, an individual commenter suggests moving the requirement that a supervisor complete the jurisprudence exam each renewal period to maintain supervisor status from §801.143(i) to §801.263(d).

Response: The board disagrees and for clarity for the supervisor, it remains under §801.143.

Comment: Regarding proposed rule §801.264, concerning Types of Acceptable Continuing Education, TCA recommends "at least half of the required CE hours be delivered by designated entities," such as "a national, state, or local mental health professional association; public school districts; regional service centers for public school districts, state or federal agencies; or mental health professional programs or centers which host accredited mental health training programs, at regionally accredited institutions of higher education."

An individual commenter asks "the board {to} consider...requiring...at least half of the required CEU hours be received from pre-approved providers," opining that "Doing so ensures the quality of CEU providers while also leaving room for private practitioners' ability to flourish as CEU providers as well as licensees' discretion regarding their selection of CEU providers."

Another individual commenter requests changing "professional counseling" to "marriage and family therapy" to fix typo in subparagraph (1), adding "graduate-level transcript" in subsection (3) for clarity, and transposing paragraphs (4) and (5) for logical organization.

Response: The board makes a technical correction, changing "professional counseling" to "marriage and family therapy" in §801.264(1).

Concerning the other comments, the board disagrees. After a lengthy discussion, the board has determined the language is sufficient to ensure ample and quality continuing education is available for its licensees.

Regarding proposed §801.268(a), concerning Reporting and Auditing of Continuing Education, the board made a technical correction, changing "of no less than 30 hours" to "as required in §801.263 of this title (relating to Requirements for Continuing Education)" to accommodate the varied number of hours required in §801.263 for each license type.

## SUBCHAPTER B. THE BOARD

### 22 TAC §801.18

#### STATUTORY AUTHORITY

The amendment is adopted under the following sections of the Texas Occupations Code, which authorize the board to adopt rules: §502.152, to establish the board's procedures; §502.153, to set fees reasonable and necessary to cover the costs of administering this chapter; §502.1565, to comply with Chapter 53,

Consequences of Criminal Conviction; §502.158, to standardize information concerning complaints made to the board; §502.202, to establish methods by which consumers and service recipients are notified of the name, mailing address, and telephone number of the board for the purpose of directing complaints to the board; §502.204, concerning the investigation of a complaint filed with the board; §502.2541, to administer a jurisprudence examination; §502.2545, to administer a waiver of examination for certain applicants; and §502.258, to provide for the issuance of a temporary license.

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 May 6, 2019.

TRD-201901310

Jennifer Smothermon, M.A., LPC, LMFT

Chair

Texas State Board of Examiners of Marriage and Family Therapists

Effective date: May 26, 2019

Proposal publication date: December 14, 2018

For further information, please call: (512) 776-6972



## SUBCHAPTER K. CONTINUING EDUCATION REQUIREMENTS

### 22 TAC §§801.262 - 801.264, 801.266, 801.268

#### STATUTORY AUTHORITY

The amendments and new sections are adopted under the following sections of the Texas Occupations Code, which authorize the board to adopt rules: §502.152, to establish the board's procedures; §502.153, to set fees reasonable and necessary to cover the costs of administering this chapter; §502.1565, to comply with Chapter 53, Consequences of Criminal Conviction; §502.158, to standardize information concerning complaints made to the board; §502.202, to establish methods by which consumers and service recipients are notified of the name, mailing address, and telephone number of the board for the purpose of directing complaints to the board; §502.204, concerning the investigation of a complaint filed with the board; §502.2541, to administer a jurisprudence examination; §502.2545, to administer a waiver of examination for certain applicants; and §502.258, to provide for the issuance of a temporary license.

#### §801.263. *Requirements for Continuing Education.*

(a) An LMFT must complete 30 clock hours of continuing education which is acceptable to the board each renewal period as described in §801.262 of this title (relating to Deadlines).

(b) An LMFT Associate must complete 15 clock hours of continuing education which is acceptable to the board each renewal period as described in §801.262 of this title.

(c) All licensees are required to complete six hours of ethics each renewal period.

#### §801.264. *Types of Acceptable Continuing Education.*

To be acceptable for the purposes of license renewal or satisfaction of disciplinary stipulations, the education must be received from a continuing education provider that:

(1) ensures the education provided is related to the practice of marriage and family therapy;

(2) ensures the individual(s) presenting the information have the necessary experience and knowledge in the topic(s) presented;

(3) verifies attendance of participants and provides participants with a letter or certificate of attendance displaying the licensee's name, topic covered, date course was taken, and hours of credit earned;

(4) maintains all continuing education records and documentation for at least three years; and

(5) provides participants a mechanism for evaluation of each continuing education activity.

#### §801.268. *Reporting and Auditing of Continuing Education.*

(a) At the time of renewal, the licensee must report completion of approved continuing education as required in §801.263 of this title (relating to Requirements for Continuing Education).

(b) The board will conduct random audits of a licensee's compliance with the continuing education requirements. A licensee selected for audit must submit continuing education documentation upon request. Individual continuing education certificates of attendance may not be submitted unless the licensee is requested to do so by the board.

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

Filed with the Office of the Secretary of State on May 6, 2019.

TRD-201901311

Jennifer Smothermon, M.A., LPC, LMFT

Chair

Texas State Board of Examiners of Marriage and Family Therapists

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Proposal publication date: December 14, 2018

For further information, please call: (512) 776-6972



### 22 TAC §§801.263 - 801.267

#### STATUTORY AUTHORITY

The repeals are adopted under the following sections of the Texas Occupations Code, which authorize the board to adopt rules: §502.152, to establish the board's procedures; §502.153, to set fees reasonable and necessary to cover the costs of administering this chapter; §502.1565, to comply with Chapter 53, Consequences of Criminal Conviction; §502.158, to standardize information concerning complaints made to the board; §502.202, to establish methods by which consumers and service recipients are notified of the name, mailing address, and telephone number of the board for the purpose of directing complaints to the board; §502.204, concerning the investigation of a complaint filed with the board; §502.2541, to administer a jurisprudence examination; §502.2545, to administer a waiver of examination for certain applicants; and §502.258, to provide for the issuance of a temporary license.

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 May 6, 2019.

TRD-201901312



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Texas State Board of Examiners of Marriage and Family Therapists

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Proposal publication date: December 14, 2018

For further information, please call: (512) 776-6972



## TITLE 34. PUBLIC FINANCE

### PART 1. COMPTROLLER OF PUBLIC ACCOUNTS

#### CHAPTER 9. PROPERTY TAX ADMINISTRATION

##### SUBCHAPTER I. VALUATION PROCEDURES

###### 34 TAC §9.4001

The Comptroller of Public Accounts adopts amendments to §9.4001, concerning valuation of open-space and agricultural lands, without changes to the proposed text as published in the March 8, 2019, issue of the *Texas Register* (44 TexReg 1273). These amendments are to reflect updates and revisions to the manual for the appraisal of agricultural land.

The amendments update and revise the January 2017 manual for the appraisal of agricultural land. The manual sets forth the methods to apply and the procedures to use in qualifying and appraising land used for agricultural and open-space land under Tax Code, Chapter 23, Subchapters C and D.

Generally, the substantive changes to the manual reflect statutory changes. The introduction includes an updated description of the adoption process for the manual to reflect changes in Senate Bill 526 and Senate Bill 594, 85th Legislature, 2017. The updated manual removes references to a prohibition on homestead properties designated for agricultural use being used to secure home equity loans, as was amended in Texas Constitution, Article XVI, §50(a)(6). The adopted manual includes a new section titled "Cessation of Agricultural Use" to address specific circumstances for which special appraisal does not end when the land ceases to be devoted principally to agricultural use to the degree of intensity generally accepted in the area, based on changes made in House Bill 777, House Bill 3198, and Senate Bill 1459, 85th Legislature, 2017.

The updated manual includes a new section on the 2018 Federal Farm Bill. While the bill has not yet become law, cotton is likely to be eligible again for some government programs after the bill passes. The comptroller added this section to advise chief appraisers to keep up with any possible changes to the federal farm programs.

The updated manual includes a new question in Appendix A to provide an example of property with an inaccessible area that may be classified as wasteland as determined by the chief appraiser.

Additionally, the updated manual reflects changes to improve the format, clarity and grammar of the manual.

Pursuant to Tax Code, §23.52(d), this rule has been approved by the comptroller with the review and counsel of the Department of Agriculture.

The comptroller received only one comment regarding these amendments.

Hélène McKinley, a taxpayer, suggests that "this exemption should not exist for lands within city limits where zoning is not designated as agricultural but as commercial, industrial or other zoning definition by the city or county." The comptroller declines to add this limitation to the constitutional provision because it would exceed the comptroller's authority.

These amendments are adopted under Tax Code, §23.41 (Appraisal); and §23.52 (Appraisal of Qualified Agricultural Land), which provide the comptroller with the authority to prepare and issue publications relating to the appraisal of property and to specify the methods to apply and the procedures to use in appraising qualified agricultural and open-space land for ad valorem tax purposes.

These amendments implement Tax Code, §23.41 (Appraisal) and §23.52 (Appraisal of Qualified Agricultural Land).

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 May 2, 2019.

TRD-201901304

Victoria North

Chief Counsel Fiscal and Agency Affairs Legal Services Division

Comptroller of Public Accounts

Effective date: May 22, 2019

Proposal publication date: March 8, 2019

For further information, please call: (512) 475-2220



## TITLE 37. PUBLIC SAFETY AND CORRECTIONS

### PART 11. TEXAS JUVENILE JUSTICE DEPARTMENT

#### CHAPTER 380. RULES FOR STATE-OPERATED PROGRAMS AND FACILITIES SUBCHAPTER D. YOUTH RIGHTS AND REMEDIES

##### 37 TAC §380.9313

The Texas Juvenile Justice Department (TJJD) adopts amendments to §380.9313, concerning Use of Telephone, without changes to the proposed text as published in the March 1, 2019, issue of the *Texas Register* (44 TexReg 932) and will not be republished.

##### JUSTIFICATION FOR CHANGES

The public benefit anticipated as a result of administering the section is to give TJJD greater flexibility in monitoring phone calls involving youth, which will help to resolve safety and security issues that stem from improper communication.

##### SUMMARY OF CHANGES

The amended rule adds that: 1) *all* calls made on the youth phone system are *subject to being* recorded, rather than only

recording those calls that are made to the Incident Reporting Center; and 2) only appropriately designated staff may access calls that have been recorded.

The amended rule clarifies that: 1) youth are informed during orientation that all calls on the youth phone system are subject to being recorded; 2) additional prepaid minutes, beyond those provided monthly by TJJD, can be purchased for youth to make calls; and 3) TJJD is responsible for the cost of calls related to family emergencies.

The amended rule does not apply to any call that statute or a TJJD rule defines as confidential or privileged.

#### PUBLIC COMMENTS

TJJD did not receive any public comments on the proposed rule-making action.

#### STATUTORY AUTHORITY

The amended section is adopted under Section 242.003, Human Resources Code, which requires TJJD to adopt rules appropriate to the proper accomplishment of TJJD's functions and to adopt rules for governing TJJD schools, facilities, and programs.

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 April 30, 2019.

TRD-201901272

Christian von Wupperfeld

General Counsel

Texas Juvenile Justice Department

Effective date: May 20, 2019

Proposal publication date: March 1, 2019

For further information, please call: (512) 490-7278



## PART 13. TEXAS COMMISSION ON FIRE PROTECTION

### CHAPTER 449. HEAD OF A FIRE DEPARTMENT

The Texas Commission on Fire Protection (the commission) adopts amendments to Chapter 449, Head of a Fire Department, Subchapter A, Minimum Standards for Head of a Suppression Fire Department, concerning §449.1, Minimum Standards for the Head of a Suppression Fire Department, and Subchapter B, Minimum Standards for Head of a Prevention Only Fire Department, concerning §449.201, Minimum Standards for the Head of a Prevention Only Fire Department. The amendments are adopted without changes to the proposed text as published in the February 15, 2019, *Texas Register*, (44 TexReg 691) and will not be republished.

The adoption restructures current language in §449.1 and also clarifies the requirements for appointment to head of a fire department position as well as provides additional avenues for persons to qualify for the position.

No comments were received from the public regarding the adoption of the amendments.

## SUBCHAPTER A. MINIMUM STANDARDS FOR HEAD OF A SUPPRESSION FIRE DEPARTMENT

### 37 TAC §449.1

The amendments are adopted under Texas Government Code, Chapter 419, §419.008, which provides the commission the authority to adopt rules for the administration of its powers and duties, and §419.032, which provides the commission the authority to adopt rules regarding qualifications and competencies for fire protection personnel.

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 April 30, 2019.

TRD-201901270

Tim Rutland

Executive Director

Texas Commission on Fire Protection

Effective date: May 20, 2019

Proposal publication date: February 15, 2019

For further information, please call: (512) 936-3812



## SUBCHAPTER B. MINIMUM STANDARDS FOR HEAD OF A PREVENTION ONLY FIRE DEPARTMENT

### 37 TAC §449.201

The amendments are adopted under Texas Government Code, Chapter 419, §419.008, which provides the commission the authority to adopt rules for the administration of its powers and duties, and §419.032, which provides the commission the authority to adopt rules regarding qualifications and competencies for fire protection personnel.

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 April 30, 2019.

TRD-201901271

Tim Rutland

Executive Director

Texas Commission on Fire Protection

Effective date: May 20, 2019

Proposal publication date: February 15, 2019

For further information, please call: (512) 936-3812



## TITLE 40. SOCIAL SERVICES AND ASSISTANCE

### PART 12. TEXAS BOARD OF OCCUPATIONAL THERAPY EXAMINERS

## CHAPTER 369. DISPLAY OF LICENSES

### 40 TAC §369.2

The Texas Board of Occupational Therapy Examiners adopts amendments to §369.2, concerning changes of name or address, without changes to the proposed text as published in the March 8, 2019, issue of the *Texas Register* (44 TexReg 1277). The rule will not be republished.

The amendments are adopted to remove the requirement that an occupational therapy assistant with a regular license notify the Board of supervisor changes and to add language regarding the address of record to the section.

In the amendments, a provision concerning the requirement that a licensee or applicant notify the Board of changes of supervisor has been revised. In the current rule, licensees and applicants are required to notify the Board of changes of supervisor within 30 days. In the amendments, this has been revised to require instead that only applicants and temporary licensees notify the Board of changes of supervisor.

The repeal of §373.3, concerning supervision of an occupational therapy assistant, has also been adopted and submitted to the *Texas Register* for publication. The repeal of such will remove the requirement that an occupational therapy assistant with a regular license submit supervisor information on the Occupational Therapy Assistant Supervision form.

The amendments also include the addition of a provision concerning the address of record of a licensee or applicant; the address of record is the physical address that will be provided to the public. Information concerning the address of record currently appears in other sections of the OT Rules. The provision is being added to §369.2 as the section concerns changes to a licensee's or applicant's address information.

No comments were received regarding adoption of §369.2.

The amendments are adopted under the Occupational Therapy Practice Act, Title 3, Subtitle H, Chapter 454, Occupations Code, which provides the Texas Board of Occupational Therapy Examiners with the authority to adopt rules consistent with this Act to carry out its duties in administering this Act.

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

Filed with the Office of the Secretary of State on May 6, 2019.

TRD-201901322

John P. Maline

Executive Director

Texas Board of Occupational Therapy Examiners

Effective date: June 1, 2019

Proposal publication date: March 08, 2019

For further information, please call: (512) 305-6900



## CHAPTER 372. PROVISION OF SERVICES

### 40 TAC §372.1, §372.2

The Texas Board of Occupational Therapy Examiners adopts amendments to §372.1, concerning provision of services, and §372.2, concerning general purpose occupation-based instruction, without changes to the proposed text as published in the

March 8, 2019, issue of the *Texas Register* (44 TexReg 1278). The rules will not be republished.

The amendments are adopted to clean up and clarify the sections and to add clarifying language to §372.1, regarding the transmission of a medical referral.

Cleanups and clarifications to §372.1 include changes to provisions regarding an occupational therapist's delegation of the collection of data for an evaluation and the delegation of tasks. In the amendments to such provisions, references to a temporary licensee have been removed as the references to an occupational therapy assistant therein already refer to both an occupational therapy assistant with a regular or temporary license.

The amendments also include language clarifying that when a referral is required for the provision of occupational therapy services, such may be transmitted by an occupational therapy plan of care, developed according to the requirements of the section, that is signed by the licensed referral source.

The amendments, in addition, include a clarification of a requirement regarding the inclusion of an occupational therapist's name in the intervention note.

The amendments to §372.1 include further cleanups and clarifications.

The amendments, additionally, include a change to §372.2 to strike a reference to the supervision requirements in §373.3 because the repeal of §373.3, concerning supervision of an occupational therapy assistant, has also been adopted and submitted to the *Texas Register* for publication.

No comments were received regarding adoption of §372.1 and §372.2.

The amendments are adopted under the Occupational Therapy Practice Act, Title 3, Subtitle H, Chapter 454, Occupations Code, which provides the Texas Board of Occupational Therapy Examiners with the authority to adopt rules consistent with this Act to carry out its duties in administering this Act.

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

Filed with the Office of the Secretary of State on May 6, 2019.

TRD-201901324

John P. Maline

Executive Director

Texas Board of Occupational Therapy Examiners

Effective date: June 1, 2019

Proposal publication date: March 8, 2019

For further information, please call: (512) 305-6900



## CHAPTER 373. SUPERVISION

### 40 TAC §373.3

The Texas Board of Occupational Therapy Examiners adopts the repeal of §373.3, concerning supervision of an occupational therapy assistant, without changes to the proposed text as published in the March 8, 2019, issue of the *Texas Register* (44 TexReg 1280). The rule will not be republished.

The repeal of §373.3 will remove from the OT Rules the supervision requirements in that section, which concern the supervi-

sion of an occupational therapy assistant with a regular license. Such requirements include that an occupational therapy assistant must submit the Supervision of an Occupational Therapy Assistant form with the employer information and name and license number of one of the occupational therapists working for the employer who will be providing supervision. The repeal will also remove from the OT Rules requirements concerning the Supervision Log and requirements that occupational therapy assistants with a regular license receive frequent communication supervision and interactive supervision from occupational therapists. The Board determined that the provisions to be repealed contained unnecessary paperwork requirements that took time away from patient care and unnecessarily limited occupational therapy assistants' practice.

The repeal of §373.3 will not remove all requirements concerning the supervision of an occupational therapy assistant with a regular license from the OT Rules as requirements regarding supervision appear in other rule sections. Section 372.1(g), Documentation, requires that in each intervention note, the occupational therapy assistant must include the name of an occupational therapist who is readily available to answer questions about the client's intervention at the time of the provision of services and that the occupational therapy assistant may not provide services unless this requirement is met. Section 372.1(f)(10) requires that an occupational therapist may only delegate to an occupational therapy assistant tasks that both agree are within the occupational therapy assistant's competence.

Changes to §369.2, concerning changes of name or address, have also been adopted and submitted to the *Texas Register* for publication. Changes to that section include the removal of requirements concerning the submission of supervisor information by an occupational therapy assistant with a regular license.

The Board received comments regarding adopting the repeal of §373.3 from seven individuals.

Two commenters, one an occupational therapist and the other an occupational therapy assistant, noted the value of the Board's repeal of the supervision requirements in §373.3, including that such could streamline requirements for the supervision of an occupational therapy assistant and would allow increased focus on direct patient care.

The Board agreed with these comments and made no changes to the repeal based on the comments.

Five commenters, all occupational therapists, opposed the repeal of §373.3. These commenters noted concerns that the repeal could result in the following: increased demand by employers that occupational therapists supervise a greater number of occupational therapy assistants; an increase in client loads for

occupational therapy assistants; a lack of communication between the occupational therapist and occupational therapy assistant; a decrease in collaboration between the occupational therapist and occupational therapy assistant; and/or negative consequences for patient care. Some commenters noted, in addition, concerns regarding the possible effect of the repeal of §373.3 on occupational therapy assistants in schools, in particular that the repeal may result in fewer occupational therapists in the school setting, and demand for occupational therapy assistants to serve more students, resulting in decreased student outcomes.

The Board disagrees with the comments and declines to withdraw the proposed repeal or make other changes to the rule section in response to the comments. The Board noted that, pursuant to the Occupational Therapy Rules, the occupational therapist is responsible for determining how many occupational therapy assistants she can supervise, and the occupational therapist is responsible for the plan of care and all amendments thereto. Also, the supervising occupational therapist may only delegate to an occupational therapy assistant tasks that they both agree are within the competency level of that occupational therapy assistant. The Occupational Therapy Rules require that when providing services, the occupational therapy assistant must have an occupational therapist who is readily available to answer questions about the client's intervention at the time of the provision of services and that the occupational therapy assistant may not provide services unless this requirement is met. Furthermore, occupational therapy practitioners may choose to engage in supervision, communication, and collaboration beyond what the Occupational Therapy Rules require.

The repeal is adopted under the Occupational Therapy Practice Act, Title 3, Subtitle H, Chapter 454, Occupations Code, which provides the Texas Board of Occupational Therapy Examiners with the authority to adopt rules consistent with this Act to carry out its duties in administering this Act.

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

Filed with the Office of the Secretary of State on May 6, 2019.

TRD-201901327

John P. Maline

Executive Director

Texas Board of Occupational Therapy Examiners

Effective date: June 1, 2019

Proposal publication date: March 8, 2019

For further information, please call: (512) 305-6900



# TRANSFERRED RULES

The Government Code, §2002.058, authorizes the Secretary of State to remove or transfer rules within the Texas Administrative Code when the agency that promulgated the rules is abolished. The Secretary of State will publish notice of rule transfer or removal in this section of the *Texas Register*. The effective date of a rule transfer is the date set by the legislature, not the date of publication of notice. Proposed or emergency rules are not subject to administrative transfer.

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## Department of State Health Services

### Rule Transfer

During the 84th Legislative Session, the Texas Legislature passed Senate Bill 200, addressing the reorganization of health and human services delivery in Texas. As a result, certain functions previously performed by the Department of State Health Services (DSHS), including client services, certain regulatory functions, and the operation of state hospitals, transferred to the Texas Health and Human Services Commission (HHSC) in accordance with Texas Government Code, §531.0201 and §531.02011. The DSHS rules in Texas Administrative Code, Title 25, Part 1, Chapter 125, Special Care Facilities, that are related to these transferred functions, are being transferred to HHSC under Texas Administrative Code, Title 26, Part 1, Chapter 506, Special Care Facilities.

The rules will be transferred in the Texas Administrative Code effective June 1, 2019.

The following conversion chart outlines the rule transfer:

Figure: 25 TAC Chapter 125

TRD-201901314

## Health and Human Services Commission

### Rule Transfer

During the 84th Legislative Session, the Texas Legislature passed Senate Bill 200, addressing the reorganization of health and human services delivery in Texas. As a result, certain functions previously performed by the Department of State Health Services (DSHS), including client services, certain regulatory functions, and the operation of state hospitals, transferred to the Texas Health and Human Services Commission (HHSC) in accordance with Texas Government Code, §531.0201 and §531.02011. The DSHS rules in Texas Administrative Code, Title 25, Part 1, Chapter 125, Special Care Facilities, that are related to these transferred functions, are being transferred to HHSC under Texas Administrative Code, Title 26, Part 1, Chapter 506, Special Care Facilities.

The rules will be transferred in the Texas Administrative Code effective June 1, 2019.

The following conversion chart outlines the rule transfer:

Figure: 25 TAC Chapter 125

TRD-201901313

Figure: 25 TAC Chapter 125

<b>Current Rules</b> <b>Title 25. Health Services</b> <b>Part 1. Department of State Health Services</b> <b>Chapter 125. Special Care Facilities</b>	<b>Move to</b> <b>Title 26. Health and Human Services</b> <b>Part 1. Texas Health and Human Services Commission</b> <b>Chapter 506. Special Care Facilities</b>
<b>Subchapter A. General Provisions</b>	<b>Subchapter A. General Provisions</b>
§125.1. Purpose.	§506.1. Purpose.
§125.2. Definitions.	§506.2. Definitions.
§125.3. Occupancy Classification.	§506.3. Occupancy Classification.
<b>Subchapter B. Facility Licensing</b>	<b>Subchapter B. Facility Licensing</b>
§125.11. General Licensing Requirements.	§506.11. General Licensing Requirements.
§125.12. Application and Issuance of Initial License.	§506.12. Application and Issuance of Initial License.
§125.13. Application and Issuance of Renewal License.	§506.13. Application and Issuance of Renewal License.
§125.14. Time Periods for Processing and Issuing Licenses.	§506.14. Time Periods for Processing and Issuing Licenses.
§125.15. Fees.	§506.15. Fees.
<b>Subchapter C. Operational Requirements</b>	<b>Subchapter C. Operational Requirements</b>
§125.31. General Functions.	§506.31. General Functions.
§125.32. Resident Care and Services.	§506.32. Resident Care and Services.
§125.33. Resident Rights.	§506.33. Resident Rights.
§125.34. Resident Records.	§506.34. Resident Records.
§125.35. Residential AIDS Hospice Designation.	§506.35. Residential AIDS Hospice Designation.
§125.36. Criminal History and Nurse Aide Registry Checks of Employees and Applicants for Employment.	§506.36. Criminal History and Nurse Aide Registry Checks of Employees and Applicants for Employment.
<b>Subchapter D. Waivers</b>	<b>Subchapter D. Waivers</b>
§125.51. Waivers, Modifications, and Variations to Provisions.	§506.51. Waivers, Modifications, and Variations to Provisions.
<b>Subchapter E. Inspections and Investigations</b>	<b>Subchapter E. Inspections and Investigations</b>
§125.61. Inspection and Investigation Procedures.	§506.61. Inspection and Investigation Procedures.
§125.62. Complaint Against a Texas Department of Health Representative.	§506.62. Complaint Against a Texas Department of Health Representative.
<b>Subchapter F. Enforcement</b>	<b>Subchapter F. Enforcement</b>
§125.71. License Denial, Suspension, Revocation and Probation.	§506.71. License Denial, Suspension, Revocation and Probation.
§125.72. Civil and Criminal Penalties.	§506.72. Civil and Criminal Penalties.
§125.73. Administrative Penalties.	§506.73. Administrative Penalties.

<b>Subchapter G. Safety Requirements and Fire Protection</b>	<b>Subchapter G. Safety Requirements and Fire Protection</b>
§125.81. General Safety.	§506.81. General Safety.
§125.82. Emergency Preparedness.	§506.82. Emergency Preparedness.
§125.83. Fire Safety Requirements.	§506.83. Fire Safety Requirements.
<b>Subchapter H. Physical Plant and Construction Requirements</b>	<b>Subchapter H. Physical Plant and Construction Requirements</b>
§125.91. Construction Requirements.	§506.91. Construction Requirements.
§125.92. Minimum Spatial Requirements for New Facilities.	§506.92. Minimum Spatial Requirements for New Facilities.
§125.93. Elevators.	§506.93. Elevators.
§125.94. Preparation, Submittal, Review and Approval of Plans.	§506.94. Preparation, Submittal, Review and Approval of Plans.
§125.95. Construction, Inspections, and Approval of Projects for New or Existing Facilities in the Absence of Local Codes and Regulations.	§506.95. Construction, Inspections, and Approval of Projects for New or Existing Facilities in the Absence of Local Codes and Regulations.
§125.96. Tables.	§506.96. Tables.



## Department of State Health Services

### Rule Transfer

During the 84th Legislative Session, the Texas Legislature passed Senate Bill 200, addressing the reorganization of health and human services delivery in Texas. As a result, certain functions previously performed by the Department of State Health Services (DSHS), including client services, certain regulatory functions, and the operation of state hospitals, transferred to the Texas Health and Human Services Commission (HHSC) in accordance with Texas Government Code, §531.0201 and §531.02011. The DSHS rules in Texas Administrative Code, Title 25, Part 1, Chapter 134, Private Psychiatric Hospitals and Crisis Stabilization Units, that are related to these transferred functions, are being transferred to HHSC under Texas Administrative Code, Title 26, Part 1, Chapter 510, Private Psychiatric Hospitals and Crisis Stabilization Units.

The rules will be transferred in the Texas Administrative Code effective June 1, 2019.

The following conversion chart outlines the rule transfer:

Figure: 25 TAC Chapter 134

TRD-201901331

## Health and Human Services Commission

### Rule Transfer

During the 84th Legislative Session, the Texas Legislature passed Senate Bill 200, addressing the reorganization of health and human services delivery in Texas. As a result, certain functions previously performed by the Department of State Health Services (DSHS), including client services, certain regulatory functions, and the operation of state hospitals, transferred to the Texas Health and Human Services Commission (HHSC) in accordance with Texas Government Code, §531.0201 and §531.02011. The DSHS rules in Texas Administrative Code, Title 25, Part 1, Chapter 134, Private Psychiatric Hospitals and Crisis Stabilization Units, that are related to these transferred functions, are being transferred to HHSC under Texas Administrative Code, Title 26, Part 1, Chapter 510, Private Psychiatric Hospitals and Crisis Stabilization Units.

The rules will be transferred in the Texas Administrative Code effective June 1, 2019.

The following conversion chart outlines the rule transfer:

Figure: 25 TAC Chapter 134

TRD-201901330

Figure: 25 TAC Chapter 134

<b>Current Rules</b>	<b>Move to</b>
<b>Title 25. Health Services</b>	<b>Title 26. Health and Human Services</b>
<b>Part 1. Department of State Health Services</b>	<b>Part 1. Texas Health and Human Services Commission</b>
<b>Chapter 134. Private Psychiatric Hospitals and Crisis Stabilization Units</b>	<b>Chapter 510. Private Psychiatric Hospitals and Crisis Stabilization Units</b>
<b>Subchapter A. General Provisions</b>	<b>Subchapter A. General Provisions</b>
§134.1. Purpose.	§510.1. Purpose.
§134.2. Definitions.	§510.2. Definitions.
<b>Subchapter B. Application and Issuance of a License</b>	<b>Subchapter B. Application and Issuance of a License</b>
§134.21. General.	§510.21. General.
§134.22. Application and Issuance of Initial License.	§510.22. Application and Issuance of Initial License.
§134.23. Application and Issuance of Renewal License.	§510.23. Application and Issuance of Renewal License.
§134.24. Change of Ownership.	§510.24. Change of Ownership.
§134.25. Time Periods for Processing and Issuing Licenses.	§510.25. Time Periods for Processing and Issuing Licenses.
§134.26. Fees.	§510.26. Fees.
<b>Subchapter C. Operational Requirements</b>	<b>Subchapter C. Operational Requirements</b>
§134.41. Facility Functions and Services.	§510.41. Facility Functions and Services.
§134.42. Discrimination or Retaliation Standards.	§510.42. Discrimination or Retaliation Standards.
§134.43. Patient Transfer Policy.	§510.43. Patient Transfer Policy.
§134.44. Miscellaneous Policies and Protocols.	§510.44. Miscellaneous Policies and Protocols.
§134.45. Facility Billing.	§510.45. Facility Billing.
§134.46. Abuse and Neglect Issues.	§510.46. Abuse and Neglect Issues.
§134.47. Patient Safety Program.	§510.47. Patient Safety Program.
<b>Subchapter D. Voluntary Agreements</b>	<b>Subchapter D. Voluntary Agreements</b>
§134.61. Patient Transfer Agreements.	§510.61. Patient Transfer Agreements.
§134.62. Cooperative Agreements.	§510.62. Cooperative Agreements.
<b>Subchapter E. Enforcement</b>	<b>Subchapter E. Enforcement</b>
§134.81. Survey and Investigation Procedures.	§510.81. Survey and Investigation Procedures.
§134.82. Complaint Against a Texas Department of Health Representative.	§510.82. Complaint Against a Texas Department of Health Representative.
§134.83. Enforcement.	§510.83. Enforcement.
<b>Subchapter F. Fire Prevention and Safety Requirements</b>	<b>Subchapter F. Fire Prevention and Safety Requirements</b>
§134.101. Fire Prevention and Protection.	§510.101. Fire Prevention and Protection.
§134.102. General Safety.	§510.102. General Safety.



§134.103. Handling and Storage of Gases and Flammable Liquids.	§510.103. Handling and Storage of Gases and Flammable Liquids.
<b>Subchapter G. Physical Plant and Construction Requirements</b>	<b>Subchapter G. Physical Plant and Construction Requirements</b>
§134.121. Requirements for Buildings in which Existing Licensed Facilities are Located.	§510.121. Requirements for Buildings in which Existing Licensed Facilities are Located.
§134.122. New Construction Requirements.	§510.122. New Construction Requirements.
§134.123. Spatial Requirements for New Construction.	§510.123. Spatial Requirements for New Construction.
§134.124. Elevators, Escalators, and Conveyors.	§510.124. Elevators, Escalators, and Conveyors.
§134.125. Building with Multiple Occupancies.	§510.125. Building with Multiple Occupancies.
§134.126. Mobile, Transportable, and Relocatable Units.	§510.126. Mobile, Transportable, and Relocatable Units.
§134.127. Preparation, Submittal, Review and Approval of Plans.	§510.127. Preparation, Submittal, Review and Approval of Plans.
§134.128. Construction, Surveys, and Approval of Project.	§510.128. Construction, Surveys, and Approval of Project.
§134.129. Waiver Requests.	§510.129. Waiver Requests.
§134.130. Record Drawings, Manuals and Design Data.	§510.130. Record Drawings, Manuals and Design Data.
§134.131. Tables.	§510.131. Tables.

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# REVIEW OF AGENCY RULES

This section contains notices of state agency rules review as directed by the Texas Government Code, §2001.039. Included here are (1) notices of *plan to review*; (2)

notices of *intention to review*, which invite public comment to specified rules; and (3) notices of *readoption*, which summarize public comment to specified rules. The complete text of an agency's *plan to review* is available after it is filed with the Secretary of State on the Secretary of State's web site (<http://www.sos.state.tx.us/texreg>). The complete text of an agency's rule being reviewed and considered for *readoption* is available in the *Texas Administrative Code* on the web site (<http://www.sos.state.tx.us/tac>).

For questions about the content and subject matter of rules, please contact the state agency that is reviewing the rules. Questions about the web site and printed copies of these notices may be directed to the *Texas Register* office.

## Proposed Rule Reviews

Department of Information Resources

### Title 1, Part 10

The Texas Department of Information Resources (DIR) files this notice of intent to review and consider for re-adoption, revision, or repeal Texas Administrative Code, Title 1, Chapter 202, §§202.1 - 202.76, Information Security Standards. The review and consideration of the rules are conducted in accordance with Texas Government Code §2001.039. The review will include, at a minimum, an assessment by DIR of whether the reasons the rules were initially adopted continue to exist and whether the rules should be re-adopted.

Any questions or written comments pertaining to this rule review may be submitted to Christi Koenig Brisky, Assistant General Counsel, via mail at P.O. Box 13654, Austin, Texas 78711, via facsimile transmission at (512) 475-4759, or via electronic mail to [rule.review@dir.texas.gov](mailto:rule.review@dir.texas.gov). The deadline for comments is thirty (30) days after publication of this notice in the *Texas Register*. Any proposed changes to the rules as a result of the rule review will be published in the Proposed Rules section of the *Texas Register*. The proposed rule changes will be open for public comment prior to the final adoption or repeal of the rule by DIR in accordance with the requirements of the Texas Administrative Procedure Act, Texas Government Code, Chapter 2001.

TRD-201901344  
Martin Zelinsky  
General Counsel  
Department of Information Resources  
Filed: May 7, 2019



The Texas Department of Information Resources (DIR) files this notice of intent to review and consider for re-adoption, revision, or repeal Texas Administrative Code, Title 1, Chapter 215, §§215.1-215.33, Statewide Technology Centers for Data and Disaster Recovery Services. The review and consideration of the rules are conducted in accordance with Texas Government Code §2001.039. The review will include, at a minimum, an assessment by DIR of whether the reasons the rules were initially adopted continue to exist and whether the rules should be re-adopted.

Any questions or written comments pertaining to this rule review may be submitted to Christi Koenig Brisky, Assistant General Counsel, via mail at P.O. Box 13654, Austin, Texas 78711, via facsimile transmission at (512) 475-4759, or via electronic mail to [rule.review@dir.texas.gov](mailto:rule.review@dir.texas.gov). The deadline for comments is thirty (30) days

after publication of this notice in the *Texas Register*. Any proposed changes to the rules as a result of the rule review will be published in the Proposed Rules section of the *Texas Register*. The proposed rule changes will be open for public comment prior to the final adoption or repeal of the rule by DIR in accordance with the requirements of the Texas Administrative Procedure Act, Texas Government Code, Chapter 2001.

TRD-201901345  
Martin Zelinsky  
General Counsel  
Department of Information Resources  
Filed: May 7, 2019



Texas Board of Pardons and Paroles

### Title 37, Part 5

The Texas Board of Pardons and Paroles files this notice that the Proposed Rule Review of 37 TAC, Part 5, Chapter 146, Revocation of Parole or Mandatory Supervision, published in the May 3, 2019, issue of the *Texas Register* (44 TexReg 2274) was in error. The Proposed Rule Review of Chapter 146 was previously published in the February 1, 2019, issue of the *Texas Register* (44 TexReg 486). The Adopted Rule Review of 37 TAC, Part 5, Chapter 146, Revocation of Parole or Mandatory Supervision is published contemporaneously in this issue under the Adopted Rule Reviews section.

TRD-201901307  
Bettie Wells  
General Counsel  
Texas Board of Pardons and Paroles  
Filed: May 3, 2019



## Adopted Rule Reviews

Texas Board of Pardons and Paroles

### Title 37, Part 5

The Texas Board of Pardons and Paroles (Board) files this notice of readoption of 37 TAC, Part 5, Chapter 146, Revocation of Parole or Mandatory Supervision. The review was conducted pursuant to Government Code, §2001.039. Notice of the Board's intention to review was published in the February 1, 2019, issue of the *Texas Register* (44 TexReg 486).

As a result of the review, the Board has determined that the original justifications for these rules continue to exist. The Board read-

opts §§146.6, 146.8 and 146.11 with amendments as published in the Adopted Rules section of this issue of the *Texas Register*. The Board readopts the remainder of the sections in Chapter 146 without amendments.

No comments on the proposed review were received.

This concludes the review of 37 TAC, Chapter 146, Revocation of Parole or Mandatory Supervision.

TRD-201901306  
Bettie Wells  
General Counsel  
Texas Board of Pardons and Paroles  
Filed: May 3, 2019



# TABLES & GRAPHICS

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Graphic images included in rules are published separately in this tables and graphics section. Graphic images are arranged in this section in the following order: Title Number, Part Number, Chapter Number and Section Number.

Graphic images are indicated in the text of the emergency, proposed, and adopted rules by the following tag: the word "Figure" followed by the TAC citation, rule number, and the appropriate subsection, paragraph, subparagraph, and so on.

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Figure: 16 TAC §130.74(c)

Penalty Range:	
\$500 up to \$2,000	
<u>Administrative Violations</u>	
Failed to provide the Department with practice name, corporate/trade name or assumed name to identify an individual or group with which the podiatric physician is practicing	130.50(e)
Failed to notify the Department of any change(s) of licensee's practice name, corporate/trade name or assumed name or address	130.50(e)
Failed to notify the Department of any change of address or phone number(s) for each practitioner's location(s) no later than ten (10) business days after the change is made	130.52(c)
Hyperbaric oxygen certificate holder failed to notify Department of any address change or change of hospital setting no later than ten (10) business days after the change is made	130.47(c)
Nitrous Oxide/Oxygen Inhalation registrant failed to notify Department of any address change no later than ten (10) business days after the change is made	130.48(h)
Podiatric medical radiological technician registrant failed to notify the Department of any change of address or change of supervising podiatric physician within two (2) weeks	130.53(k)
<u>Posting and Public Information Violations</u>	
Failed to conspicuously display both the license and an unexpired renewal certificate at the location where the person practices	202.262
Failed to clearly display the hyperbaric oxygen certificate in the office alongside the original license	130.47(d)
Failed to clearly display the nitrous oxide/oxygen inhalation registration permit in the office	130.48(i)
Failed to use only the authorized designation(s) to identify podiatric physician in any publication	130.50(a)

Failed to use only the authorized designation(s) to identify podiatric physician's practice in any publication	130.50(b)
Failed to submit publication for department approval utilizing any other designation	130.51(c)
Failed to conspicuously and prominently display in a location to be seen by all patients a department-approved sign or provide all patients and consumers a brochure with the name, mailing address, and telephone number of the department and a statement informing consumers or recipients of services that complaints against a licensee can be directed to the department	130.70(a)(b)
<u>Advertising Without a License or Accreditation Violations</u>	
Advertised or used terms or letters directly or by implication that a podiatry service will be provided without a license	202.001(3); 202.251; 202.253(a-1)(6); 202.5015
Publication failed to identify each podiatrist by name and professional identification when practicing in a group of practitioners from different branches of the healing arts	130.50(g)
Failed to properly advertise or publish the name of any board certification held by podiatric physician	130.51(e)
Listed in any advertisement or public communication any certifying board not approved or recognized by the Council on Podiatric Medical Education of the American Podiatric Medical Association	130.51(f)

Figure: 16 TAC §130.74(d)

Penalty Range:	
\$1,000 up to \$3,000 and/or up to 1-year probated suspension	
<u>Advertising Violations</u>	
Used or participated in the use of any publication containing false, misleading or deceptive statement or claim	130.51(a)
Failed to retain recordings, transcripts, or copies of all public communications by date of publication for two years after the communication is made	130.51(d)
Publication failed to include a specific and true statement of the limits, scope and specific purpose of the technique or device when publication mentions a particular surgical technique or device	130.51(g)
<u>Health and Safety Violations</u>	
Failed to maintain nitrous oxide gas machines as required	130.48(l)
Failed to have nitrous oxide machine service check on a three-year basis	130.48(m)(4)
Failed to have a method of locking the nitrous oxide tanks after business hours	130.48(m)(5)
Failed to have the minimum amount of treatment equipment and facilities in medical office(s) to provide the usual and customary podiatric services	130.52(a)
Failed to have medical office adequately staffed and equipped to ensure treatment is timely and properly administered	130.52(b)
<u>Administrative Violations Related to Temporary Residency Licensees</u>	
Residency Director failed to ensure temporary residency licensees have read and understood the Act and Rules governing the practice of podiatric medicine	130.31(b)(2)
Residency Director failed to report a list of all residents enrolled in each program and the names of all the residents in the program within thirty (30) days after start date of the program each year	130.31(c)
<u>Administrative Violations</u>	



Failed to file a current certificate of inspection of the nitrous oxide gas machine with the Department	130.48(f)
Failed to maintain documentation for employees who assist in the nitrous oxide/oxygen inhalation conscious sedation procedure of training in basic life support and their annual reviews of emergency protocols, contents/use of emergency equipment and basic cardiopulmonary resuscitation	130.48(j)
Failed to ensure course providers for podiatric medical radiological technician(s) are approved by the Texas Medical Board	130.53(c)
<u>Unlicensed Activity</u>	
Practiced, attempted, offered to practice podiatry with an expired license	202.303; 60.31(g)
Practiced, attempted, offered to practice residency podiatry as a temporary residency licensee with an expired license.	130.31(d); 130.31(f); 60.31(g)
Sponsor permitted provisional licensee to engage in the unauthorized practice of podiatric medicine while provisional license was expired	130.43(d)

Figure: 16 TAC §130.74(e)

Penalty Range:	
\$2,000 up to \$5,000 and/or 1-year probated suspension up to revocation	
<u>Administrative Violations</u>	
Altered a license, certificate, diploma, or transcript	202.253(a-1)(9); 202.5015
Used a podiatry degree, license, certificate, diploma, or a transcript of a license, certificate, or diploma, that has been fraudulently purchased, issued, counterfeited, or materially altered	202.253(a-1)(10); 202.5015
Used or allowed a person to use a license or registration for any fraudulent, misleading or deceptive purpose	202.253(a-1)(12); 202.5015
Failed to cooperate with the Department inspector in the performance of the inspection	202.602
Failed or refused to provide acceptable documentation of continuing education records for renewal	130.44(i)
Failed to inform the patient as to the fees to be charged for services before services are performed or, in extended care cases, a fair and reasonable estimate of what the fee will be and basis on which the fee will be determined	130.55(e)
Practitioner improperly received or tendered a commission for a referral or failed to disclose any affiliation or remuneration that will be received for a referral	130.55(f); Tex. Occ. Code Chapter 102
Failed to report a professional liability claim or complaint to the department within thirty (30) days, as required	130.70(c), (d), (e), (f)
Failed to cooperate with the Department during an investigation of a complaint by not furnishing required documentation or responding to a request for information or a subpoena issued by the Department	130.55(c)
<u>Records Violations</u>	

Residency Director failed to ensure the temporary residency licensee read and understood the Act and Rules governing the practice of podiatric medicine	130.31(b)(2)
Practitioner failed to make, maintain, and keep accurate records of the diagnosis made and the treatment performed for five years following the completion of treatment	130.54(a)
Practitioner failed to provide requested copies of medical records or a summary or narrative of the records within thirty (30) days after the date of the request	130.54(d)
Failed to comply with the Texas Medical Records Privacy Act	TxHSC 181
<u>Standard of Care Violations – Related to Supervision</u>	
Residency Director failed to ensure the temporary residency licensee is practicing within the scope of the GPME program	130.31(b)(1);
Residency Director failed to ensure temporary residency licensees are properly licensed prior to participation in the GPME program	130.31(b)(3)
Failed to continuously supervise the conscious sedation of a patient by nitrous oxide. Nitrous oxide flowing when the practitioner is not present in the patient room.	130.48(c)
Supervising podiatrist failed to verify out of classroom training hours for podiatric medical radiological technician(s)	130.53(e)
Supervising practitioner failed to be physically present on the premises while podiatric medical radiological technician registrant performed radiological procedures	130.53(g)
Podiatric medical radiological technician registrant performed radiological procedures without a supervising podiatrist physically present on the premises	130.53(g)
<u>Standard of Care Violations – Related to Treatment</u>	
Temporary residency licensee prescribed controlled substance(s) for purpose(s) outside the approved residency program	130.31(g)

Failed to evaluate and document patient health and medical status in the record prior to nitrous oxide/oxygen inhalation conscious sedation procedure	130.48(k)
Failed to properly administer nitrous oxide/oxygen inhalation conscious sedation procedure as required	130.48(m)(1)-(4)
Practitioner abandoned patient that was undertaken to treat	130.55(b)
Practitioner failed to inform the patient of the identity of the surgeon to be performing podiatric medical surgery prior to surgery	130.55(d)
Performed an act or omission constituting gross neglect, such as conduct involving malice, willfulness or wanton and reckless disregard of others' rights	130.55
Failed to inform patient in advance of beginning treatment of the nature and extent of treatment needed (Informed consent)	130.55(e); 25 TAC 601
Delegated a medical act to an unqualified and untrained individual	130.56(a)
Performed an act or omission constituting malpractice/negligence by failing to perform services or provide products for which compensation has been received or failed to perform services or provide products with reasonable care, skill, expedience, and faithfulness	130.55; 202.253(a-1)(15); 202.5015
Billed for improper, unreasonable, or unnecessary services or services that were not provided	202.253(a-1)(4); 202.5015; TxHSC 311.0025(a)
Performed an act or omission constituting malpractice/negligence by failing to do that which a person or ordinary prudence would have done or would not have done under the same or similar circumstances	130.55; 202.253(a-1)(16); 202.5015
Failed to comply with standards for prescribing controlled substances	TxHSC Chapter 481; 130.58
Failed to comply with standards for prescribing dangerous drugs	TxHSC Chapter 483; 130.58

<u>Misrepresentation</u>	
Provided false or misleading information to the Department regarding a Department inquiry of continuing medical education	130.44(j)
Placed or caused to be placed false, misleading or deceptive advertising	130.51(a); 202.253(a-1)(6); 202.5015
Advertised professional superiority or the performance of professional service in a superior manner	202.253(a-1)(7); 202.5015
Used or participated in the use of any publication, including advertisements, new stories, press releases and periodical articles that contain a false, misleading or deceptive claims/statements	130.51(a)
Made or allowed false, misleading or deceptive representations concerning services or products provided or to be provided	130.51(b)
Forged, altered or falsified a physician's or healthcare professional's order or prescription	481.129
Other fraud or deceit concerning services provided	202.253(a-1)(4); 202.5015
<u>Unlicensed Activity</u>	
Temporary residency licensee practicing podiatric medicine outside the scope and limits of the GPME program and/or without supervision.	130.30(c)(e); 130.31(e)
Used nitrous oxide/oxygen inhalation conscious sedation on a patient without a current registration	130.48(d)
Provisional licensee violated Act and/or Rules	130.43(g)
Practicing podiatry while a license is on inactive status	130.46(b)
Supervised and/or administered hyperbaric oxygen without a current certificate	130.47
Failed to ensure individuals performing radiological procedures on the foot are properly trained and are properly registered as a podiatric medical radiological technician	130.53(b)

Podiatric medical radiological technician performed podiatric radiological procedures without a registration	130.53(f)
<u>Unprofessional or Unethical Conduct – Podiatric Medical Radiological Technicians</u>	
Podiatric medical radiological technician registrant performed dangerous or hazardous procedures as identified by the Texas Medical Board	130.53(h)
Podiatric medical radiological technician failed to comply with the safety rules of the Texas Department of State Health Services Radiation Control Program	130.53(i)
Podiatric medical radiological technician obtained, or attempted to obtain or use a registration by bribery or fraud	130.53(1)(4)
Podiatric medical radiological technician engaged in unprofessional conduct, including but not limited to, conviction of a crime, commission of any act that is in violation of the laws of the State of Texas if the act is connected with provision of health care, and commission of an act of moral turpitude	130.53(1)(5)
Podiatric medical radiological technician developed or has an incapacity that prevents the practice of podiatric medical radiological technician with reasonable skill, competence, and safety to the public as a result of (A) an illness; (B) drug or alcohol dependency; or habitual use of drug or intoxicating liquors or (C) another physical or mental condition	130.53(1)(6)
Podiatric medical radiological technician failed to practice in an acceptable manner consistent with public health and welfare	130.53(1)(7)
Podiatric medical radiological technician has disciplinary action taken against a radiological certification, permit, or registration in another state or by another regulatory agency	130.53(1)(8)
Podiatric medical radiological technician engaged in acts requiring registration under these rules without a current registration in another state, or by another regulatory agency	130.53(1)(9)
Podiatric medical radiological technician has had a registration revoked, suspended, or has received a disciplinary action	130.53(1)(10)
<u>Unprofessional or Unethical Conduct</u>	

Engaged in habits of intemperance or drug addiction that endangered the health, well-being, or welfare of the patients	202.253(a-1)(3); 202.5015
Engaged in grossly unprofessional or dishonorable conduct to deceive or defraud the public	202.253(a-1)(4); 202.5015
Violated or attempted to violate the laws or rules as a principal, accessory, or accomplice	202.253(a-1)(5); 202.5015
Employed or associated in the practice of a podiatrist whose license has been suspended or revoked	202.253(a-1)(13); 202.5015
Failed to practice podiatry in an acceptable manner consistent with public health and welfare	202.253(a-1)(16); 202.5015
Failed to comply with prohibitions relating to sexual misconduct	130.57

Figure: 16 TAC §130.74(f)

Penalty Range:	
\$5,000 and/or revocation	
Practiced podiatry without a license	202.303
Obtained or attempted to obtain a license by fraud, misrepresentation, or concealment of material fact	60.23(a)(1); 60.23(a)(2);  202.253(a-1)(1); 202.253(a-1)(8); 202.253(a-1)(14); 202.5015
Engaged in fraud or deception in the passing or taking an examination	60.52(a);  202.253(a-1)(1); 130.41(c);  202.253(a-1)(11); 202.5015
Failed to comply with a previous order of the Commission or Executive Director	51.353(a); 202.253(a); 202.5015
Failed to pay the Department for a dishonored payment or processing fee	60.82; 51.210(c)



Figure: 19 TAC §151.1001(b)(1)

**Passing Standards for Early Childhood through Grade 6 Examinations**

Test Code	Test Title	Total Points	Average Passing Standard (Average Raw Cut Score*)
801	Core Subjects EC-6 English Language Arts and Reading and the Science of Teaching Reading Texas Examinations of Educator Standards (TExES)	65	<u>40</u> [ <del>41</del> ]
802	Core Subjects EC-6 Mathematics TExES	40	<u>23</u> [ <del>25</del> ]
803	Core Subjects EC-6 Social Studies TExES	35	<u>20</u> [ <del>22</del> ]
804	Core Subjects EC-6 Science TExES	45	<u>29</u> [ <del>28</del> ]
805	Core Subjects EC-6 Fine Arts, Health, and Physical Education TExES	45	25

\*Actual raw cut scores may vary slightly from form to form. The average is based on all active forms.

Figure: 19 TAC §151.1001(b)(2)

**Passing Standards for Grades 4-8 Examinations**

Test Code	Test Title	Total Points	Average Passing Standard (Average Raw Cut Score*)
113	English Language Arts and Reading/Social Studies 4-8 Texas Examinations of Educator Standards (TExES)	100	<u>62</u> [ <del>61</del> ]
114	Mathematics/Science 4-8 TExES	100	<u>70</u> [ <del>71</del> ]
115	Mathematics 4-8 TExES	80	<u>53</u> [ <del>56</del> ]
116	Science 4-8 TExES	80	57
117	English Language Arts and Reading 4-8 TExES	80	52
118	Social Studies 4-8 TExES	80	53
806	Core Subjects 4-8: English Language Arts and Reading TExES	65	<u>41</u> [ <del>43</del> ]
807	Core Subjects 4-8 Mathematics TExES	35	18
808	Core Subjects 4-8 Social Studies TExES	35	<u>19</u> [ <del>20</del> ]
809	Core Subjects 4-8 Science TExES	35	23

\*Actual raw cut scores may vary slightly from form to form. The average is based on all active forms.

**Figure: 19 TAC §151.1001(b)(3)**

**Passing Standards for Secondary Mathematics and Science Examinations**

Test Code	Test Title	Total Points	Average Passing Standard (Average Raw Cut Score*)
235	Mathematics 7-12 Texas Examinations of Educator Standards (TExES)	80	<u>47</u> [ <del>49</del> ]
236	Science 7-12 TExES	120	79
237	Physical Science 6-12 TExES	80	59
238	Life Science 7-12 TExES	80	<u>56</u> [ <del>57</del> ]
240	Chemistry 7-12 TExES	80	52
243	Physics/Mathematics 7-12 TExES	100	68
274	Mathematics/Physical Science/Engineering 6-12 TExES	110	65

\*Actual raw cut scores may vary slightly from form to form. The average is based on all active forms.

**Figure: 19 TAC §151.1001(b)(4)**

**Passing Standards for Secondary English Language Arts and Social Studies Examinations**

Test Code	Test Title	Total Points	Average Passing Standard (Average Raw Cut Score*)
231	English Language Arts and Reading 7-12 Texas Examinations of Educator Standards (TExES)	125	<u>72</u> [ <del>74</del> ]
232	Social Studies 7-12 TExES	120	83
233	History 7-12 TExES	80	48

\*Actual raw cut scores may vary slightly from form to form. The average is based on all active forms.

**Figure: 19 TAC §151.1001(b)(5)**

**Passing Standards for Speech and Journalism Examinations**

Test Code	Test Title	Total Points	Average Passing Standard (Average Raw Cut Score*)
129	Speech 7-12 Texas Examinations of Educator Standards (TExES)	80	54
256	Journalism 7-12 TExES	80	<u>47</u> [ <del>46</del> ]

\*Actual raw cut scores may vary slightly from form to form. The average is based on all active forms.

**Figure: 19 TAC §151.1001(b)(6)**

**Passing Standards for Fine Arts Examinations**

Test Code	Test Title	Total Points	Average Passing Standard (Average Raw Cut Score*)
177	Music EC-12 Texas Examinations of Educator Standards (TE <sub>x</sub> ES)	80	<u>51</u> [ <del>49</del> ]
178	Art EC-12 TE <sub>x</sub> ES	80	45
180	Theatre EC-12 TE <sub>x</sub> ES	80	58
279	Dance 6-12 TE <sub>x</sub> ES	80	56

\*Actual raw cut scores may vary slightly from form to form. The average is based on all active forms.

**Figure: 19 TAC §151.1001(b)(7)**

**Passing Standards for Health and Physical Education Examinations**

Test Code	Test Title	Total Points	Average Passing Standard (Average Raw Cut Score*)
157	Health EC-12 Texas Examinations of Educator Standards (TE <sub>x</sub> ES)	80	51
158	Physical Education EC-12 TE <sub>x</sub> ES	80	<u>50</u> [ <del>52</del> ]

\*Actual raw cut scores may vary slightly from form to form. The average is based on all active forms.

**Figure: 19 TAC §151.1001(b)(8)**

**Passing Standards for Computer Science and Technology Applications Examinations**

Test Code	Test Title	Total Points	Average Passing Standard (Average Raw Cut Score*)
241	Computer Science 8-12 Texas Examinations of Educator Standards (TE <sub>x</sub> ES)	80	59
242	Technology Applications EC-12 TE <sub>x</sub> ES	80	<u>59</u> [ <del>60</del> ]

\*Actual raw cut scores may vary slightly from form to form. The average is based on all active forms.

Figure: 19 TAC §151.1001(b)(9)

**Passing Standards for Career and Technical Education Examinations**

Test Code	Test Title	Total Points	Average Passing Standard (Average Raw Cut Score*)
171	Technology Education 6-12 Texas Examinations of Educator Standards (TE <sub>x</sub> ES)	80	38
200	Family and Consumer Sciences Composite, American Association of Family and Consumer Sciences (AAFCS)	120	85
201	Hospitality, Nutrition, and Food Science, AAFCS	120	85
202	Human Development and Family Studies, AAFCS	120	95
272	Agriculture, Food, and Natural Resources 6-12 TE <sub>x</sub> ES	80	<u>46</u> [ <del>45</del> ]
273	Health Science 6-12 TE <sub>x</sub> ES	80	<u>53</u> [ <del>54</del> ]
275	Marketing 6-12 TE <sub>x</sub> ES	80	52
276	Business and Finance 6-12 TE <sub>x</sub> ES	80	<u>56</u> [ <del>57</del> ]

\*Actual raw cut scores may vary slightly from form to form. The average is based on all active forms.

Figure: 19 TAC §151.1001(b)(11)

**Passing Standards for Languages Other Than English (LOTE) Examinations**

Test Code	Test Title	Total Points	Average Passing Standard (Average Raw Cut Score* or Minimum Proficiency Level**)
184	American Sign Language EC-12 Texas Examinations of Educator Standards (TExES)	60	<u>40</u> [ <del>43</del> ]
600	LOTE: Arabic Writing Proficiency Test, American Council for the Teaching of Foreign Languages (ACTFL)	NA	Advanced Low
601	LOTE: Chinese-Mandarin Writing Proficiency Test, ACTFL	NA	Advanced Low
602	LOTE: Japanese Writing Proficiency Test, ACTFL	NA	Intermediate High
603	LOTE: Russian Writing Proficiency Test, ACTFL	NA	Intermediate High
604	LOTE: Vietnamese Writing Proficiency Test, ACTFL	NA	Advanced Low
605	LOTE: Arabic Oral Proficiency Interview, ACTFL	NA	Advanced Low
606	LOTE: Chinese-Mandarin Oral Proficiency Interview, ACTFL	NA	Advanced Low
607	LOTE: Japanese Oral Proficiency Interview, ACTFL	NA	Intermediate High
608	LOTE: Russian Oral Proficiency Interview, ACTFL	NA	Intermediate High
609	LOTE: Vietnamese Oral Proficiency Interview, ACTFL	NA	Advanced Mid
610	LOTE: French EC-12 TExES	150	<u>101</u> [ <del>108</del> ]
611	LOTE: German EC-12 TExES	150	<u>105</u> [ <del>103</del> ]
612	LOTE: Latin EC-12 TExES	90	47
613	LOTE: Spanish EC-12 TExES	150	<u>114</u> [ <del>113</del> ]
622	LOTE: Hindi Oral Proficiency Interview, ACTFL	NA	Advanced Low
623	LOTE: Hindi Writing Proficiency Test, ACTFL	NA	Advanced Low
624	LOTE: Italian Oral Proficiency Interview, ACTFL	NA	Advanced Low
625	LOTE: Italian Writing Proficiency Test, ACTFL	NA	Advanced Low
626	LOTE: Turkish Oral Proficiency Interview, ACTFL	NA	Advanced Low
627	LOTE: Turkish Writing Proficiency Test, ACTFL	NA	Intermediate High
630	LOTE: Korean Oral Proficiency Interview, ACTFL	NA	Advanced Low
631	LOTE: Korean Writing Proficiency Test, ACTFL	NA	Advanced Low
632	LOTE: Portuguese Oral Proficiency Interview, ACTFL	NA	Advanced Low
633	LOTE: Portuguese Writing Proficiency Test, ACTFL	NA	Advanced Low

\*Actual raw cut scores may vary slightly from form to form. The average is based on all active forms.

\*\*Proficiency levels from lowest to highest are as follows: 1) Novice Low, 2) Novice Mid, 3) Novice High, 4) Intermediate Low, 5) Intermediate Mid, 6) Intermediate High, 7) Advanced Low, 8) Advanced Mid, 9) Advanced High, and 10) Superior.

**Figure: 19 TAC §151.1001(b)(12)**

**Passing Standards for Special Education Examinations**

Test Code	Test Title	Total Points	Average Passing Standard (Average Raw Cut Score*)
072	Texas Assessment of Sign Communication (TASC) <sup>†</sup>	5	3
073	TASC-American Sign Language <sup>†</sup>	5	3
161	Special Education EC-12 Texas Examinations of Educator Standards (TExES)	120	<u>78</u> [ <del>81</del> ]
181	Deaf and Hard of Hearing TExES	80	55
182	Visually Impaired TExES	80	<u>56</u> [ <del>58</del> ]
183	Braille TExES	36	24
283	Braille TExES	50	<u>36</u> [ <del>34</del> ]

\*Actual raw cut scores may vary slightly from form to form. The average is based on all active forms.

<sup>†</sup>For test codes 072 and 073, alphabetic scores reported to candidates were converted to numeric scores (A=5, B=4, C=3, D=2, E=1).

**Figure: 19 TAC §151.1001(b)(13)**

**Passing Standards for Supplemental Examinations**

Test Code	Test Title	Total Points	Average Passing Standard (Average Raw Cut Score*)
154	English as a Second Language Supplemental Texas Examinations of Educator Standards (TExES)	60	<u>39</u> [ <del>40</del> ]
162	Gifted and Talented Supplemental TExES	60	40
163	Special Education Supplemental TExES	80	<u>52</u> [ <del>51</del> ]
164	Bilingual Education Supplemental TExES	60	41

\*Actual raw cut scores may vary slightly from form to form. The average is based on all active forms.

**Figure: 19 TAC §151.1001(b)(14)**

**Passing Standards for Pedagogy and Professional Responsibilities Examinations**

Test Code	Test Title	Total Points	Average Passing Standard (Average Raw Cut Score*)
160	Pedagogy and Professional Responsibilities EC-12 Texas Examinations of Educator Standards (TExES)	90	<u>60</u> [ <del>62</del> ]
270	Pedagogy and Professional Responsibilities for Trade and Industrial Education 6-12 TExES	80	<u>49</u> [ <del>51</del> ]

\*Actual raw cut scores may vary slightly from form to form. The average is based on all active forms.

**Figure: 19 TAC §151.1001(c)**

**Passing Standards for Student Services Examinations**

Test Code	Test Title	Max Points	Average Passing Standard (Average Raw Cut Score*)
085	Master Reading Teacher EC-12 Texas Examinations for Master Teachers (TExMaT)	98	69
086	Master Technology Teacher EC-12 TExMaT	120	85
087	Master Mathematics Teacher EC-4 TExMaT	123	88
088	Master Mathematics Teacher 4-8 TExMaT	120	86
089	Master Mathematics Teacher 8-12 TExMaT	107	78
090	Master Science Teacher EC-4 TExMaT	126	90
091	Master Science Teacher 4-8 TExMaT	133	91
092	Master Science Teacher 8-12 TExMaT	114	81
150	School Librarian Texas Examinations of Educator Standards (TExES)	80	58
151	Reading Specialist TExES	80	45
152	School Counselor TExES	80	56
153	Educational Diagnostician TExES	80	<u>55</u> [ <del>57</del> ]

\*Actual raw cut scores may vary slightly from form to form. The average is based on all active forms.

For test code 085, an examinee must attain at least the raw cut score and a score of 3 or more on the case study assignment to pass.

Figure: 19 TAC §151.1001(d)

**Passing Standards for Administrator Examinations**

Test Code	Test Title	Max Points	Average Passing Standard (Average Raw Cut Score* or <u>Minimum Standard</u> )
068	Principal Texas Examinations of Educator Standards (TExES)	100	<u>72</u> <del>73</del>
195	Superintendent TExES	80	55
<u>268</u>	<u>Principal as Instructional Leader TExES (Selected-Response Portion) – prior to 9/1/2021</u>	<u>58</u>	<u>36</u>
	<u>Principal as Instructional Leader TExES (Constructed-Response Portion) – prior to 9/1/2021</u>	<u>32</u>	<u>20</u>
<u>268</u>	<u>Principal as Instructional Leader TExES (Selected-Response Portion) – on or after 9/1/2021</u>	<u>58</u>	<u>39</u>
	<u>Principal as Instructional Leader TExES (Constructed-Response Portion) – on or after to 9/1/2021</u>	<u>32</u>	<u>22</u>
<u>368</u>	<u>Performance Assessment for School Leaders (PASL), Educational Testing Service (ETS)</u>	<u>64</u>	<u>42</u>
<u>968</u>	<u>Principal as Instructional Leader TExES Pilot Examination</u>	<u>NA</u>	<u>Complete</u>

\*Actual raw cut scores may vary slightly from form to form. The average is based on all active forms.



# 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.

## Comptroller of Public Accounts

### Notice of Contract Award

Notice of Award: The Texas Comptroller of Public Accounts, on behalf of the Texas Prepaid Higher Education Tuition Board, announces the award of a consulting services contract under Request for Proposals No. 221a ("RFP") to AKF Consulting, LLP dba AKF Consulting Group, 757 Third Avenue, 12th Floor, New York, New York 10017. The total amount of the contract is not to exceed \$150,000.00. The term of the contract is May 6, 2019, through December 31, 2020, with option to renew for two (2) additional one (1) year terms, one (1) year at a time.

The RFP was published in the September 7, 2018, issue of the *Texas Register* (43 TexReg 5833).

TRD-201901339

Vicki Rees

Contracts Attorney

Comptroller of Public Accounts

Filed: May 7, 2019



## 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, 303.005 and 303.009, Texas Finance Code.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 05/13/19 - 05/19/19 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 05/13/19 - 05/19/19 is 18% for Commercial over \$250,000.

The monthly ceiling as prescribed by §303.005 and 303.009<sup>3</sup> for the period of 05/01/19 - 05/31/19 is 18% for Consumer/Agricultural/Commercial credit through \$250,000.

The monthly ceiling as prescribed by §303.005 and 303.009 for the period of 05/01/19 - 05/31/19 is 18% 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.

<sup>3</sup>For variable rate commercial transactions only.

TRD-201901348

Leslie Pettijohn

Commissioner

Office of Consumer Credit Commissioner

Filed: May 7, 2019



## Court of Criminal Appeals

### Availability of Grant Funds

The Court of Criminal Appeals announces the availability of funds to be provided in the form of grants to entities for the purpose of providing continuing legal education courses, programs, and technical assistance projects for prosecutors, prosecutor office personnel, criminal defense attorneys and criminal defense attorney office personnel who regularly represent indigent defendants in criminal matters, clerks, judges, and other court personnel of the appellate courts, district courts, county courts at law, county courts, justice courts and municipal courts of this State, or other persons as provided by statute.

The Court of Criminal Appeals also announces the availability of funds to be provided in the form of grants to entities for the purpose of providing continuing legal education courses, programs, and technical assistance projects on actual innocence for law enforcement officers, law students, criminal defense attorneys, prosecuting attorneys, judges, or other persons as provided by statute.

Funds are subject to the provisions of Chapter 56 of the Texas Government Code and the General Appropriations Act. The grant period is September 1, 2019, through August 31, 2020. The deadline for applications is July 1, 2019. Applicants may request an application packet by contacting the Judicial Education Section of the Texas Court of Criminal Appeals: 201 West 14th Street, Suite 103, Austin, Texas 78701, (512) 475-2312, [judicialeducation@txcourts.gov](mailto:judicialeducation@txcourts.gov).

TRD-201901287

Megan Mollur

Grant Attorney and Administrator

Court of Criminal Appeals

Filed: May 1, 2019



## In the Court of Criminal Appeals of Texas

# IN THE COURT OF CRIMINAL APPEALS OF TEXAS

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Misc. Docket No. 19-003  
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=====  
**ORDER PROPOSING AMENDMENTS TO TEXAS RULE OF APPELLATE  
PROCEDURE 73.7 AND PROPOSING THE ADOPTION OF  
TEXAS RULE OF APPELLATE PROCEDURE 73.8**  
=====

**ORDERED** that:

1. Pursuant to section 22.108 of the Texas Government Code, the Court of Criminal Appeals proposes amendments to Rule of Appellate Procedure 73.7 and proposes the adoption of Rule of Appellate Procedure 73.8 and a comment to Rule 73.
2. These amendments may be changed in response to public comments received before July 15, 2019. Any person may submit written comments to the Court of Criminal Appeals at [txccarulescomments@txcourts.gov](mailto:txccarulescomments@txcourts.gov) or by mail to the Clerk of the Court of Criminal Appeals at P.O. Box 12308, Austin, Texas 78711.
3. The Clerk is directed to:
  - a. file a copy of this order with the Secretary of State;
  - b. cause a copy of this order to be mailed to each registered member of the State Bar of Texas by publication in the *Texas Bar Journal*;
  - c. send a copy of this order to each elected member of the Legislature; and
  - d. submit a copy of the order for publication in the *Texas Register*.

Dated: May 6, 2019.

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Sharon Keller, Presiding Judge

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Michael Keasler, Judge

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Barbara Hervey, Judge

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Bert Richardson, Judge

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Kevin P. Yeary, Judge

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David Newell, Judge

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Mary Lou Keel, Judge

---

Scott Walker, Judge

---

Michelle Slaughter, Judge

**Rule 73.7. Supplementing or Amending Article 11.07 or Article 11.071 Application Grounds or Providing New Evidence after Case Forwarded to the Court of Criminal Appeals; Motion to Stay Proceedings**

- (a) *Definitions.*
- (1) *Supplemental Application.* A supplemental application adds grounds or content to a previously filed application but will not cure any procedural deficiencies in the previously filed application. Courts will consider a supplemental application in addition to the previously filed application.
  - (2) *Amended Application.* An amended application revises a previously filed application that may be deficient or incorrectly stated. Courts will consider an amended application as a complete substitute for the previously filed application, disregarding the previously filed application.
- (b) *Motion to Supplement or Amend an Application.* To supplement or amend an application after it has been forwarded to the Court of Criminal Appeals, a party must file a motion in the Court of Criminal Appeals that describes:
- (1) the supplemental or amended grounds;
  - (2) why these grounds are cognizable and ripe for review; and
  - (3) why these grounds could not have been presented previously.
- (c) *Motion to Stay Proceedings.* If an application has been forwarded to the Court of Criminal Appeals and a party needs additional time to investigate or present legal claims or additional evidence, the party must file a motion to stay proceedings in the Court of Criminal Appeals. The motion must:
- (1) describe the additional evidence or grounds for relief that could be developed through further investigation;
  - (2) explain the value of any additional evidence;
  - (3) explain why this investigation was not completed before the application was filed; and
  - (4) state a reasonable period of time that the party believes is necessary.
- (d) *Party's Duties if Motion Granted.* If the Court of Criminal Appeals grants a motion to supplement or amend an application, the party must:

- (1) prepare a supplemental or amended application that complies with the requirements of Code of Criminal Procedure Chapter 11 and Rule 73.1 and contains grounds for relief that are cognizable and ripe for review;
  - (2) use the Article 11.07 application form in an Article 11.07 habeas proceeding and note on the first page of the application form whether the document is an “amended” or “supplemental” application; and
  - (3) file the supplemental or amended application and any memorandum of law and other supporting materials with the district clerk of the county of conviction within the time frame designated by the Court of Criminal Appeals.
- (e) *District Clerk’s Duties.* Upon the filing of a supplemental or amended application and/or new evidence under this rule, the district clerk of the county of conviction shall:
- (1) immediately send a copy of the supplemental or amended application, any memorandum of law, and all supporting materials and/or new evidence to the judge assigned to the habeas case and the opposing party; and
  - (2) otherwise comply with the procedures set out in Rule 73.4(b) of these rules, including forwarding to the Court of Criminal Appeals all filed materials not previously forwarded to the Court.
- (f) *Late Motions.* If the Court of Criminal Appeals has finally disposed of the application, the Court will not entertain any motions to supplement or amend the application or stay proceedings.

**Rule 73.8 New Evidence after Article 11.07 or Article 11.071 Application Forwarded to the Court of Criminal Appeals in a Filed and Set Case**

- (a) If the Court of Criminal Appeals has filed and set an Article 11.07 or 11.071 application for submission, a party may move that the Court consider new evidence as follows:
- (1) *Motion to Supplement Habeas Record in the Convicting Court.* File in the Court of Criminal Appeals a motion to stay proceedings to supplement the record in the convicting court. In this motion, the party must:
    - (A) describe the new evidence that the party intends to file in the convicting court;
    - (B) explain its evidentiary value; and
    - (C) state why the evidence could not have been filed in the convicting

court before the Court of Criminal Appeals filed and set the application for submission; or

(2) *Motion for Court of Criminal Appeals to Consider New Evidence.* File the new evidence directly in the Court of Criminal Appeals with a motion for the Court to consider the evidence. In this motion, the party must:

- (A) describe the new evidence;
- (B) explain its evidentiary value; and
- (C) state why compelling and extraordinary circumstances exist for the Court to consider the evidence directly.

(b) *District Clerk's Duties.* If the Court of Criminal Appeals grants a motion under subsection (a)(1) and the party then files new evidence in the convicting court, the district clerk of the county of conviction shall:

- (1) immediately send a copy of the filed materials to the judge assigned to the habeas case, to the opposing party in the case, and to the Court of Criminal Appeals; and
- (2) otherwise comply with the procedures set out in Rule 73.4(b) of these rules.

**Comment to 2019 change:** In general, when an applicant or petitioner files a supplemental or amended Article 11.07 habeas application in the convicting court, the Court of Criminal Appeals will consider the merits of the supplemental or amended application with certain caveats. First, the party must file the supplemental or amended application before the Court of Criminal Appeals has finally disposed of the pending Article 11.07 application. Second, the Court will generally consider a party's supplemental or amended application so long as the pleadings comply with the rules and procedures in Article 11.07 and Rule of Appellate Procedure 73.1, and so long as the claims are otherwise cognizable and ripe for review.

The Court amends Rule 73.7 to explain the procedures for filing a supplemental or amended Article 11.07 or Article 11.071 application and for moving to stay the proceedings for additional investigation and to present additional evidence in light of the Court's precedent. Former Rule 73.7, in turn, is amended and renumbered to become Rule 73.8. This rule explains the procedures for submitting new evidence after an Article 11.07 or Article 11.071 habeas application has been filed and set. If the application has not been filed and set, new Rule 73.7 prescribes the procedure for submitting new evidence.

A party in an Article 11.07 habeas proceeding must use the Article 11.07 application form (Appendix E of these rules) to file a supplemental or amended application. The

party must make a notation on the first page of the application form alerting the court that the application is “supplemental” or “amended.” The Article 11.07 application form is available from the district clerk of the county of conviction and online through the Court of Criminal Appeals’ website. A party in an Article 11.071 habeas proceeding need not use the Article 11.07 form but should nonetheless designate the application as “supplemental” or “amended” with a visible notation on the first page of the application. However, the Court of Criminal Appeals is not bound by this designation. Depending on the circumstances presented, the Court may determine that the application constitutes a subsequent application under Article 11.071 §5 and rule accordingly.

Rule 73.7 provides the procedure for filing a supplemental or amended application, a stay of proceedings, and/or submission of additional evidence *after* the convicting court has made a recommendation on an Article 11.07 or Article 11.071 postconviction habeas application and the application has been forwarded to the Court of Criminal Appeals. If the convicting court has not yet made a recommendation and the clerk of the convicting court has not yet forwarded the initial application to the Court of Criminal Appeals, a party need not obtain the permission of the Court or a stay of proceedings before filing a supplemental or amended application or additional evidence in the convicting court. However, if a party is concerned that the convicting court will order the clerk to forward the habeas case to the Court of Criminal Appeals before the party can file a supplemental or amended application or new evidence in the convicting court, the party may file a motion for stay of proceedings in the convicting court.

If a party files a supplemental or amended application in the convicting court, the convicting court shall consider the supplemental or amended application following the procedures set out in Article 11.07 or Article 11.071 and Rule 73. The clerk of the convicting court must forward a supplemental record containing all materials related to the supplemental or amended application to the Court of Criminal Appeals in compliance with the procedures set out in Rule 73.4. Rules 73.7 and 73.8 do not enlarge the time periods or word or page limits set out in Article 11.07, Article 11.071, and Rules 73.1, 73.4, and 73.5.

Additionally, Rule 73.7 should not be construed to authorize the late-stage dismissal or withdrawal of a habeas application. In general, requests for late-stage dismissals of habeas applications without prejudice are disfavored and will not be permitted unless the applicant makes a showing of good cause. Supplementing or amending an existing application under Rule 73.7, presenting additional evidence, or staying the proceedings for a reasonable period of time may provide suitable alternatives to a late-stage dismissal without prejudice.

If, after the Court of Criminal Appeals has finally disposed of a party’s initial application, the party files a motion to stay proceedings under Rule 73.7(c), a motion to supplement or amend under Rule 73.7(b), or a supplemental or amended application, the Court may dismiss the pleading and/or treat it as a subsequent application under Article 11.07 §4 or Article 11.071 §5.

◆ ◆ ◆  
**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 **June 18, 2019**. 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 **June 18, 2019**. 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: Atmos Energy Corporation; DOCKET NUMBER: 2018-1500-AIR-E; IDENTIFIER: RN100542588; LOCATION: Ennis, Ellis County; TYPE OF FACILITY: natural gas compression station; RULES VIOLATED: 30 TAC §101.20(1) and §122.143(4), 40 Code of Federal Regulations (CFR) §60.334(b), Federal Operating Permit (FOP) Number O3868, General Terms and Conditions (GTC) and Special Terms and Conditions (STC) Number 7, and Texas Health and Safety Code (THSC), §382.085(b), by failing to monitor the nitrogen oxides (NO<sub>x</sub>) concentration on a quarterly basis; 30 TAC §101.20(1) and §122.143(4), CFR §60.4340(a), FOP Number O3868, GTC and STC Number 1.A, and THSC, §382.085(b), by failing to perform the annual performance test to demonstrate continuous compliance with the NO<sub>x</sub> emissions limit; 30 TAC §101.20(1) and §122.143(4), CFR §60.4340(a), FOP Number O3868, STC Number 1.A, and THSC, §382.085(b), by failing to perform the biennial performance test to demonstrate continuous compliance with the NO<sub>x</sub> emissions limit; 30 TAC §§117.430(a)(7), 117.8140(b), and 122.143(4), FOP Number O3868, STC Number 1.A, and THSC, §382.085(b), by failing to check the engine for proper operation by recorded instruments of engine NO<sub>x</sub> and carbon monoxide (CO) emissions at least quarterly; 30 TAC §§117.440(h), 117.8140(a)(2), and 122.143(4), FOP Number O3868,

STC Number 1.A, and THSC, §382.085(b), by failing to perform the periodic testing for the NO<sub>x</sub> and CO emissions on a biennial calendar basis or within 15,000 hours of engine operation after the previous emissions test; 30 TAC §122.143(4) and §122.145(2)(C), FOP Number O124/General Operating Permit (GOP) Number 511, Site-wide Requirements (b)(2), and THSC, §382.085(b), by failing to submit a deviation report no later than 30 days after the end of the reporting period; 30 TAC §122.143(4) and §122.145(2)(C), FOP Number O3868, GTC, and THSC, §382.085(b), by failing to submit a deviation report no later than 30 days after the end of the reporting period; and 30 TAC §122.143(4) and §122.146(2), FOP Number O124/GOP Number 511, Site-wide Requirements (b)(3), and THSC, §382.085(b), by failing to submit a permit compliance certification no later than 30 days after the end of the certification period; PENALTY: \$43,559; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$17,424; ENFORCEMENT COORDINATOR: Margarita Dennis, (817) 588-5892; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(2) COMPANY: BAYTOWN ASPHALT MATERIALS, LTD.; DOCKET NUMBER: 2019-0321-PST-E; IDENTIFIER: RN100249580; LOCATION: Houston, Harris County; TYPE OF FACILITY: equipment refueling operation; 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 tank (UST) for releases in a manner which will detect a release at a frequency of at least once every 30 days and failing to provide release detection for the pressurized piping associated with the UST system; and 30 TAC §334.605(a), by failing to ensure that a certified Class A and Class B Operator was retrained within three years of their last training date; PENALTY: \$3,728; ENFORCEMENT COORDINATOR: John Fennell, (512) 239-2616; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(3) COMPANY: City of Aubrey; DOCKET NUMBER: 2019-0086-MWD-E; IDENTIFIER: RN102336666; LOCATION: Aubrey, Denton 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 WQ0013647001, Interim Effluent Limitations and Monitoring Requirements Number 1, by failing to comply with permitted effluent limitations; PENALTY: \$9,375; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$7,500; ENFORCEMENT COORDINATOR: Harley Hobson, (512) 239-1337; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(4) COMPANY: City of Liberty; DOCKET NUMBER: 2018-1495-MWD-E; IDENTIFIER: RN102078128; LOCATION: Liberty, Liberty 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 WQ0010108001, Effluent Limitations and Monitoring Requirements Number 1, by failing to comply with permitted effluent limitations; PENALTY: \$16,200; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$12,960; ENFORCEMENT COORDINATOR: Abigail Lindsey, (512) 239-2576; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(5) COMPANY: City of Menard; DOCKET NUMBER: 2019-0186-MWD-E; IDENTIFIER: RN104104765; LOCATION: Menard, Menard County; TYPE OF FACILITY: water treatment facility; RULES VIOLATED: 30 TAC §305.125(1), TWC, §26.121(a)(1), and Texas Pollutant Discharge Elimination System Permit Number WQ0010345002, Effluent Limitations and Monitoring Requirements



Number 1, by failing to comply with permitted effluent limitations; PENALTY: \$3,000; ENFORCEMENT COORDINATOR: Christopher Moreno, (254) 761-3038; REGIONAL OFFICE: 622 South Oakes, Suite K, San Angelo, Texas 76903-7035, (325) 655-9479.

(6) COMPANY: City of Nacogdoches; DOCKET NUMBER: 2018-1509-MWD-E; IDENTIFIER: RN101611283; LOCATION: Nacogdoches, Nacogdoches County; TYPE OF FACILITY: wastewater treatment facility; RULE VIOLATED: TWC, §26.121(a)(1), by failing to prevent an unauthorized discharge of wastewater into or adjacent to any water in the state; PENALTY: \$7,175; ENFORCEMENT COORDINATOR: Christopher Moreno, (254) 761-3038; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1830, (409) 898-3838.

(7) COMPANY: East Montgomery County Municipal Utility District Number 4; DOCKET NUMBER: 2018-1755-MWD-E; IDENTIFIER: RN104196936; LOCATION: New Caney, Montgomery County; TYPE OF FACILITY: wastewater treatment plant; RULES VIOLATED: 30 TAC §305.125(1), TWC, §26.121(a)(1), and Texas Pollutant Discharge Elimination System Permit Number WQ0014536001, Effluent Limitations and Monitoring Requirements Number 1, by failing to comply with permitted effluent limitations; PENALTY: \$2,625; ENFORCEMENT COORDINATOR: Abigail Lindsey, (512) 239-2576; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(8) COMPANY: Equistar Chemicals, LP; DOCKET NUMBER: 2018-1380-AIR-E; IDENTIFIER: RN100237668; LOCATION: Alvin, Brazoria County; TYPE OF FACILITY: chemical manufacturing plant; RULES VIOLATED: 30 TAC §116.115(c) and §122.143(4), New Source Review (NSR) Permit Number 2482B, Special Conditions (SC) Number 11B(1), Federal Operating Permit (FOP) Number O1607, General Terms and Conditions (GTC) and Special Terms and Conditions (STC) Number 11, and Texas Health and Safety Code (THSC), §382.085(b), by failing to measure the differential pressure across each baghouse; 30 TAC §116.115(c) and §122.143(4), NSR Permit Number 2482B, SC Number 11B(2), FOP Number O1607, GTC and STC Number 11, and THSC, §382.085(b), by failing to maintain the differential pressure across each baghouse; 30 TAC §116.115(c) and §122.143(4), NSR Permit Number 2482B, SC Number 11B(3), FOP Number O1607, GTC and STC Number 11, and THSC, §382.085(b), by failing to calibrate each monitoring device in accordance with the manufacturer's specifications or at least annually, whichever is more frequent; 30 TAC §116.116(a)(1) and §122.143(4), NSR Permit Number 2482B, SC Number 1, FOP Number O1607, GTC and STC Number 11, and THSC, §382.085(b), by failing to comply with the representations regarding construction plans and operation procedures in a permit application; and 30 TAC §122.143(4) and §122.145(2)(A), FOP Number O1607, GTC, and THSC, §382.085(b), by failing to report all instances of deviations; PENALTY: \$26,101; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$10,440; ENFORCEMENT COORDINATOR: Margarita Dennis, (817) 588-5892; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(9) COMPANY: Fiona Investments, Incorporated dba Nicks Mart; DOCKET NUMBER: 2019-0006-PST-E; IDENTIFIER: RN102716081; LOCATION: San Antonio, Bexar County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.48(c) and §334.50(d)(1)(B), by failing to conduct effective manual or automatic inventory control procedures for the underground storage tank involved in the retail sale of petroleum substances used as motor fuel; PENALTY: \$3,375; ENFORCEMENT COORDINATOR: Berenice Munoz, (915) 834-4976; REGIONAL

OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

(10) COMPANY: Gallagher Acquisitions, LLC; DOCKET NUMBER: 2018-1730-PWS-E; IDENTIFIER: RN110114097; LOCATION: Fort Worth, Tarrant County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.46(d)(2)(A) and §290.110(b)(4) and Texas Health and Safety Code, §341.0315(c), by failing to maintain a disinfectant residual of at least 0.2 milligrams per liter of free chlorine throughout the distribution system at all times; PENALTY: \$220; ENFORCEMENT COORDINATOR: Julianne Dewar, (512) 239-1001; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(11) COMPANY: Hardin County Water Control and Improvement District Number 1; DOCKET NUMBER: 2019-0188-PWS-E; IDENTIFIER: RN101389278; LOCATION: Sour Lake, Hardin County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.115(f)(1) and Texas Health and Safety Code, §341.0315(c), by failing to comply with the maximum contaminant level of 0.080 milligrams per liter for total trihalomethanes based on the locational running annual average; PENALTY: \$157; ENFORCEMENT COORDINATOR: Julianne Dewar, (512) 239-1001; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1830, (409) 898-3838.

(12) COMPANY: INEOS Americas LLC; DOCKET NUMBER: 2018-1538-AIR-E; IDENTIFIER: RN100213958; LOCATION: Pasadena, Harris County; TYPE OF FACILITY: chemical manufacturing plant; RULES VIOLATED: 30 TAC §101.201(a)(1)(B) and §122.143(4), Federal Operating Permit (FOP) Number O1621, General Terms and Conditions (GTC) and Special Terms and Conditions (STC) Number 2.F, and Texas Health and Safety Code (THSC), §382.085(b), by failing to submit an initial notification for a reportable emissions event no later than 24 hours after the discovery of an emissions event; 30 TAC §101.201(b)(1)(H) and §122.143(4), FOP Number O1621, GTC and STC Number 2.F, and THSC, §382.085(b), by failing to identify all required information on the final record for a reportable emissions event; 30 TAC §116.115(b)(2)(F) and (c) and §122.143(4), New Source Review (NSR) Permit Number 4825A, Special Conditions (SC) Number 1, FOP Number O1621, GTC and STC Number 19, and THSC, §382.085(b), by failing to comply with the maximum allowable emissions rate; 30 TAC §116.115(c) and §122.143(4), NSR Permit Number 4825A, SC Number 1, FOP Number O1621, GTC and STC Number 19, and THSC, §382.085(b), by failing to prevent unauthorized emissions; and 30 TAC §122.143(4) and §122.145(2)(C), FOP Number O1621, GTC, and THSC, §382.085(b), by failing to submit a deviation report no later than 30 days after the end of each reporting period; PENALTY: \$16,563; ENFORCEMENT COORDINATOR: Johnnie Wu, (512) 239-2524; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(13) COMPANY: MARIAM INCORPORATED dba Shell Food Mart; DOCKET NUMBER: 2018-0729-PST-E; IDENTIFIER: RN102991627; LOCATION: Whitsett, Live Oak County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.49(a)(1) and TWC, §26.3475(d), by failing to provide corrosion protection for the underground storage tank system; PENALTY: \$7,500; ENFORCEMENT COORDINATOR: Tyler Gerhardt, (512) 239-2506; REGIONAL OFFICE: 6300 Ocean Drive, Suite 1200, Corpus Christi, Texas 78412-5839, (361) 825-3100.

(14) COMPANY: North Texas Municipal Water District; DOCKET NUMBER: 2018-1236-WQ-E; IDENTIFIER: RN102315579; LOCATION: Wylie, Collin County; TYPE OF FACILITY: water treatment facility; RULE VIOLATED: TWC, §26.121(a)(2), by failing to prevent an unauthorized discharge of potable water into or adjacent to any water in the state; PENALTY: \$7,275; SUPPLEMENTAL ENVIRON-

MENTAL PROJECT OFFSET AMOUNT: \$7,275; ENFORCEMENT COORDINATOR: Christopher Moreno, (254) 761-3038; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(15) COMPANY: Perry Homes, LLC; DOCKET NUMBER: 2019-0238-WQ-E; IDENTIFIER: RN109742338; LOCATION: Conroe, Montgomery County; TYPE OF FACILITY: construction site; RULES VIOLATED: 30 TAC §281.25(a)(4) and Texas Pollutant Discharge Elimination System (TPDES) General Permit Number TXR15847B, Part III, Sections F.4, F.6, and G.1, by failing to install and maintain adequate and effective best management practices; and TWC, §26.121(a)(2) and TPDES General Permit Number TXR15847B, Part III, Section G.5(a), by failing to prevent the unauthorized discharge of other waste into or adjacent to any water in the state; PENALTY: \$2,001; ENFORCEMENT COORDINATOR: Harley Hobson, (512) 239-1337; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(16) COMPANY: Phillips 66 Company; DOCKET NUMBER: 2017-0879-AIR-E; IDENTIFIER: RN100229319; LOCATION: Mont Belvieu, Chambers County; TYPE OF FACILITY: natural gas processing plant; RULES VIOLATED: 30 TAC §§115.112(e)(1), 116.115(c), and 122.143(4), New Source Review (NSR) Permit Number 21593, Special Conditions (SC) Number 15.A, Federal Operating Permit (FOP) Number O831, Special Terms and Conditions (STC) Numbers 1.A and 8, and Texas Health and Safety Code (THSC), §382.085(b), by failing to equip storage tanks with permanent submerged fill pipes; 30 TAC §116.115(b)(2)(F) and (c) and §122.143(4), NSR Permit Number 21593, SC Number 1, FOP Number O831, STC Numbers 1.A and 8, and THSC, §382.085(b), by failing to comply with the maximum allowable emissions rate (MAER); 30 TAC §116.115(c) and §122.143(4), NSR Permit Number 21593, SC Number 4, FOP Number O831, STC Number 8, and THSC, §382.085(b), by failing to conduct fuel sampling and analysis for the sulfur content in the ethane fuel at least once annually; and 30 TAC §122.143(4) and §122.145(2)(A), FOP Number O831, General Terms and Conditions, and THSC, §382.085(b), by failing to report all instances of deviations and failing to comply with the permitted particulate matter hourly MAER for Emissions Point Number EP-101 in the deviation reports for the May 21, 2015 - November 20, 2015, and November 21, 2015 - May 20, 2016, reporting periods; PENALTY: \$55,848; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$22,339; ENFORCEMENT COORDINATOR: Raime Hayes-Falero, (713) 767-3567; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(17) COMPANY: Port O'Connor Improvement District; DOCKET NUMBER: 2019-0051-PWS-E; IDENTIFIER: RN101201333; LOCATION: Port O'Connor, Calhoun County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.46(d)(2)(B) and §290.110(b)(4) and Texas Health and Safety Code, §341.0315(c), by failing to maintain a disinfectant residual of at least 0.5 milligrams per liter (mg/L) of chlorine (measured as total chlorine) throughout the distribution system at all times; 30 TAC §290.46(m)(4), by failing to maintain all water treatment units, storage and pressure maintenance facilities, distribution system lines, and related appurtenances in a watertight condition; 30 TAC §290.46(m)(6), by failing to maintain pumps, motors, valves, and other mechanical devices in good working condition; 30 TAC §290.46(q)(6)(F) and §290.122(f), by failing to submit copies of the Boil Water Notice Rescinded notification and the associated microbiological laboratory analysis results, accompanied with a signed Certificate of Delivery, to the executive director within ten days after the rescind notification was provided to customers; and 30 TAC §290.110(d)(1), by failing to measure the chloramine residual to a minimum accuracy of plus or minus 0.1 mg/L using methods

that conform to the requirements of 30 TAC §290.119; PENALTY: \$935; ENFORCEMENT COORDINATOR: Yuliya Dunaway, (210) 403-4077; REGIONAL OFFICE: 6300 Ocean Drive, Suite 1200, Corpus Christi, Texas 78412-5839, (361) 825-3100.

(18) COMPANY: Raymundo De Leon; DOCKET NUMBER: 2019-0185-PST-E; IDENTIFIER: RN101684959; LOCATION: Edinburg, Hidalgo 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) in a manner which will detect a release at a frequency of at least once every 30 days and failing to provide release detection for the pressurized piping associated with the UST system; PENALTY: \$3,123; ENFORCEMENT COORDINATOR: Hailey Johnson, (512) 239-1756; REGIONAL OFFICE: 1804 West Jefferson Avenue, Harlingen, Texas 78550-5247, (956) 425-6010.

(19) COMPANY: Ronald E. Coffey dba TCC Tire Disposal; DOCKET NUMBER: 2019-0053-MSW-E; IDENTIFIER: RN110366580; LOCATION: Joshua, Johnson County; TYPE OF FACILITY: unauthorized scrap tire disposal facility; RULES VIOLATED: 30 TAC §328.57(c)(3), by failing to ensure that used or scrap tires or tire pieces are transported to an authorized facility; 30 TAC §328.58(a) and (f), by failing to maintain a record of each individual load of used or scrap tires or tire pieces transported from the facility and make available upon request by agency personnel manifests, work orders, invoices, or other documentation related to the accumulation, handling, and shipment of used or scrap tires or scrap tire pieces; and 30 TAC §328.60(a) and Texas Health and Safety Code, §361.112(a), by failing to obtain a scrap tire storage site registration for the facility 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: \$15,750; ENFORCEMENT COORDINATOR: Stephanie McCurley, (512) 239-2607; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(20) COMPANY: Ronnie W. Sharp and Debbie Sharp dba Chipper Point Apartments; DOCKET NUMBER: 2019-0206-PWS-E; IDENTIFIER: RN105068431; LOCATION: Lubbock, Lubbock County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.39(e)(1) and (h)(1) and Texas Health and Safety Code (THSC), §341.035(a), by failing to submit plans and specifications to the executive director for review and approval prior to the construction of a new public water supply; 30 TAC §290.41(c)(3)(A), by failing to submit well completion data for review and approval prior to placing the facility's public drinking water well into service; 30 TAC §290.42(b)(1) and (e)(3), by failing to provide disinfection facilities for the groundwater supply for the purpose of microbiological control and distribution protection; and 30 TAC §290.46(e)(4)(A) and THSC, §341.033(a), by failing to operate the water system under the direct supervision of a water works operator who holds a Class D or higher license; PENALTY: \$525; ENFORCEMENT COORDINATOR: Steven Hall, (512) 239-2569; REGIONAL OFFICE: 5012 50th Street, Suite 100, Lubbock, Texas 79414-3426, (806) 796-7092.

TRD-201901342

Charmaine Backens  
Director, Litigation Division  
Texas Commission on Environmental Quality  
Filed: May 7, 2019



#### Enforcement Orders

An agreed order was adopted regarding IES Children and Family Services, Inc. fka INTERNATIONAL EDUCATIONAL SERVICES, IN-

CORPORATED, Docket No. 2015-0851-MWD-E on May 8, 2019 assessing \$34,607 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Clayton Smith, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An order was adopted regarding GIVING GOOD LUCK INC dba Four Seasons Mart & C K Group Enterprise, Inc., Docket No. 2016-0359-PST-E on May 8, 2019 assessing \$14,208 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Logan Harrell, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was adopted regarding Neil William Robinson, Docket No. 2016-1627-MLM-E on May 8, 2019 assessing \$3,802 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Jake Marx, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was adopted regarding Lucky's Redi-Mix Co. LLC, Docket No. 2017-1536-AIR-E on May 8, 2019 assessing \$2,625 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Clayton Smith, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding INVISTA S.a r.l., Docket No. 2018-0096-AIR-E on May 8, 2019 assessing \$30,135 in administrative penalties with \$6,027 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 SAB ENTERPRISE INC. dba Nolan Express, Docket No. 2018-0241-PST-E on May 8, 2019 assessing \$10,594 in administrative penalties with \$2,118 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.

A default and shutdown order was adopted regarding Devine Convenience LLC dba Super Mart, Docket No. 2018-0266-PST-E on May 8, 2019 assessing \$6,874 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Taylor Pearson, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Joe D. Leggett, Jr. dba Alvin Greenwaste Recycling, Docket No. 2018-0290-MSW-E on May 8, 2019 assessing \$7,650 in administrative penalties with \$1,530 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 Texas Wildlife Supply, Inc., Docket No. 2018-0304-IHW-E on May 8, 2019 assessing \$23,750 in administrative penalties with \$4,750 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 Oldcastle Materials Texas, Inc., Docket No. 2018-0330-MLM-E on May 8, 2019 assessing \$37,500 in administrative penalties. 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 Costco Wholesale Corporation dba Costco Gasoline 489, Docket No. 2018-0343-PST-E on May 8, 2019 assessing \$21,000 in administrative penalties with \$4,200 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 Samad Brothers LLC dba Kingsley One Stop Foodmart, Docket No. 2018-0396-PST-E on May 8, 2019 assessing \$9,000 in administrative penalties with \$1,800 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.

A default order was adopted regarding Mark Stewart, Docket No. 2018-0435-PWS-E on May 8, 2019 assessing \$2,685 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Ryan Rutledge, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Built Right Homes LLC, Docket No. 2018-0457-WQ-E on May 8, 2019 assessing \$10,084 in administrative penalties with \$2,016 deferred. Information concerning any aspect of this order may be obtained by contacting Aaron Vincent, 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 Monarch Utilities I L.P., Docket No. 2018-0506-MLM-E on May 8, 2019 assessing \$17,375 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Christopher Moreno, 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 Austin Boon enterprises, Inc. dba Food Basket, Docket No. 2018-0518-PST-E on May 8, 2019 assessing \$10,324 in administrative penalties with \$2,064 deferred. Information concerning any aspect of this order may be obtained by contacting Berenice Munoz, 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 Rhineland Water Supply Corporation, Docket No. 2018-0578-PWS-E on May 8, 2019 assessing \$210 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Christopher Moreno, 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 Equistar Chemicals, LP, Docket No. 2018-0586-AIR-E on May 8, 2019 assessing \$13,125 in administrative penalties with \$2,625 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 Total Petrochemicals & Refining USA, Inc., Docket No. 2018-0587-AIR-E on May 8, 2019 assessing \$11,625 in administrative penalties with \$2,325 deferred. Information concerning any aspect of this order may be obtained by contacting Soraya Bun, 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 Corix Utilities (Texas) Inc., Docket No. 2018-0606-MWD-E on May 8, 2019 assessing \$8,250 in administrative penalties with \$1,650 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 the United States Department of the Air Force, Docket No. 2018-0658-WQ-E on May 8, 2019 assessing \$1,805 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Ryan Rutledge, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding AUSTIN WOOD RECYCLING LTD, Docket No. 2018-0685-WQ-E on May 8, 2019 assessing \$4,875 in administrative penalties. 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.

A default and shutdown order was adopted regarding NAS STAR ENTERPRISES, INC. dba 909 Grocery, Docket No. 2018-0850-PST-E on May 8, 2019 assessing \$9,769 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Logan Harrell, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Eco Services Operations Corp., Docket No. 2018-0880-AIR-E on May 8, 2019 assessing \$11,775 in administrative penalties with \$2,355 deferred. Information concerning any aspect of this order may be obtained by contacting Amanda Diaz, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Camp Balcones Springs, L.P., Docket No. 2018-0913-PWS-E on May 8, 2019 assessing \$165 in administrative penalties. 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 UMBARGER COMMUNITY WATER SUPPLY CORPORATION, Docket No. 2018-0975-PWS-E on May 8, 2019 assessing \$210 in administrative penalties with \$210 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 the City Of El Campo, Docket No. 2018-1082-MWD-E on May 8, 2019 assessing \$13,500 in administrative penalties with \$2,700 deferred. Information concerning any aspect of this order may be obtained by contacting Harley Hobson, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Jose Espinoza, Docket No. 2018-1134-EAQ-E on May 8, 2019 assessing \$7,875 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Jess Robinson, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was adopted regarding Ron C. King dba Anchor Road Mobile Home Park, Docket No. 2018-1481-PWS-E on May 8, 2019

assessing \$737 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Logan Harrell, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

TRD-201901361  
Bridget C. Bohac  
Chief Clerk  
Texas Commission on Environmental Quality  
Filed: May 8, 2019



## Enforcement Orders

An agreed order was adopted regarding ATASCOSA RECYCLING, LLC dba Atascosa Recycling, Docket No. 2017-1009-MSW-E on May 7, 2019 assessing \$6,837 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Ian Groetsch, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Kevin Copeland dba Kevin Copeland Sand & Gravel, Docket No. 2017-1339-MLM-E on May 7, 2019 assessing \$4,976 in administrative penalties with \$995 deferred. Information concerning any aspect of this order may be obtained by contacting Aaron Vincent, 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 Jorge E. Huerta dba Mares Mart, Docket No. 2017-1704-PST-E on May 7, 2019 assessing \$2,813 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Kevin Bartz, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Miller Environmental Services, LLC, Docket No. 2018-0083-IHW-E on May 7, 2019 assessing \$4,963 in administrative penalties with \$992 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 Perrin-Whitt Consolidated Independent School District, Docket No. 2018-0146-MWD-E on May 7, 2019 assessing \$5,500 in administrative penalties with \$1,100 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 City of Log Cabin, Docket No. 2018-0190-PWS-E on May 7, 2019 assessing \$150 in administrative penalties with \$30 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 Mountain View College, Docket No. 2018-0248-PST-E on May 7, 2019 assessing \$2,438 in administrative penalties with \$487 deferred. Information concerning any aspect of this order may be obtained by contacting Hailey Johnson, 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 UNIVERSAL FINANCE CORPORATION dba LBJ Food Mart Chevron, Docket No. 2018-0337-PST-E on May 7, 2019 assessing \$5,625 in administrative

penalties with \$1,125 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 CARO WATER SUPPLY CORPORATION, Docket No. 2018-0399-PWS-E on May 7, 2019 assessing \$976 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Adam Taylor, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding CERVELLE HOMES, INC., Docket No. 2018-0490-WQ-E on May 7, 2019 assessing \$4,643 in administrative penalties with \$928 deferred. Information concerning any aspect of this order may be obtained by contacting Steven Van Landingham, 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 NAFIA INVESTMENTS LLC dba Shell Food Mart, Docket No. 2018-0497-PST-E on May 7, 2019 assessing \$3,600 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting John S. Merculief II, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Texas Petroleum Group, LLC dba TPG 275 05, Docket No. 2018-0625-PST-E on May 7, 2019 assessing \$7,500 in administrative penalties with \$1,500 deferred. Information concerning any aspect of this order may be obtained by contacting Ken Moller, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding MANKAMANA HOLDINGS, LLC dba Kwik-O-Foods, Docket No. 2018-0659-PST-E on May 7, 2019 assessing \$2,548 in administrative penalties with \$509 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 GROENDYKE TRANSPORT, INC., Docket No. 2018-0698-PST-E on May 7, 2019 assessing \$2,609 in administrative penalties with \$521 deferred. Information concerning any aspect of this order may be obtained by contacting Ken Moller, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Matthew W. Haynes, Docket No. 2018-0741-OSS-E on May 7, 2019 assessing \$461 in administrative penalties with \$92 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 WESTEX CAPITAL, LTD., Docket No. 2018-0760-PST-E on May 7, 2019 assessing \$4,750 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Elizabeth Carroll Harkrider, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Aqua Utilities, Inc., Docket No. 2018-0875-PWS-E on May 7, 2019 assessing \$736 in administrative penalties with \$147 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 S.L.C. Water Supply Corporation, Docket No. 2018-0889-MLM-E on May 7, 2019 assessing \$2,125 in administrative penalties with \$425 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 IRA WATER SUPPLY CORPORATION, Docket No. 2018-0891-PWS-E on May 7, 2019 assessing \$366 in administrative penalties with \$73 deferred. Information concerning any aspect of this order may be obtained by contacting Michael Parrish, 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 Gulf Coast Stabilized Materials LLC, Docket No. 2018-1006-AIR-E on May 7, 2019 assessing \$2,125 in administrative penalties with \$425 deferred. Information concerning any aspect of this order may be obtained by contacting Amanda Diaz, 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 SOUTH LAKE PARK SERVICES, INC., Docket No. 2018-1052-PWS-E on May 7, 2019 assessing \$861 in administrative penalties with \$172 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 RPBSD, L.L.C. dba PC Market & Hardware, Docket No. 2018-1163-PST-E on May 7, 2019 assessing \$2,438 in administrative penalties with \$487 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 AZIN ENTERPRISES INC. dba Red Corner, Docket No. 2018-1198-PST-E on May 7, 2019 assessing \$3,750 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Kathryn Schroeder, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Enterprise Refined Products Company LLC, Docket No. 2018-1232-AIR-E on May 7, 2019 assessing \$2,438 in administrative penalties with \$487 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.

A field citation was adopted regarding City of Portland, Docket No. 2018-1558-WQ-E on May 7, 2019 assessing \$875 in administrative penalties. Information concerning any aspect of this citation may be obtained by contacting Harley Hobson, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was adopted regarding OCH Land, LLC, Docket No. 2018-1587-WQ-E on May 7, 2019 assessing \$875 in administrative penalties. Information concerning any aspect of this citation 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.

A field citation was adopted regarding Felton J. Molden, Jr., Docket No. 2019-0247-WOC-E on May 7, 2019 assessing \$175 in administrative penalties. Information concerning any aspect of this citation may be

obtained by contacting Ronica Rodriguez, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

TRD-201901362

Bridget C. Bohac

Chief Clerk

Texas Commission on Environmental Quality

Filed: May 8, 2019



#### Notice of Correction to Agreed Order Number 27

In the March 15, 2019, issue of the *Texas Register* (44 TexReg 1456), the Texas Commission on Environmental Quality (commission) published notice of Agreed Orders, specifically Item Number 27, for Jason W. West. The error is as submitted by the commission.

The reference to the docket number should be corrected to read: "2019-0217-WOC-E".

For questions concerning this error, please contact Michael Parrish at (512) 239-2548.

TRD-201901341

Charmaine Backens

Director, Litigation Division

Texas Commission on Environmental Quality

Filed: May 7, 2019



#### Notice of District Petition

Notice issued May 7, 2019

TCEQ Internal Control No. D-03012019-005; Lando Development, Ltd. (Petitioner) filed a petition for creation of Brazoria County Municipal Utility District No. 51 (District) with the Texas Commission on Environmental Quality (TCEQ). The petition was filed pursuant to Article XVI, §59 of the Constitution of the State of Texas; Chapters 49 and 54 of the Texas Water Code; 30 Texas Administrative Code Chapter 293; and the procedural rules of the TCEQ. The petition states that: (1) the Petitioner holds title to a majority in value of the land in the proposed District; (2) there are no lienholders on the property; (3) the proposed District will contain approximately 137.6228 acres located within Brazoria County, Texas; and (4) a 30.5187-acre tract of the proposed District is within the corporate limits of the City of Alvin, Texas, and the Petitioner will petition the City of Alvin, Texas, to add the remaining 107.1041-acre tract to the corporate boundaries of the City of Alvin. By Ordinance No. 19-B, passed and approved January 17, 2019, the City of Alvin 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, design, construct, acquire, maintain, own, operate, repair, improve, and extend waterworks and sanitary sewer system for residential and commercial purposes; (2) construct, acquire, improve, extend, maintain, and operate works, improvements, facilities, plants, equipment, and appliances helpful or necessary to provide more adequate drainage for the proposed District; (3) control, abate, and amend local storm waters or other harmful excesses of water; and (4) purchase, construct, acquire, maintain, own, operate, repair, improve, and extend such other additional facilities, including roads, parks and recreation facilities, systems, plants and enterprises as shall be consistent with all of the purposes for which the proposed District is created. According to the petition, a preliminary investigation has been made to determine the cost of the project, and it is estimated by the Petitioner, from the information available at this time, that the cost of said project will be approximately \$11,680,000.

#### INFORMATION SECTION

To view the complete issued notice, view the notice on our web site 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 web site, 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 web site at [www.tceq.state.tx.us](http://www.tceq.state.tx.us).

TRD-201901364

Bridget C. Bohac

Chief Clerk

Texas Commission on Environmental Quality

Filed: May 8, 2019



Notice of Hearing Town of Lakeside: SOAH Docket No. 582-19-4462; TCEQ Docket No. 2018-1577-MWD; Permit No. WQ0015566001

#### APPLICATION.

Town of Lakeside, 9830 Confederate Park Road, Lakeside, Texas 76108, has applied to the Texas Commission on Environmental Quality (TCEQ) for a new permit, TCEQ Permit No. WQ0015566001, to authorize the disposal of treated domestic wastewater at a daily average flow not to exceed 30,000 gallons per day via surface irrigation of 12.46 acres of non-public access pasture land. The facility was previously permitted under Permit No. WQ0011573001 which expired on December 1, 2016. This permit will not authorize a discharge of pollutants into water in the state. TCEQ received this application on March 17, 2017.

The wastewater treatment facility and disposal site are located in the southwest portion of the Town of Lakeside and about 700 feet south of the intersection of Aquilla Drive and Crest Ridge Drive in Tarrant County, Texas 76108. As a public courtesy, we have

provided the following web page to an online map of the site or the facility's general location. The online map is not part of the application or the notice: <<http://www.tceq.texas.gov/assets/public/hb610/index.html?lat=32.816944&lng=-97.499722&zoom=13&type=r>>. For the exact location, refer to the application.

The TCEQ Executive Director has prepared a draft permit which, if approved, would establish the conditions under which the facility must operate. The Executive Director has made a preliminary decision that this permit, if issued, meets all statutory and regulatory requirements. The permit application, Executive Director's preliminary decision, and draft permit are available for viewing and copying at the Town of Lakeside Town Hall, 9830 Confederate Park Road, Lakeside, Texas.

#### **CONTESTED CASE HEARING.**

The State Office of Administrative Hearings (SOAH) will conduct a formal contested case hearing at:

**10:00 a.m. - June 19, 2019**

**William P. Clements Building**

**300 West 15th Street, 4th Floor**

**Austin, Texas 78701**

The contested case hearing will be a legal proceeding similar to a civil trial in state district court. The hearing will address the disputed issues of fact identified in the TCEQ order concerning this application issued on March 4, 2019. In addition to these issues, the judge may consider additional issues if certain factors are met.

The hearing will be conducted in accordance with Chapter 2001, Texas Government Code; Chapter 26, Texas Water Code; and the procedural rules of the TCEQ and SOAH, including 30 TAC Chapter 80 and 1 TAC Chapter 155. The hearing will be held unless all timely hearing requests have been withdrawn or denied.

To request to be a party, you must attend the hearing and show you would be adversely affected by the application in a way not common to members of the general public. Any person may attend the hearing and request to be a party. Only persons named as parties may participate at the hearing.

**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."**

#### **INFORMATION.**

If you need more information about the hearing process for this application, please call the Public Education Program, toll free, at (800) 687-4040. General information about the TCEQ can be found at our web site at <http://www.tceq.texas.gov/>.

Further information may also be obtained from the Town of Lakeside at the address stated above or by calling Ms. Elizabeth Andaverde, Wastewater Manager, Source Environmental Sciences, Inc., at (713) 621-4474.

Persons with disabilities who need special accommodations at the hearing should call the SOAH Docketing Department at (512) 475-3445, at least one week prior to the hearing.

Issued: May 7, 2019

TRD-201901365

Bridget C. Bohac

Chief Clerk

Texas Commission on Environmental Quality

Filed: May 8, 2019

#### **Notice of Opportunity to Comment on a Shutdown/Default Order 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 Shutdown/Default Order (S/DO). Texas Water Code (TWC), §26.3475, authorizes the commission to order the shutdown of any underground storage tank (UST) system found to be noncompliant with release detection, spill and overflow prevention, and/or, after December 22, 1998, cathodic protection regulations of the commission, until such time as the owner/operator brings the UST system into compliance with those regulations. The commission proposes a Shutdown Order after the owner or operator of a UST facility fails to perform required corrective actions within 30 days after receiving notice of the release detection, spill and overflow prevention, and/or after December 22, 1998, cathodic protection violations documented at the facility. The commission proposes a Default Order when the staff has sent an 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. In accordance with 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 **June 18, 2019**. The commission will consider any written comments received and the commission may withdraw or withhold approval of an S/DO if a comment discloses facts or considerations that indicate that consent to the proposed S/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 S/DO is not required to be published if those changes are made in response to written comments.

A copy of the proposed S/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 S/DO shall be sent to the attorney designated for the S/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 June 18, 2019**. Written comments may also be sent by facsimile machine to the attorney at (512) 239-3434. The commission's attorney is available to discuss the S/DO and/or the comment procedure at the listed phone number; however, comments on the S/DO shall be submitted to the commission in **writing**.

(1) COMPANY: A-2 Convenience LLC dba Super Stop 181; DOCKET NUMBER: 2018-0267-PST-E; TCEQ ID NUMBER: RN101447712; LOCATION: 6793 United States Highway 181 North, Floresville, Wilson County; TYPE OF FACILITY: UST system and a convenience store with retail sales of gasoline; RULES VIOLATED: TWC, §26.3475(c)(1) and 30 TAC §334.50(b)(1)(A), 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: \$4,500; STAFF ATTORNEY: Taylor Pearson, Litigation Division, MC 175,

(512) 239-5937; REGIONAL OFFICE: San Antonio Regional Office, 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

TRD-201901340

Charmaine Backens

Director, Litigation Division

Texas Commission on Environmental Quality

Filed: May 7, 2019



### 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 **June 18, 2019**. 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 June 18, 2019**. 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: Big Baraka International, LLC dba Save & Smile; DOCKET NUMBER: 2018-0566-PST-E; TCEQ ID NUMBER: RN102478690; LOCATION: 1007 Enrique M. Barrera Parkway, San Antonio, Bexar County; TYPE OF FACILITY: underground storage tank (UST) system and a convenience store with retail sales of gasoline; RULES VIOLATED: TWC, §26.3475(c)(1) and 30 TAC §334.50(b)(1)(A), 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); and TWC, §26.3475(d) and 30 TAC §334.49(a)(1), by failing to provide corrosion protection for the UST system; PENALTY: \$8,447; STAFF ATTORNEY: John S. Mercurief II, Litigation Division, MC 175, (512) 239-6944; REGIONAL OFFICE: San Antonio Regional Office, 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

(2) COMPANY: Cogent Midstream Westex, LLC; DOCKET NUMBER: 2016-2055-AIR-E; TCEQ ID NUMBER: RN106588601; LOCATION: approximately 11 miles north of the intersection of United States Highway 87 and Highway 163 northwest of Sterling City, Sterling County; TYPE OF FACILITY: natural gas processing

plant; RULES VIOLATED: Texas Health and Safety Code (THSC), §382.085(b), 30 TAC §122.143(4) and §122.145(2), Federal Operating Permit Number O3686, and Oil and Gas General Operating Permit Number 514, Site-wide Requirements (b)(1) and (2), by failing to submit a semi-annual deviation report within 30 days after the end of the reporting period; and THSC, §382.085(b), 30 TAC §122.143(4) and §122.146(1), Federal Operating Permit Number O3686, and Oil and Gas General Operating Permit Number 514, Site-wide Requirements (b)(1) and (2), by failing to certify compliance with the terms and conditions of the permit for at least each 12-month period following initial permit issuance; PENALTY: \$8,250; Supplemental Environment Project (SEP) offset amount of \$4,125 applied to Clean Buses Project; STAFF ATTORNEY: Clayton Smith, Litigation Division, MC 175, (512) 239-6224; REGIONAL OFFICE: San Angelo Regional Office, 622 South Oakes, Suite K, San Angelo, Texas 76903-7035, (325) 655-9479.

(3) COMPANY: Hilario Ramirez Perez; DOCKET NUMBER: 2017-1639-MLM-E; TCEQ ID NUMBER: RN107804247; LOCATION: approximately 1/3 mile south of the intersection of Farm-to-Market Road 491 and South Uncle Peters Road, northeast of La Villa, Hidalgo County; TYPE OF FACILITY: unauthorized municipal solid waste (MSW) site; RULES VIOLATED: Texas Health and Safety Code, §382.085(b) and 30 TAC §111.201, by causing, suffering, allowing, or permitting outdoor burning within the state of Texas; and 30 TAC §330.15(a) and (c), by causing, suffering, allowing, or permitting the disposal of MSW; PENALTY: \$10,595; STAFF ATTORNEY: Jess Robinson, Litigation Division, MC 175, (512) 239-0455; REGIONAL OFFICE: Harlingen Regional Office, 1804 West Jefferson Avenue, Harlingen, Texas 78550-5247, (956) 425-6010.

(4) COMPANY: Norma Jean Bruton; DOCKET NUMBER: 2017-1222-MSW-E; TCEQ ID NUMBER: RN109458737; LOCATION: 6304 Pat Cole Road, Temple, Bell County; TYPE OF FACILITY: unauthorized municipal solid waste (MSW) site; RULE VIOLATED: 30 TAC §330.15(a) and (c), by causing, suffering, allowing, or permitting the unauthorized disposal of MSW; PENALTY: \$1,312; STAFF ATTORNEY: Kathryn Schroeder, Litigation Division, MC 175, (512) 239-0588; REGIONAL OFFICE: Waco Regional Office, 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

TRD-201901336

Charmaine Backens

Director, Litigation Division

Texas Commission on Environmental Quality

Filed: May 7, 2019



### 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 **June 18, 2019**. 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 June 18, 2019**. 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: E & J SONS, LLC dba Johnny's Country Corner; DOCKET NUMBER: 2017-0916-PST-E; TCEQ ID NUMBER: RN102715182; LOCATION: 3540 United States Highway 79 South, Henderson, Rusk County; TYPE OF FACILITY: underground storage tank (UST) system and a convenience store with retail sales of gasoline; RULES VIOLATED: TWC, §26.3475(c)(1) and 30 TAC §334.50(b)(1)(A), 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); and TWC, §26.3475(d) and 30 TAC §334.49(c)(2)(C), by failing to inspect the impressed current cathodic protection system at least once every 60 days to ensure the rectifier and other system components are operating properly; PENALTY: \$7,605; STAFF ATTORNEY: Adam Taylor, Litigation Division, MC 175, (512) 239-3345; REGIONAL OFFICE: Tyler Regional Office, 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

(2) COMPANY: Fabian Almeida dba Ecuia Farm; DOCKET NUMBER: 2016-0516-AGR-E; TCEQ ID NUMBER: RN102343985; LOCATION: 5620 Woodard Avenue, Cleburne, Johnson County; TYPE OF FACILITY: dairy farm; RULES VIOLATED: 30 TAC §305.125(1) and §321.44(a) and Texas Pollutant Discharge Elimination System (TPDES) General Permit Number TXG920055, Part IV, Recordkeeping, Reporting and Notification Requirements, B. Reporting and Notifications Number 5, by failing to notify the appropriate regional office orally within 24 hours of becoming aware of a discharge and in writing within 14 working days of the discharge to the Enforcement Division; TWC, §26.121(a)(1) and 30 TAC §321.31(a), by failing to prevent the discharge of agricultural waste into or adjacent to water in the state; 30 TAC §305.125(1) and §321.46(c)(1) and TPDES General Permit Number TXG920055, Part III, pollution prevention plan (PPP) Requirements, A. Technical Requirements Number 15.(a)(2), by failing to maintain a weekly report of daily inspections or record daily inspections of all water lines located within the drainage area of the Retention Control Structure (RCSs) in the PPP; 30 TAC §305.125(1) and §321.39(b)(6) and TPDES General Permit Number TXG920055, Part III, PPP Requirements, A. Technical Requirements Number 10.(c), by failing to install and maintain a permanent pond marker in the RCS; 30 TAC §305.125(1) and §321.39(g)(3) and TPDES General Permit Number TXG920055, Part III, Pollution Prevention Plan Requirements, A. Technical Requirements Number 11.(c), by failing to collect carcasses within 24 hours of death and properly

dispose them within three days of death; and 30 TAC §305.125(1) and §321.36(g) and TPDES General Permit Number TXG920055, Part IV, Recordkeeping, Reporting, and Notification Requirements, B. Reporting and Notifications Number 1, by failing to submit the 2014 annual report to the TCEQ Dallas/Fort Worth Regional Office and the Enforcement Division by March 31, 2015; PENALTY: \$28,860; STAFF ATTORNEY: Audrey Liter, Litigation Division, MC 175, (512) 239-0684; REGIONAL OFFICE: Dallas-Fort Worth Regional Office, 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(3) COMPANY: William Gates; DOCKET NUMBER: 2018-0150-MSW-E; TCEQ ID NUMBER: RN109783803; LOCATION: 242 County Road 3113, Center, Shelby County; TYPE OF FACILITY: property; RULE VIOLATED: 30 TAC §330.15(a) and (c), by causing, suffering, allowing, or permitting the unauthorized disposal of municipal solid waste; PENALTY: \$1,312; STAFF ATTORNEY: Audrey Liter, Litigation Division, MC 175, (512) 239-0684; REGIONAL OFFICE: Beaumont Regional Office, 3870 Eastex Freeway, Beaumont, Texas 77703-1830, (409) 898-3838.

TRD-201901337

Charmaine Backens

Director, Litigation Division

Texas Commission on Environmental Quality

Filed: May 7, 2019



Notice of Public Hearing on Assessment of Administrative Penalties and Requiring Certain Actions of the Daya Enterprise, Inc. dba Regal Food Mart: SOAH Docket No. 582-19-4445; TCEQ Docket No. 2018-1160-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. - June 6, 2019**

**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 February 6, 2019, concerning assessing administrative penalties against and requiring certain actions of THE DAYA ENTERPRISE, INC. dba Regal Food Mart, for violations in Matagorda County, Texas, of: Tex. Water Code §26.3467(a) and 30 Texas Administrative Code §§334.8(c)(4)(A)(vii), (c)(5)(A)(i), and (c)(5)(B)(ii), 334.48(c), and 334.50(d)(1)(B).

The hearing will allow THE DAYA ENTERPRISE, INC. dba Regal Food Mart, 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 DAYA ENTERPRISE, INC. dba Regal Food Mart, 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 DAYA ENTERPRISE, INC. dba Regal Food Mart 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 DAYA ENTERPRISE, INC. dba Regal Food Mart, 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 Tex. Water Code chs. 7 and 26 and 30 Texas Administrative 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 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 Logan Harrell, 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: May 7, 2019

TRD-201901366

Bridget C. Bohac

Chief Clerk

Texas Commission on Environmental Quality

Filed: May 8, 2019



Notice of Receipt of Application and Intent to Obtain  
Municipal Solid Waste Permit Amendment Proposed Limited  
Scope Major Permit Amendment to Permit No. 241D

Application. Itasca Landfill TX, LP, 1212 Harrison Avenue, Arlington, Tarrant County, Texas 76011, a waste management company, has applied to the Texas Commission on Environmental Quality (TCEQ) for a limited scope major permit amendment to authorize a Class 1 alternative liner system design option and to authorize additional above grade Class 1 disposal areas within the existing landfill disposal footprint. The Itasca Landfill is located at 2559 FM 66, Itasca, Texas 76055 in Hill County, Texas. The TCEQ

received this application on March 4, 2019. The permit application is available for viewing and copying at the Hillsboro Public Library, 118 South Waco Street, Hillsboro, Hill County, Texas 76645, and may be viewed online at <https://www.ftwweaverboos.com>. 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=32.186666&lng=-97.109444&zoom=13&type=r>. For exact location, refer to application.

Additional Notice. TCEQ's Executive Director has determined the application is administratively complete and will conduct a technical review of the application. After technical review of the application is complete, the Executive Director may prepare a draft permit and will issue a preliminary decision on the application. Notice of the Application and Preliminary Decision will be published and mailed to those who are on the county-wide mailing list and to those who are on the mailing list for this application. That notice will contain the deadline for submitting public comments.

Public Comment/Public Meeting. You may submit public comments or request a public meeting on this application. The purpose of a public meeting is to provide the opportunity to submit comments or to ask questions about the application. TCEQ will hold a public meeting if the Executive Director determines that there is a significant degree of public interest in the application or if requested by a local legislator. A public meeting is not a contested case hearing.

Opportunity for a Contested Case Hearing. After the deadline for submitting public comments, the Executive Director will consider all timely comments and prepare a response to all relevant and material, or significant public comments. Unless the application is directly referred for a contested case hearing, the response to comments, and the Executive Director's decision on the application, will be mailed to everyone who submitted public comments and to those persons who are on the mailing list for this application. If comments are received, the mailing will also provide instructions for requesting reconsideration of the Executive Director's decision and for requesting a contested case hearing. A person who may be affected by the facility is entitled to request a contested case hearing from the commission. A contested case hearing is a legal proceeding similar to a civil trial in state district court.

To Request a Contested Case Hearing, You Must Include The Following Items in Your Request: your name, address, phone number; applicant's name and permit number; the location and distance of your property/activities relative to the facility; a specific description of how you would be adversely affected by the facility in a way not common to the general public; a list of all disputed issues of fact that you submit during the comment period; and the statement "(I/we) request a contested case hearing." If the request for contested case hearing is filed on behalf of a group or association, the request must designate the group's representative for receiving future correspondence; identify by name and physical address an individual member of the group who would be adversely affected by the facility or activity; provide the information discussed above regarding the affected member's location and distance from the facility or activity; explain how and why the member would be affected; and explain how the interests the group seeks to protect are relevant to the group's purpose.

Following the close of all applicable comment and request periods, the Executive Director will forward the application and any requests for reconsideration or for a contested case hearing to the TCEQ Commissioners for their consideration at a scheduled Commission meeting. The Commission may only grant a request for a contested case hearing on issues the requestor submitted in their timely comments that were not subsequently withdrawn.

If a hearing is granted, the subject of a hearing will be limited to disputed issues of fact or mixed questions of fact and law that are relevant and material to the Commission's decision on the application submitted during the comment period.

**Mailing List.** If you submit public comments, a request for a contested case hearing or a reconsideration of the Executive Director's decision, you will be added to the mailing list for this application to receive future public notices mailed by the Office of the Chief Clerk. In addition, you may request to be placed on: (1) the permanent mailing list for a specific applicant name and permit number; and/or (2) the mailing list for a specific county. To be placed on the permanent and/or the county mailing list, clearly specify which list(s) and send your request to TCEQ Office of the Chief Clerk at the address below.

**Information Available Online.** For details about the status of the application, visit the Commissioners' Integrated Database (CID) at <[www.tceq.texas.gov/goto/cid](http://www.tceq.texas.gov/goto/cid)>. Once you have access to the CID using the above link, enter the permit number for this application, which is provided at the top of this notice.

**Agency Contacts and Information.** All public comments and requests must be submitted either electronically at <[www14.tceq.texas.gov/epic/eComment/](http://www14.tceq.texas.gov/epic/eComment/)> or in writing to the Texas Commission on Environmental Quality, Office of the Chief Clerk, MC-105, P.O. Box 13087, Austin, Texas 78711-3087. Please be aware that any contact information you provide, including your name, phone number, email address and physical address will become part of the agency's public record. For more information about this permit application or the permitting process, please call the TCEQ's Public Education Program, Toll Free, at (800) 687-4040 or visit their website at <[www.tceq.texas.gov/goto/pep](http://www.tceq.texas.gov/goto/pep)>. Si desea información en español, puede llamar al (800) 687-4040.

Further information may also be obtained from Itasca Landfill TX, LP at the address stated above or by calling Mr. Jacob Schmidt, Environmental Manager at (254) 221-4439.

TRD-201901360

Bridget C. Bohac

Chief Clerk

Texas Commission on Environmental Quality

Filed: May 8, 2019

## Texas Facilities Commission

### Request for Proposals #303-0-20656

The Texas Facilities Commission (TFC), on behalf of the Office of the Attorney General (OAG), announces the issuance of Request for Proposals (RFP) #303-0-20656. TFC seeks a five (5) or ten (10) year lease of approximately 2,050 square feet of office space in Mansfield, Texas.

The deadline for questions is May 22, 2019, and the deadline for proposals is June 5, 2019, at 3:00 p.m. The award date is July 18, 2019. TFC reserves the right to accept or reject any or all proposals submitted. TFC is under no legal or other obligation to execute a lease on the basis of this notice or the distribution of an RFP. Neither this notice nor the RFP commits TFC to pay for any costs incurred prior to the award of a grant.

Parties interested in submitting a proposal may obtain information by contacting the Program Specialist, Evelyn Esquivel, at (512) 463-6494. A copy of the RFP may be downloaded from the Electronic State Business Daily at <http://www.txsmartbuy.com/sp/303-0-20656>.

TRD-201901338

Naomi Gonzalez

Acting General Counsel

Texas Facilities Commission

Filed: May 7, 2019

## 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 April 5, 2019, to May 3, 2019. 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 web site. The notice was published on the web site on Friday, May 10, 2019. The public comment period for this project will close at 5:00 p.m. on Sunday, June 9, 2019.

#### FEDERAL AGENCY ACTIONS:

**Applicant:** Black Marlin Pipeline Company LLC

**Location:** The project site is located beneath the Intracoastal Waterway and Bolivar Peninsula and runs approximately 16,716 feet (3.17 miles) from a point 5.56 nautical miles northwest of the Galveston South Jetty Light 5A (Point of Beginning (POB)) to a point 3.31 nautical miles north-northwest of the Galveston South Jetty Light 5A (Point of Ending (POE)), in Galveston County, Texas.

**Latitude & Longitude (NAD 83):** POB: 29.407911, -94.764642; POE: 29.382775, -94.725006

**Project Description:** The applicant proposes to decommission Pipeline Segment Number (PSN) 3489 in place. PSN 3489 is a 16-inch steel pipeline previously used to transport natural gas. This pipeline segment would be cut at the POB and POE, flushed, filled with native seawater, and capped. In locations in which pipeline exposures are found, the pipeline would be lowered to obtain adequate depth of cover.

**Type of Application:** U.S. Army Corps of Engineers (USACE) permit application # SWG-2019-00208. This application will be reviewed pursuant to Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act.

**CMP Project No:** 19-1264-F1

**Applicant:** Houston Energy Operating, L.P.

**Location:** The project site is located near Sabine Lake/Port Arthur Ship Channel, approximately 2.3 miles northwesterly from Sabine Pass, in Jefferson County, Texas.

**Latitude & Longitude (NAD 83):** 29.749444, -93.926944

**Project Description:** The applicant proposes to construct a 415-foot by 16-foot temporary board mat access road and a 300-foot by 300-foot drill pad utilizing an existing 12-foot headland road to conduct oil/gas drilling and production activities for the Wildcat Prospect. A 3-foot-high earthen ring levee will be constructed around the perimeter

of the drill site and board mats will be laid as a foundation for drilling operations within the leveed drill site area. The well will be drilled with a closed mud loop system and drilling residue will be hauled off for disposal.

**Type of Application:** U.S. Army Corps of Engineers (USACE) permit application # SWG-2019-00208. This application will be reviewed pursuant to Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act.

**CMP Project No:** 19-1272-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@glo.texas.gov. Comments should be sent to Ms. Buchtien at the above address or by email.

TRD-201901355

Mark A. Havens

Chief Clerk and Deputy Land Commissioner

General Land Office

Filed: May 8, 2019

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## Department of State Health Services

Order Maintaining butyryl fentanyl and U-47700 in Schedule I; Placing furanyl fentanyl, 4-fluoroisobutyryl fentanyl, acryl fentanyl, tetrahydrofuranlyl fentanyl, and ocfentanil into Schedule I; and placing MAB-CHMINACA into Schedule I

The Administrator of the Drug Enforcement Administration issued a final order to permanently maintain the substances butyryl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylbutanamide) and U-47700

(3,4-dichloro-N-[2-(dimethylamino)cyclohexyl]-N-methylbenzamide), including their isomers, esters, ethers, salts, and salts of isomers, esters and ethers, into schedule I of the Controlled Substances Act, effective April 20, 2018. This final order was published in the *Federal Register*, Volume 83, Number 77, pages 17486-17488.

This scheduling action was taken pursuant to the following:

1. The 61st session of the Commission on Narcotic drugs, added butyryl fentanyl and U-47700 to schedule I of the Single Convention on Narcotic Drugs (1961);
2. The United States is obligated to similarly control butyryl fentanyl and U-47700 to schedule I as required by the Single Convention on Narcotic Drugs (1961); and
3. Butyryl fentanyl and U-47700 have no currently accepted medical use in treatment in the United States.

The Acting Administrator of the Drug Enforcement Administration issued a final order to permanently maintain the placement of the substances furanyl fentanyl [*N*-(1-phenethylpiperidin-4-yl)-*N*-phenylfuran-2-carboxamide]; 4-fluoroisobutyryl fentanyl [*N*-(4-fluorophenyl)-*N*-(1-phenethylpiperidin-4-yl)isobutyramide] (Other name: *para*-fluoroisobutyryl fentanyl); acryl fentanyl [*N*-(1-phenethylpiperidin-4-yl)-*N*-phenylacrylamide] (Other name: acryloylfentanyl); tetrahydrofuranlyl fentanyl [*N*-(1-phenethylpiperidin-4-yl)-*N*-phenyltetrahydrofuran-2-carboxamide], and ocfentanil [*N*-(2-fluorophenyl)-2-methoxy-*N*-(1-phenethylpiperidin-4-yl)acetamide], including their isomers, esters, ethers, salts, and salts of isomers, esters and ethers, in schedule I of the Controlled Substances

Act effective November 29, 2018. This final order was published in the *Federal Register*, Volume 83, Number 230, pages 61320-61323.

This scheduling action was taken pursuant to the following:

1. The 61st session of the Commission on Narcotic drugs, added furanyl fentanyl, 4-fluoroisobutyryl fentanyl, acryl fentanyl, tetrahydrofuranlyl fentanyl, and ocfentanil to schedule I of the Single Convention on Narcotic Drugs (1961);
2. The United States is obligated to similarly control furanyl fentanyl, 4-fluoroisobutyryl fentanyl, acryl fentanyl, tetrahydrofuranlyl fentanyl, and ocfentanil to schedule I as required by the Single Convention on Narcotic Drugs (1961); and
3. Furanyl fentanyl, 4-fluoroisobutyryl fentanyl, acryl fentanyl, tetrahydrofuranlyl fentanyl, and ocfentanil have no currently accepted medical use in treatment in the United States.

The Drug Enforcement Administration issued a final rule placing *N*-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1*H*-indazole-3-carboxamide (Other names: MAB-CHMINACA; ADB-CHMINACA), including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible, in schedule I of the Controlled Substances Act effective January 29, 2019. This final rule was published in the *Federal Register*, Volume 84, Number 19, pages 444-448.

This scheduling action was taken pursuant to the following:

1. MAB-CHMINACA has a high potential for abuse that is comparable to other schedule I substances such as delta-9-tetrahydrocannabinol and JWH-018;
2. MAB-CHMINACA has no currently accepted medical use in treatment in the United States; and
3. There is a lack of accepted safety for use of MAB-CHMINACA under medical supervision.

Pursuant to Section 481.034(g), as amended by the 75th legislature, of the Texas Controlled Substances Act, Health and Safety Code, Chapter 481, at least thirty-one days have expired since notice of the above referenced actions were published in the *Federal Register*. In the capacity as Commissioner of the Texas Department of State Health Services, John Hellerstedt, M.D., does hereby order that the substances furanyl fentanyl, 4-fluoroisobutyryl fentanyl, acryl fentanyl, tetrahydrofuranlyl fentanyl, ocfentanil, butyryl, U-47700, and MAB-CHMINACA be permanently placed into schedule I.

These amendments shall be reflected in the 2019 annual republication of the schedules of controlled substances.

TRD-201901368

Barbara L. Klein

General Counsel

Department of State Health Services

Filed: May 8, 2019

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## Schedules of Controlled Substances

PURSUANT TO THE TEXAS CONTROLLED SUBSTANCES ACT, HEALTH AND SAFETY CODE, CHAPTER 481, THESE SCHEDULES SUPERCEDE PREVIOUS SCHEDULES AND CONTAIN THE MOST CURRENT VERSION OF THE SCHEDULES OF ALL CONTROLLED SUBSTANCES FROM THE PREVIOUS SCHEDULES AND MODIFICATIONS.

This annual publication of the Texas Schedules of Controlled Substances was signed by John Hellerstedt, M.D., Commissioner of

Health, and will take effect 21 days following publication of this notice in the *Texas Register*.

Changes to the schedules are designated by an asterisk (\*). Additional information can be obtained by contacting the Department of State Health Services, Drugs and Medical Devices Unit, P.O. Box 149347, Austin, Texas 78714-9347. The telephone number is (512) 834-6755 and the website address is <http://www.dshs.texas.gov/dmd>.

## SCHEDULES

Nomenclature: Controlled substances listed in these schedules are included by whatever official, common, usual, chemical, or trade name they may be designated.

### SCHEDULE I

Schedule I consists of:

-Schedule I opiates

The following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, if the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation:

- (1) Acetyl alpha methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-piperidinyl]-N-phenylacetamide);
- (2) AH-7921 (3,4-dichloro-N-[(dimethylamino)cyclohexymethyl]benzamide));
- (3) Acetyl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide);
- \*(4) Acryl fentanyl [N-(1-phenethylpiperidin-4-yl)-N-phenylacrylamide] (Other names: acryloylfentanyl);
- (5) AH-7921 (3,4-dichloro-N-[(dimethylamino)cyclohexymethyl]benzamide));
- (6) Allylprodine;
- (7) Alphacetylmethadol (except levo-alphacetylmethadol, also known as levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM);
- (8) Alpha-methylfentanyl or any other derivative of fentanyl;
- (9) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4-piperidinyl]-N-phenyl-propanamide);
- (10) Benzethidine;
- (11) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)-4-piperidinyl]-N-phenyl-propanamide);
- (12) Beta-hydroxy-3-methylfentanyl (N-[1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidinyl]-N-phenylpropanamide);
- (13) Betaprodine;
- \*(14) Butyryl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylbutanamide);
- (15) Clonitazene;
- (16) Diampromide;
- (17) Diethylthiambutene;
- (18) Difenoxin;
- (19) Dimenoxadol;
- (20) Dimethylthiambutene;
- (21) Dioxaphetyl butyrate;
- (22) Dipipanone;

- (23) Ethylmethylthiambutene;
- (24) Etonitazene;
- (25) Etoxidine;
- \*(26) 4-Fluoroisobutyryl fentanyl [N-(4-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)isobutyramide] (Other names: para-fluoroisobutyryl fentanyl);
- \*(27) Furanyl fentanyl [N-(1-phenethylpiperidin-4-yl)-N-phenylfuran-2-carboxamide];
- (28) Furethidine;
- (29) Hydroxypethidine;
- (30) Ketobemidone;
- (31) Levophenacymorphan;
- (32) Meprodine;
- (33) Methadol;
- (34) 3-methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide), its optical and geometric isomers;
- (35) 3-methylthiofentanyl (N-[3-methyl-1-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide);
- (36) Moramide;
- (37) Morpheridine;
- (38) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine);
- \*(39) MT-45 (1-cyclohexyl-4-(1,2-diphenylethyl)piperazine);
- (40) Noracymethadol;
- (41) Norlevorphanol;
- (42) Normethadone;
- (43) Norpipanone;
- \*(44) Ocfentanil [N-(2-fluorophenyl)-2-methoxy-N-(1-phenethylpiperidin-4-yl)acetamide];
- (45) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidinyl]-propanamide);
- (46) PEPAP (1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine);
- (47) Phenadoxone;
- (48) Phenampromide;
- (49) Phencyclidine;
- (50) Phenomorphan;
- (51) Phenoperidine;
- (52) Piritramide;
- (53) Proheptazine;
- (54) Properidine;
- (55) Propiram;
- \*(56) Tetrahydrofuranlyl fentanyl [N-(1-phenethylpiperidin-4-yl)-N-phenyltetrahydrofuran-2-carboxamide];
- (57) Thiofentanyl N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]-propanamide);
- (59) Tilidine;
- (60) Trimeperidine; and,

\*(61) U-47700 (3,4-dichloro-N-[2-(dimethylamino)cyclohexyl]-N-methylbenzamide).

-Schedule I opium derivatives

The following opium derivatives, their salts, isomers, and salts of isomers, unless specifically excepted, if the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (1) Acetorphine;
- (2) Acetyldihydrocodeine;
- (3) Benzylmorphine;
- (4) Codeine methylbromide;
- (5) Codeine-N-Oxide;
- (6) Cyprenorphine;
- (7) Desomorphine;
- (8) Dihydromorphine;
- (9) Drotebanol;
- (10) Etorphine (except hydrochloride salt);
- (11) Heroin;
- (12) Hydromorphanol;
- (13) Methyl-desorphine;
- (14) Methyl-dihydromorphine;
- (15) Monoacetyl-morphine;
- (16) Morphine methylbromide;
- (17) Morphine methylsulfonate;
- (18) Morphine-N-Oxide;
- (19) Myrophine;
- (20) Nicocodeine;
- (21) Nicomorphine;
- (22) Normorphine;
- (23) Pholcodine; and
- (24) Thebacon.

-Schedule I hallucinogenic substances

Unless specifically excepted or unless listed in another schedule, a material, compound, mixture, or preparation that contains any quantity of the following hallucinogenic substances or that contains any of the substance's salts, isomers, and salts of isomers if the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation (for the purposes of this Schedule I hallucinogenic substances section only, the term "isomer" includes optical, position, and geometric isomers):

- (1) Alpha-ethyltryptamine (Other names: etryptamine; Monase; alpha ethyl-1H-indole-3-ethanamine; 3-(2-aminobutyl) indole; alpha-ET; AET);
- (2) 4-bromo-2,5-dimethoxyamphetamine (Other names: 4-bromo-2,5-dimethoxy-alpha-methylphenethylamine; 4-bromo-2,5-DMA);
- (3) 4-bromo-2,5-dimethoxyphenethylamine (some trade or other names: Nexus; 2C-B; 2-(4-bromo-2,5-dimethoxyphenyl)-1-aminoethane; alpha-desmethyl DOB);

(4) 2,5-dimethoxyamphetamine (Other names: 2,5-dimethoxy-alpha-methylphenethylamine; 2,5-DMA);

(5) 2,5-dimethoxy-4-ethylamphetamine (Other names: DOET);

(6) 2,5-dimethoxy-4-(n)-propylthiophenethylamine, its optical isomers, salts and salts of isomers (Other names: 2C-T-7);

(7) 4-methoxyamphetamine (Other names: 4-methoxy-alpha-methylphenethylamine; paramethoxyamphetamine; PMA);

(8) 5-methoxy-3,4-methylenedioxy-amphetamine;

(9) 4-methyl-2,5-dimethoxyamphetamine (Other names: 4-methyl-2,5-dimethoxy-alpha-methyl-phenethylamine; "DOM"; and "STP");

(10) 3,4 methylenedioxy-amphetamine;

(11) 3,4 methylenedioxy-methamphetamine (Other names: MDMA, MDM);

(12) 3,4-methylenedioxy-N-ethylamphetamine (Other names: N-ethyl-alpha-methyl-3,4(methylenedioxy)phenethylamine; N-ethyl MDA; MDE; MDEA);

(13) N hydroxy 3,4 methylenedioxyamphetamine (Other names: N hydroxy MDA);

(14) 3,4,5 trimethoxy amphetamine;

(15) 5-methoxy-N,N-dimethyltryptamine (Some trade or other names: 5-methoxy-3-[2-(dimethylamino)ethyl]indole (Other names: 5-MeO-DMT);

(16) alpha-methyltryptamine (AMT), its isomers, salts, and salts of isomers;

(17) Bufotenine (Other names: 3-(beta-Dimethylaminoethyl) 5 hydroxyindole; 3 (2 dimethylaminoethyl) 5 indolol; N,N dimethylserotonin; 5 hydroxy N,N dimethyltryptamine; mappine);

(18) Diethyltryptamine (Other names: N,N Diethyltryptamine; DET);

(19) Dimethyltryptamine (Other names: DMT);

(20) 5-methoxy-N,N-diisopropyltryptamine, its isomers, salts, and salts of isomers (Other names: 5-MeO-DIPT);

(21) Ibogaine (Other names: 7 Ethyl 6,6-beta, 7,8,9,10,12,13 octhydro 2 methoxy 6,9 methano-5H-pyrido[1',2':1,2] azepino [5,4 b] indole; taber-nanthe iboga);

(22) Lysergic acid diethylamide;

\*(23) Marihuana

The term marihuana does not include hemp, as defined in section 297A of the Agricultural Marketing Act of 1946.

(24) Mescaline;

(25) Parahexyl (Other names: 3 Hexyl 1 hydroxy 7,8,9,10 tetrahydro 6,6,9 trimethyl 6H dibenzo [b,d] pyran; Synhexyl);

(26) Peyote, unless unharvested and growing in its natural state, meaning all parts of the plant classified botanically as *Lophophora williamsii* Lemaire, whether growing or not, the seeds of the plant, an extract from a part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or extracts;

(27) N-ethyl-3-piperidyl benzilate;

(28) N-methyl-3-piperidyl benzilate;

(29) Psilocybin;

(30) Psilocyn;

\*(31) Tetrahydrocannabinols;

meaning tetrahydrocannabinols naturally contained in a plant of the genus Cannabis (cannabis plant), except for tetrahydrocannabinols in hemp (as defined under section 297A(1) of the Agricultural Marketing Act of 1946), as well as synthetic equivalents of the substances contained in the cannabis plant, or in the resinous extractives of such plant, and/or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity to those substances contained in the plant, such as the following:

1 cis or trans tetrahydrocannabinol, and their optical isomers;

6 cis or trans tetrahydrocannabinol, and their optical isomers;

3,4 cis or trans tetrahydrocannabinol, and its optical isomers;

(Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions covered.);

(32) Ethylamine Analog of Phencyclidine (Other names: N-ethyl-1-phenylcyclohexylamine; (1-phenylcyclohexyl) ethylamine; N-(1-phenylcyclohexyl)-ethylamine; cyclohexamine; PCE);

(33) Pyrrolidine analog of phencyclidine (Other names: 1-(1-phenylcyclohexyl)-pyrrolidine, PCPy, PHP);

(34) Thiophene analog of phencyclidine (Other names: 1-[1-(2-thienyl)-cyclohexyl]-piperidine; 2-thienyl analog of phencyclidine; TPCP; TCP);

(35) 1 [1 (2 thienyl)cyclohexyl]pyrrolidine (Other names: TCPy);

(36) 4-methylmethcathinone (Other names: 4-methyl-N-methylcathinone; mephedrone);

(37) 3,4-methylenedioxypropyvalerone (MDPV);

(38) 2-(2,5-Dimethoxy-4-ethylphenyl)ethanamine (Other names: 2C-E);

(39) 2-(2,5-Dimethoxy-4-methylphenyl)ethanamine (Other names: 2C-D);

(40) 2-(4-Chloro-2,5-dimethoxyphenyl)ethanamine (Other names: 2C-C);

(41) 2-(4-Iodo-2,5-dimethoxyphenyl)ethanamine (Other names: 2C-I);

(42) 2-[4-(Ethylthio)-2,5-dimethoxyphenyl]ethanamine (Other names: 2C-T-2);

(43) 2-[4-(Isopropylthio)-2,5-dimethoxyphenyl]ethanamine (Other names: 2C-T-4);

(44) 2-(2,5-Dimethoxyphenyl)ethanamine (Other names: 2C-H);

(45) 2-(2,5-Dimethoxy-4-nitro-phenyl)ethanamine (Other names: 2C-N);

(46) 2-(2,5-Dimethoxy-4-(n)-propylphenyl)ethanamine (Other names: 2C-P);

(47) 3,4-Methylenedioxy-N-methylcathinone (Other names: Methy-lone);

(48) (1-pentyl-1H-indol-3-yl)(2,2,3,3-tetramethylcyclopropyl)methanone (Other names: UR-144 and 1-pentyl-3-(2,2,3,3-tetramethylcyclopropyl)indole);

(49) [1-(5-fluoro-pentyl)-1H-indol-3-yl](2,2,3,3-tetramethylcyclopropyl)methanone (Other names: 5-fluoro-UR-144 and 5-F-UR-144 and XLR11 and 1-(5-fluoro-pentyl)-3-(2,2,3,3-tetramethylcyclopropyl)indole);

(50) N-(1-adamantyl)-1-pentyl-1H-indazole-3-carboxamide (Other names: APINACA, AKB48);

(51) Quinolin-8-yl 1-pentyl-1H-indole-3-carboxylate, its optical, positional, and geometric isomers, salts and salts of isomers (Other names: PB-22; QUPIC);

(52) Quinolin-8-yl 1-(5-fluoropentyl)-1H-indole-3-carboxylate, its optical, positional, and geometric isomers, salts and salts of isomers (Other names: 5-fluoro-PB-22; 5F-PB-22);

(53) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide, its optical, positional, and geometric isomers, salts and salts of isomers (Other names: AB-FUBINACA);

(54) N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide (ADB-PINACA);

(55) 2-(4-iodo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine (25I-NBOMe; 2CI-NBOMe; 25I; Cimbi-5);

(56) 2-(4-chloro-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine (25C-NBOMe; 2C-C-NBOMe; 25C; Cimbi-82);

(57) 2-(4-bromo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine (25B-NBOMe; 2C-B-NBOMe; 25B; Cimbi-36);

(58) Marihuana Extract

Meaning an extract containing one or more cannabinoids that has been derived from any plant of the genus Cannabis, other than the separated resin (whether crude or purified) obtained from the plant;

(59) 4-methyl-N-ethylcathinone (4-MEC);

(60) 4-methyl-alpha-pyrrolidinopropiophenone (4-MePPP);

(61) alpha-pyrrolidinopentiophenone ([alpha]-PVP);

(62) 1-(1,3-benzodioxol-5-yl)-2-(methylamino)butan-1-one (butylone, bk-MBDB);

(63) 2-(methylamino)-1-phenylpentan-1-one (pentedrone);

(64) 1-(1,3-benzodioxol-5-yl)-2-(methylamino)pentan-1-one (pentylone, bk-MBDP);

(65) 4-fluoro-N-methylcathinone (4-FMC, flephedrone);

(66) 3-fluoro-N-methylcathinone (3-FMC);

(67) 1-(naphthalen-2-yl)-2-(pyrrolidin-1-yl)pentan-1-one (naphy-rone);

(68) alpha-pyrrolidinobutiophenone ([alpha]-PBP);

(69) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide (Other names: AB-CHMINACA);

(70) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide (Other names: AB-PINACA);

(71) [1-(5-fluoropentyl)-1H-indazol-3-yl](naphthalen-1-yl)methanone (Other names: THJ-2201);

(72) 1-methyl-4-phenyl-1,2,5,6-tetrahydro-pyridine (MPTP); and,

(73) N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide (Other names: MAB-CHMINACA and ABD-CHMINACA).

-Schedule I depressants

Unless specifically excepted or unless listed in another schedule, a material, compound, mixture, or preparation that contains any quantity of the following substances having a depressant effect on the central

nervous system, including the substance's salts, isomers, and salts of isomers if the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Gamma-hydroxybutyric acid (other names: GHB; gamma-hydroxybutyrate; 4-hydroxybutyrate; 4-hydroxybutanoic acid; sodium oxybate; sodium oxybutyrate);

(2) Mecloqualone; and

(3) Methaqualone.

-Schedule I stimulants

Unless specifically excepted or unless listed in another schedule, a material, compound, mixture, or preparation that contains any quantity of the following substances having a stimulant effect on the central nervous system, including the substance's salts, isomers, and salts of isomers if the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Aminorex (Other names: aminoxaphen; 2-amino-5-phenyl-2-oxazoline; 4,5-dihydro-5-phenyl-2-oxazolamine);

(2) N-benzylpiperazine (Other names: BZP; 1-benzylpiperazine), its optical isomers, salts and salts of isomers;

(3) Cathinone (Other names: 2-amino-1-phenyl-1-propanone; alpha-aminopropiophenone; 2-aminopropiophenone and norephedrone);

(4) Fenethylamine;

(5) Methcathinone (Other names: 2-(methylamino)-propiophenone; alpha-(methylamino)propiophenone; 2-(methylamino)-1-phenylpropan-1-one; alpha-N-methylaminopropiophenone; monomethylpropion; ephedrone; N-methylcathinone; methylcathinone; AL-464; AL-422; AL-463; and UR1432);

(6) 4-methylaminorex;

(7) N-ethylamphetamine; and

(8) N,N-dimethylamphetamine (Other names: N,N-alpha-trimethylbenzene-

ethaneamine; N,N-alpha-trimethylphenethylamine).

-Schedule I Cannabimimetic agents

Unless specifically exempted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of cannabimimetic agents, or which contains their salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation.

(1) The term "cannabimimetic agents" means any substance that is a cannabinoid receptor type 1 (CB1 receptor) agonist as demonstrated by binding studies and functional assays within any of the following structural classes:

(1-1) 2-(3-hydroxycyclohexyl)phenol with substitution at the 5-position of the phenolic ring by alkyl or alkenyl, whether or not substituted on the cyclohexyl ring to any extent.

(1-2) 3-(1-naphthoyl)indole or 3-(1-naphthylmethane)indole by substitution at the nitrogen atom of the indole ring, whether or not further substituted on the indole ring to any extent, whether or not substituted on the naphthoyl or naphthyl ring to any extent.

(1-3) 3-(1-naphthoyl)pyrrole by substitution at the nitrogen atom of the pyrrole ring, whether or not further substituted in the pyrrole ring to any extent, whether or not substituted on the naphthoyl ring to any extent.

(1-4) 1-(1-naphthylmethylene)indene by substitution of the 3-position of the indene ring, whether or not further substituted in the indene ring

to any extent, whether or not substituted on the naphthyl ring to any extent.

(1-5) 3-phenylacetylindole or 3-benzoylindole by substitution at the nitrogen atom of the indole ring, whether or not further substituted in the indole ring to any extent, whether or not substituted on the phenyl ring to any extent.

(2) 5-(1,1-dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol (Other names: CP-47,497);

(3) 5-(1,1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol (Other names: cannabicyclohexanol or CP-47,497 C8 homolog);

(4) 1-pentyl-3-(1-naphthoyl)indole (Other names: JWH-018 and AM678);

(5) 1-butyl-3-(1-naphthoyl)indole (Other names: JWH-073);

(6) 1-hexyl-3-(1-naphthoyl)indole (Other names: JWH-019);

(7) 1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole (Other names: JWH-200);

(8) 1-pentyl-3-(2-methoxyphenylacetyl)indole (Other names: JWH-250);

(9) 1-pentyl-3-[1-(4-methoxynaphthoyl)]indole (Other names: JWH-081);

(10) 1-pentyl-3-(4-methyl-1-naphthoyl)indole (Other names: JWH-122);

(11) 1-pentyl-3-(4-chloro-1-naphthoyl)indole (Other names: JWH-398);

(12) 1-(5-fluoropentyl)-3-(1-naphthoyl)indole (Other names: AM2201);

(13) 1-(5-fluoropentyl)-3-(2-iodobenzoyl)indole (Other names: AM694);

(14) 1-pentyl-3-[(4-methoxy)-benzoyl]indole (Other names: SR-19 and RCS-4);

(15) 1-cyclohexylethyl-3-(2-methoxyphenylacetyl)indole (Other names: SR-18 and RCS-8); and,

(16) 1-pentyl-3-(2-chlorophenylacetyl)indole (Other names: JWH-203).

-Schedule I temporarily listed substances subject to emergency scheduling by the United States Drug Enforcement Administration.

Unless specifically excepted or unless listed in another schedule, a material, compound, mixture, or preparation that contains any quantity of the following substances or that contains any of the substance's salts, isomers, and salts of isomers if the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation.

(1) N-[1-[2-hydroxy-2-(thiophen-2-yl)ethyl]piperidin-4-yl]-N-phenylpropionamide, also known as N-[1-[2-hydroxy-2-(2-thienyl)ethyl]-4-piperidinyl]-N-phenylpropanamide (Other name: beta-hydroxythiofen-tanyl);

(2) methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate (Other names: 5F-ADB; 5F-MDMB-PINACA);

(3) methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3-methylbutanoate (Other names: 5F-AMB);

(4) N-(adamantan-1-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide (Other names: 5F-APINACA, 5F-AKB48);

(5) N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide (Other names: ADB-FUBINACA);



- (6) methyl 2-(1-(cyclohexylmethyl)-1H-indole-3-carboxamido)-3,3-dimethylbutanoate (Other names: MDMA-CHMICA, MMB-CHMINACA);
- (7) methyl 2-(1-(4-fluorobenzyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate (Other names: MDMA-FUBINACA);
- (8) methyl 2-(1-(4-fluorobenzyl)-1H-indazole-3-carboxamido)-3-methylbutanoate (Other names: FUB-AMB, MMB-FUBINACA, AMB-FUBINACA);
- (9) N-(2-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)propionamide (Other names: ortho-fluorofentanyl, 2-fluorofentanyl);
- (10) 2-methoxy-N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide, its isomers, esters, ethers, salts and salts of isomers, esters and ethers (Other name: methoxyacetyl fentanyl);
- \*(11) N-(1-phenethylpiperidin-4-yl)-N-phenylcyclopropanecarboxamide (Other name: cyclopropyl fentanyl);
- \*(12) N-(1-phenethylpiperidin-4-yl)-N-phenylpentanamide, its isomers, esters, ethers, salts and salts of isomers, esters and ethers (Other name: valeryl fentanyl);
- \*(13) N-(4-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)butyramide, its isomers, esters, ethers, salts and salts of isomers, esters and ethers (Other name: para-fluorobutyryl fentanyl);
- \*(14) N-(4-methoxyphenyl)-N-(1-phenethylpiperidin-4-yl)butyramide, its isomers, esters, ethers, salts and salts of isomers, esters and ethers (Other name: para-methoxybutyryl fentanyl);
- \*(15) N-(4-chlorophenyl)-N-(1-phenethylpiperidin-4-yl)isobutyramide, its isomers, esters, ethers, salts and salts of isomers, esters and ethers (Other name: para-chloroisobutyryl fentanyl);
- \*(16) N-(1-phenethylpiperidin-4-yl)-N-phenylisobutyramide, its isomers, esters, ethers, salts and salts of isomers, esters and ethers (Other name: isobutyryl fentanyl);
- \*(17) N-(1-phenethylpiperidin-4-yl)-N-phenylcyclopentanecarboxamide, its isomers, esters, ethers, salts and salts of isomers, esters and ethers (Other name: cyclopentyl fentanyl);
- \*(18) Fentanyl-related substances, their isomers, esters, ethers, salts and salts of isomers, esters and ethers.
- Fentanyl-related substance means any substance not otherwise listed under another Administration Controlled Substance Code Number, and for which no exemption or approval is in effect under section 505 of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 355], that is structurally related to fentanyl by one or more of the following modifications:
- (18-1) Replacement of the phenyl portion of the phenethyl group by any monocycle, whether or not further substituted in or on the monocycle;
- (18-2) Substitution in or on the phenethyl group with alkyl, alkenyl, alkoxy, hydroxyl, halo, haloalkyl, amino or nitro groups;
- (18-3) Substitution in or on the piperidine ring with alkyl, alkenyl, alkoxy, ester, ether, hydroxyl, halo, haloalkyl, amino or nitro groups;
- (18-4) Replacement of the aniline ring with any aromatic monocycle whether or not further substituted in or on the aromatic monocycle; and/or
- (18-5) Replacement of the N-propionyl group by another acyl group.
- \*(19) Naphthalen-1-yl 1-(5-fluoropentyl)-1H-indole-3-carboxylate (other name: NM2201; CBL2201);

\*(20) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide (other name: 5F-AB-PINACA);

\*(21) 1-(4-cyanobutyl)-N-(2-phenylpropan-2-yl)-1H-indazole-3-carboxamide (other names: 4-CN-CUMYL-BUTINACA; 4-cyano-CUMYL-BUTINACA; 4-CN-CUMYL BINACA; CUMYL-4CN-BINACA; SGT-78);

\*(22) methyl 2-(1-(cyclohexylmethyl)-1H-indole-3-carboxamido)-3-methylbutanoate (other names: MMB-CHMICA, AMB-CHMICA);

\*(23) 1-(5-fluoropentyl)-N-(2-phenylpropan-2-yl)-1H-pyrrolo[2,3-b]pyridine-3-carboxamide (other name: 5F-CUMYL-P7AICA); and,

\*(24) N-ethylpentylone (Other names: ephylone; 1-(1,3-benzodioxol-5-yl)-2-(ethylamino)-pentan-1-one).

## SCHEDULE II

Schedule II consists of:

-Schedule II substances, vegetable origin or chemical synthesis

The following substances, however produced, except those narcotic drugs listed in other schedules:

(1) Opium and opiate, and a salt, compound, derivative, or preparation of opium or opiate, other than thebaine-derived butorphanol, naldemedine, naloxegol, naloxone and its salts, naltrexone and its salts, and nalmefene and its salts, but including:

- (1-1) Codeine;
- (1-2) Dihydroetorphine;
- (1-3) Ethylmorphine;
- (1-4) Etorphine hydrochloride;
- (1-5) Granulated opium;
- (1-6) Hydrocodone;
- (1-7) Hydromorphone;
- (1-8) Metopon;
- (1-9) Morphine;
- (1-10) Opium extracts;
- (1-11) Opium fluid extracts;
- (1-12) Oripavine;
- (1-13) Oxycodone;
- (1-14) Oxymorphone;
- (1-15) Powdered opium;
- (1-16) Raw opium;
- (1-17) Thebaine; and,
- (1-18) Tincture of opium.

(2) A salt, compound, isomer, derivative, or preparation of a substance that is chemically equivalent or identical to a substance described by Paragraph (1) of Schedule II substances, vegetable origin or chemical synthesis, other than the isoquinoline alkaloids of opium;

(3) Opium poppy and poppy straw;

(4) Cocaine, including:

(4-1) its salts, its optical, position, and geometric isomers, and the salts of those isomers;

(4-2) coca leaves and any salt, compound, derivative, or preparation of coca leaves and ecgonine and their salts, isomers, derivatives and salts of isomers and derivatives and any salt, compound derivative or preparation thereof which is chemically equivalent or identical to a substance described by this paragraph, except that the substances shall not include:

(4-2-1) decocainized coca leaves or extractions of coca leaves which extractions do not that do not contain cocaine or ecgonine; or

(4-2-2) ioflupane.

(5) Concentrate of poppy straw, meaning the crude extract of poppy straw in liquid, solid, or powder form that contains the phenanthrene alkaloids of the opium poppy.

#### -Opiates

The following opiates, including their isomers, esters, ethers, salts, and salts of isomers, if the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation:

- (1) Alfentanil;
- (2) Alphaprodine;
- (3) Anileridine;
- (4) Bezitramide;
- (5) Carfentanil;
- (6) Dextropropoxyphene, bulk (nondosage form);
- (7) Dihydrocodeine;
- (8) Diphenoxylate;
- (9) Fentanyl;
- (10) Isomethadone;
- (11) Levo-alphaacetylmethadol (some trade or other names: levo-alphaacetylmethadol, levomethadyl acetate, LAAM);
- (12) Levomethorphan;
- (13) Levorphanol;
- (14) Metazocine;
- (15) Methadone;
- (16) Methadone-Intermediate, 4-cyano-2-dimethylamino-4,4-diphenyl butane;
- (17) Moramide-Intermediate, 2-methyl-3-morpholino-1,1-diphenyl-p-ropane-carboxylic acid;
- (18) Pethidine (meperidine);
- (19) Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine;
- (20) Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate;
- (21) Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid;
- (22) Phenazocine;
- (23) Piminodine;
- (24) Racemethorphan;
- (25) Racemorphan;
- (26) Remifentanil;
- (27) Sufentanil;

(28) Tapentadol; and,

(29) Thiafentanil (4-(methoxycarbonyl)-4-(N-phenmethoxyacetamido)-1-[2-(thienyl)ethyl]piperadine).

#### -Schedule II stimulants

Unless listed in another schedule and except as provided by the Texas Controlled Substances Act, Health and Safety Code, Section 481.033, a material, compound, mixture, or preparation that contains any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system:

- (1) Amphetamine, its salts, optical isomers, and salts of its optical isomers;
- (2) Methamphetamine, including its salts, optical isomers, and salts of optical isomers;
- (3) Methylphenidate and its salts;
- (4) Phenmetrazine and its salts; and,
- (5) Lisdexamfetamine, including its salts, isomers, and salts of its isomers.

#### -Schedule II depressants

Unless listed in another schedule, a material, compound, mixture or preparation that contains any quantity of the following substances having a depressant effect on the central nervous system, including the substance's salts, isomers, and salts of isomers if the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (1) Amobarbital;
- (2) Glutethimide;
- (3) Pentobarbital; and,
- (4) Secobarbital.

#### -Schedule II hallucinogenic substances

(1) Nabilone (Another name for nabilone: (±)-trans-3-(1,1-dimethylheptyl)-6,6a,7,8,

10,10a-hexahydro-1-hydroxy-6,6-dimethyl-9H-dibenzo[b,d]pyran-9-one); and,

(2) Dronabinol in oral solution in drug products approved for marketing by the United States Food and Drug Administration.

#### -Schedule II precursors

Unless specifically excepted or listed in another schedule, a material, compound, mixture, or preparation that contains any quantity of the following substances:

- (1) Immediate precursor to methamphetamine:
  - (1-1) Phenylacetone and methylamine if possessed together with intent to manufacture methamphetamine;
  - (2) Immediate precursor to amphetamine and methamphetamine:
    - (2-1) Phenylacetone (some trade or other names: phenyl-2-propanone; P2P; benzyl methyl ketone; methyl benzyl ketone);
    - (3) Immediate precursors to phencyclidine (PCP):
      - (3-1) 1-phenylcyclohexylamine;
      - (3-2) 1-piperidinocyclohexanecarbonitrile (PCC); and,
      - (4) Immediate precursor to fentanyl:

(4-1) 4-anilino-N-phenethylpiperidine (ANPP).

### SCHEDULE III

Schedule III consists of:

#### -Schedule III depressants

Unless listed in another schedule and except as provided by the Texas Controlled Substances Act, Health and Safety Code, Section 481.033, a material, compound, mixture, or preparation that contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system:

(1) a compound, mixture, or preparation containing amobarbital, secobarbital, pentobarbital, or any of their salts and one or more active medicinal ingredients that are not listed in a schedule;

(2) a suppository dosage form containing amobarbital, secobarbital, pentobarbital, or any of their salts and approved by the Food and Drug Administration for marketing only as a suppository;

(3) a substance that contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid, except those substances that are specifically listed in other schedules;

(4) Chlorhexadol;

(5) Any drug product containing gamma hydroxybutyric acid, including its salts, isomers, and salts of isomers, for which an application is approved under section 505 of the Federal Food Drug and Cosmetic Act;

(6) Ketamine, its salts, isomers, and salts of isomers. Some other names for ketamine: ( $\pm$ )-2-(2-chlorophenyl)-2-(methylamino)-cyclohexanone;

(7) Lysergic acid;

(8) Lysergic acid amide;

(9) Methyprylon;

(10) Perampanel, and its salts, isomers, and salts of isomers;

(11) Sulfondiethylmethane;

(12) Sulfonethylmethane;

(13) Sulfonmethane; and,

(14) Tiletamine and zolazepam or any salt thereof. (Some trade or other names for a tiletamine-zolazepam combination product: Telazol. Some trade or other names for tiletamine: 2-(ethylamino)-2-(2-thienyl)-cyclohexanone. Some trade or other names for zolazepam: 4-(2-fluorophenyl)-6,8-dihydro-1,3,8-trimethyl-pyrazolo-[3,4-e][1,4]-diazepin-

7(1H)-one, flupyrzapon.)

#### -Nalorphine

#### -Schedule III narcotics

Unless specifically excepted or unless listed in another schedule:

(1) a material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any of their salts:

(1-1) not more than 1.8 grams of codeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;

(1-2) not more than 1.8 grams of codeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(1-3) not more than 1.8 grams of dihydrocodeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(1-4) not more than 300 milligrams of ethylmorphine, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, non-narcotic ingredients in recognized therapeutic amounts;

(1-5) not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts; and,

(1-6) not more than 50 milligrams of morphine, or any of its salts, per 100 milliliters or per 100 grams with one or more active, nonnarcotic ingredients in recognized therapeutic amounts; and,

(2) any material, compound, mixture, or preparation containing any of the following narcotic drugs or their salts:

(2-1) Buprenorphine.

#### -Schedule III stimulants

Unless listed in another schedule, a material, compound, mixture or preparation that contains any quantity of the following substances having a stimulant effect on the central nervous system, including the substance's salts, optical, position, or geometric isomers, and salts of the substance's isomers, if the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Benzphetamine;

(2) Chlorphentermine;

(3) Clortermine; and,

(4) Phendimetrazine.

#### -Schedule III anabolic steroids and hormones

Anabolic steroids, including any drug or hormonal substance, chemically and pharmacologically related to testosterone (other than estrogens, progestins, corticosteroids, and dehydroepiandrosterone), and include the following:

(1) androstenediol--

(1-1) 3 beta,17 beta-dihydroxy-5 alpha-androstane;

(1-2) 3 alpha,17 beta -dihydroxy-5 alpha-androstane;

(2) androstenedione (5 alpha-androstan-3,17-dione);

(3) androstenedio--

(3-1) 1-androstenediol (3 beta,17 beta-dihydroxy-5 alpha-androst-1-ene);

(3-2) 1-androstenediol (3 alpha,17 beta-dihydroxy-5 alpha-androst-1-ene);

(3-3) 4-androstenediol (3 beta,17 beta-dihydroxy-androst-4-ene);

(3-4) 5-androstenediol (3 beta,17 beta-dihydroxy-androst-5-ene);

(4) androstenedione--

(4-1) 1-androstenedione ([5 alpha]-androst-1-en-3,17-dione);

(4-2) 4-androstenedione (androst-4-en-3,17-dione);

(4-3) 5-androstenedione (androst-5-en-3,17-dione);

(5) bolasterone (7 alpha,17 alpha-dimethyl-17 beta-hydroxyandrost-4-en-3-one);

- (6) boldenone (17 beta-hydroxyandrost-1,4,-diene-3-one);
- (7) boldione (androsta-1,4-diene-3,17-dione);
- (8) calusterone (7 beta,17 alpha-dimethyl-17 beta-hydroxyandrost-4-en-3-one);
- (9) clostebol (4-chloro-17 beta-hydroxyandrost-4-en-3-one);
- (10) dehydrochloromethyltestosterone (4-chloro-17 beta-hydroxy-17alpha-methyl-androst-1,4-dien-3-one);
- (11) delta-1-dihydrotestosterone (a.k.a. `1-testosterone') (17 beta-hydroxy-5 alpha-androst-1-en-3-one);
- (12) desoxymethyltestosterone (17[alpha]-methyl-5[alpha]-androst-2-en-17[beta]-ol; madol);
- (13) 4-dihydrotestosterone (17 beta-hydroxy-androstan-3-one);
- (14) drostanolone (17 beta-hydroxy-2 alpha-methyl-5 alpha-androstan-3-one);
- (15) ethylestrenol (17 alpha-ethyl-17 beta-hydroxyestr-4-ene);
- (16) fluoxymesterone (9-fluoro-17 alpha-methyl-11 beta,17 beta-dihydroxyandrost-4-en-3-one);
- (17) formebolone (2-formyl-17 alpha-methyl-11 alpha,17 beta-dihydroxyandrost-1,4-dien-3-one);
- (18) furazabol (17 alpha-methyl-17 beta-hydroxyandrostano[2,3-c]-fuzazan);
- (19) 13 beta-ethyl-17 beta-hydroxygon-4-en-3-one;
- (20) 4-hydroxytestosterone (4,17 beta-dihydroxy-androst-4-en-3-one);
- (21) 4-hydroxy-19-nortestosterone (4,17 beta-dihydroxy-estr-4-en-3-one);
- (22) mestanolone (17 alpha-methyl-17 beta-hydroxy-5 alpha-androstan-3-one);
- (23) mesterolone (1 alpha-methyl-17 beta-hydroxy-[5 alpha]-androstan-3-one);
- (24) methandienone (17 alpha-methyl-17 beta-hydroxyandrost-1,4-dien-3-one);
- (25) methandriol (17 alpha-methyl-3 beta,17 beta-dihydroxyandrost-5-ene);
- (26) methenolone (1-methyl-17 beta-hydroxy-5 alpha-androst-1-en-3-one);
- (27) 17 alpha-methyl-3 beta, 17 beta-dihydroxy-5 alpha-androstane;
- (28) methasterone (2 alpha, 17 alpha-dimethyl-5-alpha-androstan-17 beta-ol-3-one);
- (29) 17alpha-methyl-3 alpha,17 beta-dihydroxy-5 alpha-androstane;
- (30) 17 alpha-methyl-3 beta,17 beta-dihydroxyandrost-4-ene;
- (31) 17 alpha-methyl-4-hydroxynandrolone (17 alpha-methyl-4-hydroxy-17 beta-hydroxyestr-4-en-3-one);
- (32) methyl dienolone (17 alpha-methyl-17 beta-hydroxyestra-4,9(10)-dien-3-one);
- (33) methyltrienolone (17 alpha-methyl-17 beta-hydroxyestra-4,9-11-trien-3-one);
- (34) methyltestosterone (17 alpha-methyl-17 beta-hydroxyandrost-4-en-3-one);
- (35) mibolerone (7 alpha,17 alpha-dimethyl-17 beta-hydroxyestr-4-en-3-one);
- (36) 17 alpha-methyl-delta-1-dihydrotestosterone (17 beta-hydroxy-17 alpha-methyl-5 alpha-androst-1-en-3-one) (a.k.a. `17-alpha-methyl-1-testosterone');
- (37) nandrolone (17 beta-hydroxyestr-4-en-3-one);
- (38) norandrostenediol--
- (38-1) 19-nor-4-androstenediol (3 beta, 17 beta-dihydroxyestr-4-ene);
- (38-2) 19-nor-4-androstenediol (3 alpha, 17 beta-dihydroxyestr-4-ene);
- (38-3) 19-nor-5-androstenediol (3 beta, 17 beta-dihydroxyestr-5-ene);
- (38-4) 19-nor-5-androstenediol (3 alpha, 17 beta-dihydroxyestr-5-ene);
- (39) norandrostenedione""
- (39-1) 19-nor-4-androstenedione (estr-4-en-3,17-dione);
- (39-2) 19-nor-5-androstenedione (estr-5-en-3,17-dione);
- (40) 19-nor-4,9(10)-androstadienedione (estra-4,9(10)-diene-3,17-dione);
- (41) norbolethone (13 beta,17alpha-diethyl-17 beta-hydroxygon-4-en-3-one);
- (42) norclostebol (4-chloro-17 beta-hydroxyestr-4-en-3-one);
- (43) norethandrolone (17 alpha-ethyl-17 beta-hydroxyestr-4-en-3-one);
- (44) normethandrolone (17 alpha-methyl-17 beta-hydroxyestr-4-en-3-one);
- (45) oxandrolone (17 alpha-methyl-17 beta-hydroxy-2-oxa-[5 alpha]-androstan-3-one);
- (46) oxymesterone (17 alpha-methyl-4,17 beta-dihydroxyandrost-4-en-3-one);
- (47) oxymetholone (17 alpha-methyl-2-hydroxymethylene-17 beta-hydroxy-[5 alpha]-androstan-3-one);
- (48) prostanazol (17 beta-hydroxy-5-alpha-androstano[3,2-c]pyrazole);
- (49) stanozolol (17 alpha-methyl-17 beta-hydroxy-[5 alpha]-androst-2-eno[3,2-c]-pyrazole);
- (50) stenbolone (17 beta-hydroxy-2-methyl-[5 alpha]-androst-1-en-3-one);
- (51) testolactone (13-hydroxy-3-oxo-13,17-secoandrosta-1,4-dien-17-oic acid lactone);
- (52) testosterone (17 beta-hydroxyandrost-4-en-3-one);
- (53) tetrahydrogestrinone (13 beta,17 alpha-diethyl-17 beta-hydroxygon-4,9,11-trien-3-one);
- (54) trenbolone (17 beta-hydroxyestr-4,9,11-trien-3-one); and
- (55) any salt, ester, or ether of a drug or substance described in this paragraph.
- Schedule III hallucinogenic substances
- (1) Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in U.S. Food and Drug Administration approved drug product. (Some other names for dronabinol: (6aR-trans)-6a,7,8,10a-tetrahydro-6,6,9-tri-methyl-3-pentyl-6H-dibenzo[b,d]pyran-1-ol, or (-)-delta-9-(trans)-tetrahydrocannabinol).

#### SCHEDULE IV

Schedule IV consists of:

-Schedule IV depressants

Except as provided by the Texas Controlled Substances Act, Health and Safety Code, Section 481.033, a material, compound, mixture, or preparation that contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system:

- (1) Alfaxalone (5[alpha]-pregnan-3[alpha]-ol-11,20-dione);
- (2) Alprazolam;
- (3) Barbitol;
- (4) Bromazepam;
- (5) Camazepam;
- (6) Chloral betaine;
- (7) Chloral hydrate;
- (8) Chlordiazepoxide;
- (9) Clobazam;
- (10) Clonazepam;
- (11) Clorazepate;
- (12) Clotiazepam;
- (13) Cloxazolam;
- (14) Delorazepam;
- (15) Diazepam;
- (16) Dichloralphenazone;
- (17) Estazolam;
- (18) Ethchlorvynol;
- (19) Ethinamate;
- (20) Ethyl loflazepate;
- (21) Fludiazepam;
- (22) Flunitrazepam;
- (23) Flurazepam;
- (24) Fospropofol;
- (25) Halazepam;
- (26) Haloxazolam;
- (27) Ketazolam;
- (28) Loprazolam;
- (29) Lorazepam;
- (30) Lormetazepam;
- (31) Mebutamate;
- (32) Medazepam;
- (33) Meprobamate;
- (34) Methohexital;
- (35) Methylphenobarbital (mephobarbital);
- (36) Midazolam;
- (37) Nimetazepam;

- (38) Nitrazepam;
- (39) Nordiazepam;
- (40) Oxazepam;
- (41) Oxazolam;
- (42) Paraldehyde;
- (43) Petrichloral;
- (44) Phenobarbital;
- (45) Pinazepam;
- (46) Prazepam;
- (47) Quazepam;
- (48) Suvorexant;
- (49) Temazepam;
- (50) Tetrazepam;
- (51) Triazolam;
- (52) Zaleplon;
- (53) Zolpidem; and,
- (54) Zopiclone, its salts, isomers, and salts of isomers.

-Schedule IV stimulants

Unless listed in another schedule, a material, compound, mixture, or preparation that contains any quantity of the following substances having a stimulant effect on the central nervous system, including the substance's salts, optical, position, or geometric isomers, and salts of those isomers if the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (1) Cathine [(+)-norpseudoephedrine];
- (2) Diethylpropion;
- (3) Fencamfamin;
- (4) Fenfluramine;
- (5) Fenproporex;
- (6) Mazindol;
- (7) Mefenorex;
- (8) Modafinil;
- (9) Pemoline (including organometallic complexes and their chelates);
- (10) Phentermine;
- (11) Pipradrol;
- (12) SPA [(-)-1-dimethylamino-1,2-diphenylethane]; and
- (13) Sibutramine.

-Schedule IV narcotics

Unless specifically excepted or unless listed in another schedule, a material, compound, mixture, or preparation containing limited quantities of the following narcotic drugs or their salts:

- (1) Not more than 1 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit;
- (2) Dextropropoxyphene (Alpha-(+)-4-dimethylamino-1,2-diphenyl-3-methyl-2-propionoxybutane); and,

(3) 2-[(dimethylamino)methyl]-1-(3-methoxyphenyl)cyclohexanol (other name: tramadol).

-Schedule IV other substances

Unless specifically excepted or unless listed in another schedule, a material, compound, substance's salts:

(1) Butorphanol, including its optical isomers;

(2) Carisoprodol;

(3) Eluxadoline (other names: 5-[[[(2S-2-amino-3-[4-aminocarbonyl]-2,6-dimethylphenyl]-1-oxopropyl)](1S)-1-(4-phenyl-1H-imidazol-2-yl)ethyl]amino]methyl]-2-methoxybenzoic acid) including its salts, isomers, and salts of isomers;

(4) Lorcarserin including its salts, isomers and salts of isomers, whenever the existence of such salts, isomers, and salts of isomers is possible; and,

(5) Pentazocine, its salts, derivatives, compounds, or mixtures.

#### SCHEDULE V

Schedule V consists of:

-Schedule V narcotics containing non-narcotic active medicinal ingredients

A compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs that also contain one or more non-narcotic active medicinal ingredients in sufficient proportion to confer on the compound, mixture or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone:

(1) Not more than 200 milligrams of codeine, or any of its salts, per 100 milliliters or per 100grams;

(2) Not more than 100 milligrams of dihydrocodeine, or any of its salts, per 100 milliliters or per 100 grams;

(3) Not more than 100 milligrams of ethylmorphine, or any of its salts, per 100 milliliters or per 100 grams;

(4) Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit;

(5) Not more than 15 milligrams of opium per 29.5729 milliliters or per 28.35 grams; and

(6) Not more than 0.5 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.

-Schedule V stimulants

Unless specifically exempted or excluded or unless listed in another schedule, a compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers and salts of isomers:

(1) Pyrovalerone.

-Schedule V depressants

Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation, which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts:

(1) Brivaracetam ((2S)-2-[(4R)-2-oxo-4-propylpyrrolidin-1-yl]butanamide) (Other names; BRV, UCB-34714, and Briviact);

(2) Ezogabine including its salts, isomers and salts of isomers, whenever the existence of such salts, isomers and salts of isomers is possible;

(3) Lacosamide [(R)-2-acetoamido-N-benzyl-3-methoxy-propionamide];

(4) Pregabalin [(S)-3-(aminomethyl)-5-methylhexanoic acid], and;

\*(5) Approved cannabidiol drugs.

A drug product in finished dosage formulation that has been approved by the U.S. Food and Drug Administration that contains cannabidiol (2-[1R-3-methyl-6R-(1-methylethenyl)-2-cyclohexen-1-yl]-5-pentyl-1,3-benzenediol) derived from cannabis and no more than 0.1 percent (w/w) residual tetrahydrocannabinols

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Barbara L. Klein

General Counsel

Department of State Health Services

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## Texas Department of Insurance

### Notice of Public Hearing

#### AGENT AND ADJUSTER LICENSING TEST ADMINISTRATION SERVICES RFP

#### DOCKET NO. 2813

The Commissioner of Insurance will hold a public hearing to consider selection of a licensing examination testing service under Request for Proposals No. 454-19-22475. The hearing will provide an opportunity for comment by members of the public and the insurance industry.

The hearing will begin at 1:00 p.m., Central time, May 20, 2019, in Room 100, the David Maddox Hearing Room of the William P. Hobby Jr. State Office Building, 333 Guadalupe Street in Austin, Texas.

Texas Insurance Code Section 4002.053 requires the Texas Department of Insurance to hold a hearing prior to negotiating and entering into an agreement with a testing service. The Insurance Code also requires the hearing to be held in accordance with Government Code Chapter 2001.

The purpose of the hearing is to permit public input before the Commissioner or his designee approves staff to negotiate and enter into an agreement with the testing service vendor who offers the best value to TDI and in compliance with RFP No. 454-19-22475.

You may submit written and oral comments and exhibits at the public hearing. Please include the docket number on any comments or exhibits.

TRD-201901354

James Person

Interim General Counsel

Texas Department of Insurance

Filed: May 8, 2019

## Texas Lottery Commission

### Scratch Ticket Game Number 2115 "Wild Cash"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 2115 is "WILD CASH". The play style is "key number match".

1.1 Price of Scratch Ticket Game.

A. The price for Scratch Ticket Game No. 2115 shall be \$2.00 per Scratch Ticket.

1.2 Definitions in Scratch Ticket Game No. 2115.

A. Display Printing - That area of the Scratch Ticket outside of the area where the overprint and Play Symbols appear.

B. Latex Overprint - The removable scratch-off covering over the Play Symbols on the front of the Scratch Ticket.

C. Play Symbol - The printed data under the latex on the front of the Scratch Ticket that is used to determine eligibility for a prize. Each Play Symbol is printed in Symbol font in black ink in positive except for dual-image games. The possible black Play Symbols are: 01, 02,

03, 04, 05, 06, 07, 08, 09, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, WILD SYMBOL, \$2.00, \$3.00, \$5.00, \$10.00, \$15.00, \$25.00, \$50.00, \$100, \$1,000 and \$30,000.

D. Play Symbol Caption - The printed material appearing below each Play Symbol which explains the Play Symbol. One caption appears under each Play Symbol and is printed in caption font in black ink in positive. The Play Symbol Caption which corresponds with and verifies each Play Symbol is as follows:

Figure 1: GAME NO. 2115 - 1.2D

PLAY SYMBOL	CAPTION
01	ONE
02	TWO
03	THR
04	FOR
05	FIV
06	SIX
07	SVN
08	EGT
09	NIN
10	TEN
11	ELV
12	TLV
13	TRN
14	FTN
15	FFN
16	SXN
17	SVT
18	ETN
19	NTN
20	TWY
WILD SYMBOL	WINALL
\$2.00	TWO\$
\$3.00	THR\$
\$5.00	FIV\$
\$10.00	TEN\$
\$15.00	FFN\$
\$25.00	TWV\$
\$50.00	FFTY\$
\$100	ONHN
\$1,000	ONTH
\$30,000	30TH

E. Serial Number - A unique 13 (thirteen) digit number appearing under the latex scratch-off covering on the front of the Scratch Ticket. The

Serial Number is for validation purposes and cannot be used to play the game. The format will be: 0000000000000.



F. Bar Code - A 24 (twenty-four) character interleaved two (2) of five (5) Bar Code which will include a four (4) digit game ID, the seven (7) digit Pack number, the three (3) digit Ticket number and the ten (10) digit Validation Number. The Bar Code appears on the back of the Scratch Ticket.

G. Game-Pack-Ticket Number - A 14 (fourteen) digit number consisting of the four (4) digit game number (2115), a seven (7) digit Pack number, and a three (3) digit Ticket number. Ticket numbers start with 001 and end with 125 within each Pack. The format will be: 2115-0000001-001.

H. Pack - A Pack of the "WILD CASH" Scratch Ticket Game contains 125 Tickets. One Ticket will be folded over to expose a front and back of one ticket on each pack. Please note the packs will be in an A, B, C, and D configuration.

I. Non-Winning Scratch Ticket - A Scratch Ticket which is not programmed to be a winning Scratch Ticket or a Scratch Ticket that does not meet all of the requirements of these Game Procedures, the State Lottery Act (Texas Government Code, Chapter 466), and applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401.

J. Scratch Ticket Game, Scratch Ticket or Ticket - Texas Lottery "WILD CASH" Scratch Ticket Game No. 2115.

2.0 Determination of Prize Winners. The determination of prize winners is subject to the general Scratch Ticket validation requirements set forth in Texas Lottery Rule 401.302, Scratch Ticket Game Rules, these Game Procedures, and the requirements set out on the back of each Scratch Ticket. A prize winner in the "WILD CASH" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose 22 (twenty-two) Play Symbols. If the player matches any of the YOUR NUMBERS Play Symbols to either of the WINNING NUMBERS Play Symbols, the player wins the PRIZE for that number. If a player reveals a "WILD" Play Symbol, the player WINS ALL 10 PRIZES INSTANTLY! No portion of the Display Printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Scratch Ticket.

#### 2.1 Scratch Ticket Validation Requirements.

A. To be a valid Scratch Ticket, all of the following requirements must be met:

1. Exactly 22 (twenty-two) Play Symbols must appear under the Latex Overprint on the front portion of the Scratch Ticket;
2. Each of the Play Symbols must have a Play Symbol Caption underneath, unless specified, and each Play Symbol must agree with its Play Symbol Caption;
3. Each of the Play Symbols must be present in its entirety and be fully legible;
4. Each of the Play Symbols must be printed in black ink except for dual image games;
5. The Scratch Ticket shall be intact;
6. The Serial Number and Game-Pack-Ticket Number must be present in their entirety and be fully legible;
7. The Serial Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the Scratch Ticket;
8. The Scratch Ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted or tampered with in any manner;
9. The Scratch Ticket must not be counterfeit in whole or in part;

10. The Scratch Ticket must have been issued by the Texas Lottery in an authorized manner;

11. The Scratch Ticket must not have been stolen, nor appear on any list of omitted Scratch Tickets or non-activated Scratch Tickets on file at the Texas Lottery;

12. The Play Symbols, Serial Number and Game-Pack-Ticket Number must be right side up and not reversed in any manner;

13. The Scratch Ticket must be complete and not miscut, and have exactly 22 (twenty-two) Play Symbols under the Latex Overprint on the front portion of the Scratch Ticket, exactly one Serial Number and exactly one Game-Pack-Ticket Number on the Scratch Ticket;

14. The Serial Number of an apparent winning Scratch Ticket shall correspond with the Texas Lottery's Serial Numbers for winning Scratch Tickets, and a Scratch Ticket with that Serial Number shall not have been paid previously;

15. The Scratch Ticket must not be blank or partially blank, misregistered, defective or printed or produced in error;

16. Each of the 22 (twenty-two) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the 22 (twenty-two) Play Symbols on the Scratch Ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the Scratch Ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Game-Pack-Ticket Number must be printed in the Game-Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;

18. The Display Printing on the Scratch Ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and

19. The Scratch Ticket must have been received by the Texas Lottery by applicable deadlines.

B. The Scratch Ticket must pass all additional validation tests provided for in these Game Procedures, the Texas Lottery's Rules governing the award of prizes of the amount to be validated, and any confidential validation and security tests of the Texas Lottery.

C. Any Scratch Ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Executive Director may, solely at the Executive Director's discretion, refund the retail sales price of the Scratch Ticket. In the event a defective Scratch Ticket is purchased, the only responsibility or liability of the Texas Lottery shall be to replace the defective Scratch Ticket with another unplayed Scratch Ticket in that Scratch Ticket Game (or a Scratch Ticket of equivalent sales price from any other current Texas Lottery Scratch Ticket Game) or refund the retail sales price of the Scratch Ticket, solely at the Executive Director's discretion.

#### 2.2 Programmed Game Parameters.

A. Consecutive Non-Winning Tickets within a Pack will not have matching patterns, in the same order, of either Play Symbols or Prize Symbols.

B. The top Prize Symbol will appear on every Ticket, unless restricted by other parameters, play action or prize structure.

C. No prize amount in a non-winning spot will correspond with the YOUR NUMBERS Play Symbol (i.e., \$2 and 02).

D. No matching WINNING NUMBERS Play Symbols on a Ticket.

E. A non-winning Prize Symbol will never match a winning Prize Symbol.

F. A Ticket may have up to two (2) matching non-winning Prize Symbols.

G. No matching non-winning YOUR NUMBERS Play Symbols on a Ticket.

H. When the "WILD" (WINALL) Play Symbol appears, there will be no occurrence of a YOUR NUMBERS Play Symbol matching a WINNING NUMBERS Play Symbol and, if applicable, no occurrence of any other special features on a Ticket.

I. The "WILD" (WINALL) Play Symbol will only appear one (1) time on intended winning Tickets.

### 2.3 Procedure for Claiming Prizes.

A. To claim a "WILD CASH" Scratch Ticket Game prize of \$2.00, \$5.00, \$10.00, \$15.00, \$25.00, \$50.00 or \$100, a claimant shall sign the back of the Scratch Ticket in the space designated on the Scratch Ticket and present the winning Scratch Ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, if appropriate, make payment of the amount due the claimant and physically void the Scratch Ticket; provided that the Texas Lottery Retailer may, but is not required, to pay a \$25.00, \$50.00 or \$100 Scratch Ticket Game. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and Section 2.3.C of these Game Procedures.

B. To claim a "WILD CASH" Scratch Ticket Game prize of \$1,000 or \$30,000, the claimant must sign the winning Scratch Ticket and present it at one of the Texas Lottery's Claim Centers. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning Scratch Ticket for that prize upon presentation of proper identification. When paying a prize of \$600 or more, the Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS if required. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

C. As an alternative method of claiming a "WILD CASH" Scratch Ticket Game prize, the claimant must sign the winning Scratch Ticket, thoroughly complete a claim form, and mail both to: Texas Lottery Commission, P.O. Box 16600, Austin, Texas 78761-6600. The Texas Lottery is not responsible for Scratch Tickets lost in the mail. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

D. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct the amount of a delinquent tax or other money from the winnings of a prize winner who has been finally determined to be:

1. delinquent in the payment of a tax or other money to a state agency and that delinquency is reported to the Comptroller under Government Code §403.055;
2. in default on a loan made under Chapter 52, Education Code;
3. in default on a loan guaranteed under Chapter 57, Education Code; or
4. delinquent in child support payments in the amount determined by a court or a Title IV-D agency under Chapter 231, Family Code.

E. If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

2.4 Allowance for Delay of Payment. The Texas Lottery may delay payment of the prize pending a final determination by the Executive Director, under any of the following circumstances:

A. if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize;

B. if there is any question regarding the identity of the claimant;

C. if there is any question regarding the validity of the Scratch Ticket presented for payment; or

D. if the claim is subject to any deduction from the payment otherwise due, as described in Section 2.3.D of these Game Procedures. No liability for interest for any delay shall accrue to the benefit of the claimant pending payment of the claim.

2.5 Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a cash prize under \$600 from the "WILD CASH" Scratch Ticket Game, the Texas Lottery shall deliver to an adult member of the minor's family or the minor's guardian a check or warrant in the amount of the prize payable to the order of the minor.

2.6 If a person under the age of 18 years is entitled to a cash prize of \$600 or more from the "WILD CASH" Scratch Ticket Game, the Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.7 Scratch Ticket Claim Period. All Scratch Ticket prizes must be claimed within 180 days following the end of the Scratch Ticket Game or within the applicable time period for certain eligible military personnel as set forth in Texas Government Code §466.408. Any rights to a prize that is not claimed within that period, and in the manner specified in these Game Procedures and on the back of each Scratch Ticket, shall be forfeited.

2.8 Disclaimer. The number of prizes in a game is approximate based on the number of Scratch Tickets ordered. The number of actual prizes available in a game may vary based on number of Scratch Tickets manufactured, testing, distribution, sales and number of prizes claimed. A Scratch Ticket Game may continue to be sold even when all the top prizes have been claimed.

### 3.0 Scratch Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of a Scratch Ticket in the space designated, a Scratch Ticket shall be owned by the physical possessor of said Scratch Ticket. When a signature is placed on the back of the Scratch Ticket in the space designated, the player whose signature appears in that area shall be the owner of the Scratch Ticket and shall be entitled to any prize attributable thereto. Notwithstanding any name or names submitted on a claim form, the Executive Director shall make payment to the player whose signature appears on the back of the Scratch Ticket in the space designated. If more than one name appears on the back of the Scratch Ticket, the Executive Director will require that one of those players whose name appears thereon be designated by such players to receive payment.

B. The Texas Lottery shall not be responsible for lost or stolen Scratch Tickets and shall not be required to pay on a lost or stolen Scratch Ticket.

4.0 Number and Value of Scratch Prizes. There will be approximately 7,080,000 Scratch Tickets in Scratch Ticket Game No. 2115. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 2115 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$2	679,680	10.42
\$5	453,120	15.63
\$10	113,280	62.50
\$15	113,280	62.50
\$25	55,460	127.66
\$50	19,500	363.08
\$100	2,360	3,000.00
\$1,000	10	708,000.00
\$30,000	5	1,416,000.00

\*The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed.

\*\*The overall odds of winning a prize are 1 in 4.93. The individual odds of winning for a particular prize level may vary based on sales, distribution, testing, and number of prizes claimed.

A. The actual number of Scratch Tickets in the game may be increased or decreased at the sole discretion of the Texas Lottery Commission.

5.0 End of the Scratch Ticket Game. The Executive Director may, at any time, announce a closing date (end date) for the Scratch Ticket Game No. 2115 without advance notice, at which point no further Scratch Tickets in that game may be sold. The determination of the closing date and reasons for closing will be made in accordance with the Scratch Ticket closing procedures and the Scratch Ticket Game Rules. See 16 TAC §401.302(j).

6.0 Governing Law. In purchasing a Scratch Ticket, the player agrees to comply with, and abide by, these Game Procedures for Scratch Ticket Game No. 2115, the State Lottery Act (Texas Government Code, Chapter 466), applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401, and all final decisions of the Executive Director.

TRD-201901333  
 Bob Biard  
 General Counsel  
 Texas Lottery Commission  
 Filed: May 7, 2019



Scratch Ticket Game Number 2143 "Texas Road Trip"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 2143 is "TEXAS ROAD TRIP". The play style is "multiple games".

1.1 Price of Scratch Ticket Game.

A. Tickets for Scratch Ticket Game No. 2143 shall be \$5.00 per Scratch Ticket.

1.2 Definitions in Scratch Ticket Game No. 2143.

A. Display Printing - That area of the Scratch Ticket outside of the area where the overprint and Play Symbols appear.

B. Latex Overprint - The removable scratch-off covering over the Play Symbols on the front of the Scratch Ticket.

C. Play Symbol - The printed data under the latex on the front of the Scratch Ticket that is used to determine eligibility for a prize. Each Play Symbol is printed in Symbol font in black ink in positive except for dual-image games. The possible black Play Symbols are: SUIT-CASE SYMBOL, CAR SYMBOL, SUN SYMBOL, COWBOY HAT SYMBOL, HORSESHOE SYMBOL, CACTUS SYMBOL, STEAK SYMBOL, CAMERA SYMBOL, ROUTE 83 SYMBOL, 01, 02, 03, 04, 05, 06, 07, 08, 09, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, \$5.00, \$10.00, \$15.00, \$20.00, \$50.00, \$100, \$500, \$1,000 and \$100,000.

D. Play Symbol Caption - The printed material appearing below each Play Symbol which explains the Play Symbol. One caption appears under each Play Symbol and is printed in caption font in black ink in positive. The Play Symbol Caption which corresponds with and verifies each Play Symbol is as follows:

Figure 1: GAME NO. 2143 - 1.2D

PLAY SYMBOL	CAPTION
SUITCASE SYMBOL	CASE
CAR SYMBOL	CAR
SUN SYMBOL	SUN
COWBOY HAT SYMBOL	HAT
HORSESHOE SYMBOL	HRSHOE
CACTUS SYMBOL	CACTUS
STEAK SYMBOL	STEAK
CAMERA SYMBOL	CAMERA
ROUTE 83 SYMBOL	RTE83
01	ONE
02	TWO
03	THR
04	FOR
05	FIV
06	SIX
07	SVN
08	EGT
09	NIN
10	TEN
11	ELV
12	TLV
13	TRN
14	FTN
15	FFN
16	SXN
17	SVT
18	ETN
19	NTN
20	TWY
21	TWON
22	TWTO
23	TWTH
24	TWFR
25	TWV
26	TWSX
27	TWSV
28	TWET

29	TWNI
30	TRTY
31	TRON
32	TRTO
33	TRTH
34	TRFR
35	TRFV
36	TRSX
37	TRSV
38	TRET
39	TRNI
40	FRTY
41	FRON
42	FRTO
43	FRTH
44	FRFR
45	FRFV
46	FRSX
47	FRSV
48	FRET
49	FRNI
50	FFTY
\$5.00	FIV\$
\$10.00	TEN\$
\$15.00	FFN\$
\$20.00	TWY\$
\$50.00	FFTY\$
\$100	ONHN
\$500	FVHN
\$1,000	ONTH
\$100,000	100 <sup>TH</sup>

E. Serial Number - A unique 13 (thirteen) digit number appearing under the latex scratch-off covering on the front of the Scratch Ticket. The

Serial Number is for validation purposes and cannot be used to play the game. The format will be: 0000000000000.

F. Bar Code - A 24 (twenty-four) character interleaved two (2) of five (5) Bar Code which will include a four (4) digit game ID, the seven (7) digit Pack number, the three (3) digit Ticket number and the ten (10) digit Validation Number. The Bar Code appears on the back of the Scratch Ticket.

G. Game-Pack-Ticket Number - A 14 (fourteen) digit number consisting of the four (4) digit game number (2143), a seven (7) digit Pack number, and a three (3) digit Ticket number. Ticket numbers start with 001 and end with 075 within each Pack. The format will be: 2143-0000001-001.

H. Pack - A Pack of "TEXAS ROAD TRIP" Scratch Ticket Game contains 075 Scratch Tickets, packed in plastic shrink-wrapping and fan-folded in pages of one (1). Ticket 001 will be shown on the front of the Pack; the back of Ticket 075 will be revealed on the back of the Pack. All Packs will be tightly shrink-wrapped. There will be no breaks between the Tickets in a Pack. Every other Pack will reverse; i.e., reverse order will be: the back of Ticket 001 will be shown on the front of the Pack and the front of Ticket 075 will be shown on the back of the Pack.

I. Non-Winning Ticket - A Scratch Ticket which is not programmed to be a winning Scratch Ticket or a Scratch Ticket that does not meet all of the requirements of these Game Procedures, the State Lottery Act (Texas Government Code, Chapter 466), and applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401.

J. Scratch Ticket Game, Scratch Ticket or Ticket - A Texas Lottery "TEXAS ROAD TRIP" Scratch Ticket Game No. 2143.

2.0 Determination of Prize Winners. The determination of prize winners is subject to the general Scratch Ticket validation requirements set forth in Texas Lottery Rule 401.302, Scratch Ticket Game Rules, these Game Procedures, and the requirements set out on the back of each Scratch Ticket. A prize winner in the "TEXAS ROAD TRIP" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose 35 (thirty-five) Play Symbols. BONUS PLAY AREA: If a player reveals 2 matching Play Symbols, the player wins \$10. If the player reveals 3 matching Play Symbols, the player wins \$100. MAIN PLAY AREA: The player scratches to reveal 4 WINNING NUMBERS Play Symbols and 14 YOUR NUMBERS Play Symbols. If the player matches any of the YOUR NUMBERS Play Symbols to any of the WINNING NUMBERS Play Symbols, the player wins the prize for that number. No portion of the Display Printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Scratch Ticket.

### 2.1 Scratch Ticket Validation Requirements.

A. To be a valid Scratch Ticket, all of the following requirements must be met:

1. Exactly 35 (thirty-five) Play Symbols must appear under the Latex Overprint on the front portion of the Scratch Ticket;
2. Each of the Play Symbols must have a Play Symbol Caption underneath, unless specified, and each Play Symbol must agree with its Play Symbol Caption;
3. Each of the Play Symbols must be present in its entirety and be fully legible;
4. Each of the Play Symbols must be printed in black ink except for dual image games;
5. The Scratch Ticket shall be intact;
6. The Serial Number and Game-Pack-Ticket Number must be present in their entirety and be fully legible;

7. The Serial Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the Scratch Ticket;

8. The Scratch Ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted or tampered with in any manner;

9. The Scratch Ticket must not be counterfeit in whole or in part;

10. The Scratch Ticket must have been issued by the Texas Lottery in an authorized manner;

11. The Scratch Ticket must not have been stolen, nor appear on any list of omitted Scratch Tickets or non-activated Scratch Tickets on file at the Texas Lottery;

12. The Play Symbols, Serial Number and Game-Pack-Ticket Number must be right side up and not reversed in any manner;

13. The Scratch Ticket must be complete and not miscut, and have exactly 35 (thirty-five) Play Symbols under the Latex Overprint on the front portion of the Scratch Ticket, exactly one Serial Number and exactly one Game-Pack-Ticket Number on the Scratch Ticket;

14. The Serial Number of an apparent winning Scratch Ticket shall correspond with the Texas Lottery's Serial Numbers for winning Scratch Tickets, and a Scratch Ticket with that Serial Number shall not have been paid previously;

15. The Scratch Ticket must not be blank or partially blank, misregistered, defective or printed or produced in error;

16. Each of the 35 (thirty-five) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the 35 (thirty-five) Play Symbols on the Scratch Ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the Scratch Ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Game-Pack-Ticket Number must be printed in the Game-Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;

18. The Display Printing on the Scratch Ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and

19. The Scratch Ticket must have been received by the Texas Lottery by applicable deadlines.

B. The Scratch Ticket must pass all additional validation tests provided for in these Game Procedures, the Texas Lottery's Rules governing the award of prizes of the amount to be validated, and any confidential validation and security tests of the Texas Lottery.

C. Any Scratch Ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Executive Director may, solely at the Executive Director's discretion, refund the retail sales price of the Scratch Ticket. In the event a defective Scratch Ticket is purchased, the only responsibility or liability of the Texas Lottery shall be to replace the defective Scratch Ticket with another unplayed Scratch Ticket in that Scratch Ticket Game (or a Scratch Ticket of equivalent sales price from any other current Texas Lottery Scratch Ticket Game) or refund the retail sales price of the Scratch Ticket, solely at the Executive Director's discretion.

### 2.2 Programmed Game Parameters.

A. GENERAL: Consecutive Non-Winning Tickets within a Pack will not have matching patterns, in the same order, of either Play Symbols or Prize Symbols.

B. GENERAL: A Ticket can win as indicated by the prize structure.

C. GENERAL: A Ticket can win up to fifteen (15) times.

D. BONUS PLAY AREA: A Ticket can win up to one (1) time in the BONUS play area.

E. BONUS PLAY AREA: Consecutive Non-Winning Tickets within a Pack will not have matching BONUS play areas. For example, if the first Ticket contains a Horseshoe Play Symbol, a Steak Play Symbol and a Cowboy Hat Play Symbol in the BONUS play area, then the next Ticket may not contain a Horseshoe Play Symbol, a Steak Play Symbol and a Cowboy Hat Play Symbol in the BONUS play area.

F. MAIN PLAY AREA: A Ticket can win up to fourteen (14) times in the main play area.

G. MAIN PLAY AREA: On winning and Non-Winning Tickets, the top cash prizes of \$1,000 and \$100,000 will each appear at least once, except on Tickets winning more than ten (10) times.

H. MAIN PLAY AREA: Non-winning Prize Symbols will not match a winning Prize Symbol on a Ticket.

I. MAIN PLAY AREA: No matching non-winning YOUR NUMBERS Play Symbols will appear on a Ticket.

J. MAIN PLAY AREA: Tickets winning more than one (1) time in the main play area will use as many WINNING NUMBERS Play Symbols as possible to create matches, unless restricted by other parameters, play action or prize structure.

K. MAIN PLAY AREA: No matching WINNING NUMBERS Play Symbols will appear on a Ticket.

L. MAIN PLAY AREA: YOUR NUMBERS Play Symbols will never equal the corresponding Prize Symbol (i.e., 5 and \$5, 10 and \$10, 15 and \$15, 20 and \$20, 50 and \$50).

M. MAIN PLAY AREA: A Prize Symbol will not appear more than two (2) times, except as required by the prize structure to create multiple wins.

N. MAIN PLAY AREA: On Tickets not winning in the main play area, a WINNING NUMBERS Play Symbol will never match a YOUR NUMBERS Play Symbol.

### 2.3 Procedure for Claiming Prizes.

A. To claim a "TEXAS ROAD TRIP" Scratch Ticket Game prize of \$5.00, \$10.00, \$15.00, \$20.00, \$50.00, \$100 or \$500, a claimant shall sign the back of the Scratch Ticket in the space designated on the Scratch Ticket and present the winning Scratch Ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, if appropriate, make payment of the amount due the claimant and physically void the Scratch Ticket; provided that the Texas Lottery Retailer may, but is not required, to pay a \$50.00, \$100 or \$500 Scratch Ticket Game. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and Section 2.3.C of these Game Procedures.

B. To claim a "TEXAS ROAD TRIP" Scratch Ticket Game prize of \$1,000 or \$100,000, the claimant must sign the winning Scratch Ticket and present it at one of the Texas Lottery's Claim Centers. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning Scratch Ticket for that prize upon presentation of proper identification. When paying a prize of \$600 or more, the

Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS if required. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

C. As an alternative method of claiming a "TEXAS ROAD TRIP" Scratch Ticket Game prize, the claimant must sign the winning Scratch Ticket, thoroughly complete a claim form, and mail both to: Texas Lottery Commission, P.O. Box 16600, Austin, Texas 78761-6600. The Texas Lottery is not responsible for Scratch Tickets lost in the mail. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

D. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct the amount of a delinquent tax or other money from the winnings of a prize winner who has been finally determined to be:

1. delinquent in the payment of a tax or other money to a state agency and that delinquency is reported to the Comptroller under Government Code §403.055;
2. in default on a loan made under Chapter 52, Education Code;
3. in default on a loan guaranteed under Chapter 57, Education Code; or
4. delinquent in child support payments in the amount determined by a court or a Title IV-D agency under Chapter 231, Family Code.

E. If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

F. If a person is indebted or owes delinquent taxes to the State, and is selected as a winner in a promotional second-chance drawing, the debt to the State must be paid within 30 days of notification or the prize will be awarded to an Alternate.

2.4 Allowance for Delay of Payment. The Texas Lottery may delay payment of the prize pending a final determination by the Executive Director, under any of the following circumstances:

- A. if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize;
- B. if there is any question regarding the identity of the claimant;
- C. if there is any question regarding the validity of the Scratch Ticket presented for payment; or
- D. if the claim is subject to any deduction from the payment otherwise due, as described in Section 2.3.D of these Game Procedures. No liability for interest for any delay shall accrue to the benefit of the claimant pending payment of the claim.

2.5 Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a cash prize under \$600 from the "TEXAS ROAD TRIP" Scratch Ticket Game, the Texas Lottery shall deliver to an adult member of the minor's family or the minor's guardian a check or warrant in the amount of the prize payable to the order of the minor.

2.6 If a person under the age of 18 years is entitled to a cash prize of \$600 or more from the "TEXAS ROAD TRIP" Scratch Ticket Game, the Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.7 Scratch Ticket Claim Period. All Scratch Ticket Game prizes must be claimed within 180 days following the end of the Scratch Ticket Game or within the applicable time period for certain eligible military personnel as set forth in Texas Government Code §466.408. Any rights

to a prize that is not claimed within that period, and in the manner specified in these Game Procedures and on the back of each Scratch Ticket, shall be forfeited.

2.8 Disclaimer. The number of prizes in a game is approximate based on the number of Scratch Tickets ordered. The number of actual prizes available in a game may vary based on number of Scratch Tickets manufactured, testing, distribution, sales and number of prizes claimed. A Scratch Ticket Game may continue to be sold even when all the top prizes have been claimed.

2.9 Promotional Second-Chance Drawings. Any Non-Winning "TEXAS ROAD TRIP" Scratch Ticket may be entered into one of four promotional drawings for a chance to win a promotional second-chance drawing prize. See instructions on the back of the Scratch Ticket for information on eligibility and entry requirements.

3.0 Scratch Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of a Scratch Ticket in the space designated, a Scratch Ticket shall be owned

by the physical possessor of said Scratch Ticket. When a signature is placed on the back of the Scratch Ticket in the space designated, the player whose signature appears in that area shall be the owner of the Scratch Ticket and shall be entitled to any prize attributable thereto. Notwithstanding any name or names submitted on a claim form, the Executive Director shall make payment to the player whose signature appears on the back of the Scratch Ticket in the space designated. If more than one name appears on the back of the Scratch Ticket, the Executive Director will require that one of those players whose name appears thereon be designated by such players to receive payment.

B. The Texas Lottery shall not be responsible for lost or stolen Scratch Tickets and shall not be required to pay on a lost or stolen Scratch Ticket.

4.0 Number and Value of Scratch Ticket Prizes. There will be approximately 7,200,000 Scratch Tickets in the Scratch Ticket Game No. 2143. The approximate number and value of prizes in the game are as follows:

**Figure 2: GAME NO. 2143 - 4.0**

<b>Prize Amount</b>	<b>Approximate Number of Winners*</b>	<b>Approximate Odds are 1 in **</b>
\$5	848,000	8.49
\$10	480,000	15.00
\$15	240,000	30.00
\$20	160,000	45.00
\$50	74,000	97.30
\$100	30,000	240.00
\$500	1,000	7,200.00
\$1,000	40	180,000.00
\$100,000	4	1,800,000.00

\*The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed.

\*\*The overall odds of winning a prize are 1 in 3.93. The individual odds of winning for a particular prize level may vary based on sales, distribution, testing, and number of prizes claimed.

A. The actual number of Scratch Tickets in the game may be increased or decreased at the sole discretion of the Texas Lottery Commission.

5.0 End of the Scratch Ticket Game. The Executive Director may, at any time, announce a closing date (end date) for the Scratch Ticket Game No. 2143 without advance notice, at which point no further Scratch Tickets in that game may be sold. The determination of the closing date and reasons for closing will be made in accordance with the Scratch Ticket Game closing procedures and the Scratch Ticket Game Rules. See 16 TAC §401.302(j).

6.0 Governing Law. In purchasing a Scratch Ticket, the player agrees to comply with, and abide by, these Game Procedures for Scratch Ticket Game No. 2143, the State Lottery Act (Texas Government Code, Chap-

ter 466), applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401, and all final decisions of the Executive Director.

TRD-201901334  
 Bob Biard  
 General Counsel  
 Texas Lottery Commission  
 Filed: May 7, 2019



Scratch Ticket Game Number 2144 "Million Dollar Loteria"



1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 2144 is "MILLION DOLLAR LOTERIA". The play style is "row/column/diagonal".

1.1 Price of Scratch Ticket Game.

A. The price for Scratch Ticket Game No. 2144 shall be \$20.00 per Scratch Ticket.

1.2 Definitions in Scratch Ticket Game No. 2144.

A. Display Printing - That area of the Scratch Ticket outside of the area where the overprint and Play Symbols appear.

B. Latex Overprint - The removable scratch-off covering over the Play Symbols on the front of the Scratch Ticket.

C. Play Symbol - The printed data under the latex on the front of the Scratch Ticket that is used to determine eligibility for a prize. Each Play Symbol is printed in Symbol font in black ink in positive except for dual-image games. The possible black Play Symbols are: THE MOCKINGBIRD SYMBOL, THE CACTUS SYMBOL, THE STRAWBERRY SYMBOL, THE ROADRUNNER SYMBOL, THE BAT SYMBOL, THE PIÑATA SYMBOL, THE COWBOY SYMBOL, THE NEWSPAPER SYMBOL, THE SUNSET SYMBOL, THE COWBOY HAT SYMBOL, THE COVERED WAGON SYMBOL, THE MARACAS SYMBOL, THE LONE STAR SYMBOL, THE CORN SYMBOL, THE HEN SYMBOL, THE SPEAR SYMBOL, THE GUITAR SYMBOL, THE FIRE SYMBOL, THE MORTAR

PESTLE SYMBOL, THE WHEEL SYMBOL, THE PECAN TREE SYMBOL, THE JACKRABBIT SYMBOL, THE BOAR SYMBOL, THE ARMADILLO SYMBOL, THE LIZARD SYMBOL, THE CHILE PEPPER SYMBOL, THE HORSESHOE SYMBOL, THE HORSE SYMBOL, THE SHOES SYMBOL, THE BLUEBONNET SYMBOL, THE CHERRIES SYMBOL, THE OIL RIG SYMBOL, THE MOONRISE SYMBOL, THE RATTLESNAKE SYMBOL, THE WINDMILL SYMBOL, THE SPUR SYMBOL, THE SADDLE SYMBOL, THE GEM SYMBOL, THE DESERT SYMBOL, THE SOCCERBALL SYMBOL, THE FOOTBALL SYMBOL, THE COW SYMBOL, THE BICYCLE SYMBOL, THE RACE CAR SYMBOL, THE BUTTERFLY SYMBOL, THE CARDINAL SYMBOL, THE SHIP SYMBOL, STAR SYMBOL, MONEYBAG SYMBOL, COINS SYMBOL, HEART SYMBOL, CHECK SYMBOL, GOLD BAR SYMBOL, STACK OF BILLS SYMBOL, VAULT SYMBOL, ARMORED CAR SYMBOL, BANK SYMBOL, \$10.00, \$20.00, \$30.00, \$40.00, \$50.00, \$100, \$200, \$500, \$1,000, \$5,000, \$20,000 and \$1,000,000.

D. Play Symbol Caption - The printed material appearing below each Play Symbol which explains the Play Symbol. One caption appears under each Play Symbol and is printed in caption font in black ink in positive. The Play Symbol Caption which corresponds with and verifies each Play Symbol is as follows:

Figure 1: GAME NO. 2144 - 1.2D

PLAY SYMBOL	CAPTION
THE MOCKINGBIRD SYMBOL	THEMOCKINGBIRD
THE CACTUS SYMBOL	THE CACTUS
THE STRAWBERRY SYMBOL	THESTRAWBERRY
THE ROADRUNNER SYMBOL	THEROADRUNNER
THE BAT SYMBOL	THE BAT
THE PIÑATA SYMBOL	THE PIÑATA
THE COWBOY SYMBOL	THECOWBOY
THE NEWSPAPER SYMBOL	THENEWSPAPER
THE SUNSET SYMBOL	THE SUNSET
THE COWBOY HAT SYMBOL	THECOWBOYHAT
THE COVERED WAGON SYMBOL	THECOVEREDWAGON
THE MARACAS SYMBOL	THEMARACAS
THE LONE STAR SYMBOL	THELONESTAR
THE CORN SYMBOL	THE CORN
THE HEN SYMBOL	THE HEN
THE SPEAR SYMBOL	THE SPEAR
THE GUITAR SYMBOL	THE GUITAR
THE FIRE SYMBOL	THE FIRE
THE MORTAR PESTLE SYMBOL	THEMORTARPESTLE
THE WHEEL SYMBOL	THE WHEEL
THE PECAN TREE SYMBOL	THEPECANTREE
THE JACKRABBIT SYMBOL	THEJACKRABBIT
THE BOAR SYMBOL	THE BOAR
THE ARMADILLO SYMBOL	THEARMADILLO
THE LIZARD SYMBOL	THELIZARD
THE CHILE PEPPER SYMBOL	THECHILEPEPPER
THE HORSESHOE SYMBOL	THEHORSESHOE
THE HORSE SYMBOL	THE HORSE
THE SHOES SYMBOL	THE SHOES
THE BLUEBONNET SYMBOL	THEBLUEBONNET
THE CHERRIES SYMBOL	THECHERRIES
THE OIL RIG SYMBOL	THEOILRIG

THE MOONRISE SYMBOL	THE MOONRISE
THE RATTLESNAKE SYMBOL	THE RATTLESNAKE
THE WINDMILL SYMBOL	THE WINDMILL
THE SPUR SYMBOL	THE SPUR
THE SADDLE SYMBOL	THE SADDLE
THE GEM SYMBOL	THE GEM
THE DESERT SYMBOL	THE DESERT
THE SOCCERBALL SYMBOL	THE SOCCERBALL
THE FOOTBALL SYMBOL	THE FOOTBALL
THE COW SYMBOL	THE COW
THE BICYCLE SYMBOL	THE BICYCLE
THE RACE CAR SYMBOL	THE RACE CAR
THE BUTTERFLY SYMBOL	THE BUTTERFLY
THE CARDINAL SYMBOL	THE CARDINAL
THE SHIP SYMBOL	THE SHIP
STAR SYMBOL	STAR
MONEYBAG SYMBOL	MONEYBAG
COINS SYMBOL	COINS
HEART SYMBOL	HEART
CHECK SYMBOL	CHECK
GOLD BAR SYMBOL	GOLD BAR
STACK OF BILLS SYMBOL	STACK OF BILLS
VAULT SYMBOL	VAULT
ARMORED CAR SYMBOL	ARM CAR
BANK SYMBOL	BANK
\$10.00	TEN\$
\$20.00	TWY\$
\$30.00	TRTY\$
\$40.00	FRTY\$
\$50.00	FFTY\$
\$100	ONHN
\$200	TOHN
\$500	FVHN
\$1,000	ONTH

\$5,000	FVTH
\$20,000	20TH
\$1,000,000	TPPZ

E. Serial Number - A unique 13 (thirteen) digit number appearing under the latex scratch-off covering on the front of the Scratch Ticket. The Serial Number is for validation purposes and cannot be used to play the game. The format will be: 0000000000000.

F. Bar Code - A 24 (twenty-four) character interleaved two (2) of five (5) Bar Code which will include a four (4) digit game ID, the seven (7) digit Pack number, the three (3) digit Ticket number and the ten (10) digit Validation Number. The Bar Code appears on the back of the Scratch Ticket.

G. Game-Pack-Ticket Number - A 14 (fourteen) digit number consisting of the four (4) digit game number (2144), a seven (7) digit Pack number, and a three (3) digit Ticket number. Ticket numbers start with 001 and end with 025 within each Pack. The format will be: 2144-0000001-001.

H. Pack - A Pack of the "MILLION DOLLAR LOTERIA" Scratch Ticket Game contains 025 Tickets, packed in plastic shrink-wrapping and fanfolded in pages of one (1). Ticket 001 will be shown on the front of the Pack; the back of Ticket 025 will be revealed on the back of the Pack. All Packs will be tightly shrink-wrapped. There will be no breaks between the Tickets in a Pack. Every other Pack will reverse i.e., reverse order will be: the back of Ticket 001 will be shown on the front of the Pack and the front of Ticket 025 will be shown on the back of the Pack.

I. Non-Winning Scratch Ticket - A Scratch Ticket which is not programmed to be a winning Scratch Ticket or a Scratch Ticket that does not meet all of the requirements of these Game Procedures, the State Lottery Act (Texas Government Code, Chapter 466), and applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401.

J. Scratch Ticket Game, Scratch Ticket or Ticket - Texas Lottery "MILLION DOLLAR LOTERIA" Scratch Ticket Game No. 2144.

2.0 Determination of Prize Winners. The determination of prize winners is subject to the general Scratch Ticket validation requirements set forth in Texas Lottery Rule 401.302, Scratch Ticket Game Rules, these Game Procedures, and the requirements set out on the back of each Scratch Ticket. A prize winner in the "MILLION DOLLAR LOTERIA" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose 78 (seventy-eight) Play Symbols. PLAYBOARD 1: 1) The player scratches the CALLER'S CARD area to reveal 27 symbols. 2) The player scratches ONLY the symbols on the PLAYBOARD that exactly match the symbols revealed on the CALLER'S CARD. 3) If the player reveals a complete row, column or diagonal line, the player wins the prize for that line. PLAYBOARD 2: The player scratches ONLY the symbols on each PLAYBOARD that exactly match the symbols revealed on the CALLER'S CARD. If the player reveals all 4 symbols in a column, the player wins the PRIZE for that column. PLAY AREA 3 (BONUS GAMES): The player scratches ONLY the symbols on the BONUS GAMES that exactly match the symbols revealed on the CALLER'S CARD. If the player reveals 2 symbols in any one GAME, the player wins the PRIZE for the GAME. PLAY AREA 4 (BONUS): If the player reveals 2 matching symbols in the BONUS \$100, the player

wins \$100. If the player reveals 2 matching symbols in the BONUS \$200, the player wins \$200. TABLA DE JUEGO 1: 1) El jugador raspa la CARTA DEL GRITÓN para revelar 27 símbolos. 2) El jugador raspa SOLAMENTE los símbolos en la TABLA DE JUEGO que son exactamente iguales a los símbolos revelados en la CARTA DEL GRITÓN. 3) Si el jugador revela una línea completa horizontal, vertical o diagonal, el jugador gana el premio para esa línea. TABLA DE JUEGO 2: El jugador SOLAMENTE raspa los símbolos en cada de las TABLAS DE JUEGO que son exactamente iguales a los símbolos revelados en la CARTA DEL GRITÓN. Si el jugador revela todos los 4 símbolos en una columna, el jugador gana el PREMIO para esa columna. ÁREA DE JUEGO 3 (JUEGOS DE BONO): El jugador SOLAMENTE raspa los símbolos en los JUEGOS DE BONO que son exactamente iguales a los símbolos revelados en la CARTA DEL GRITÓN. Si el jugador revela 2 símbolos en un mismo JUEGO, el jugador gana el PREMIO para ese JUEGO. ÁREA DE JUEGO 4 (BONO): Si el jugador revela 2 símbolos iguales en el área de BONO \$100, el jugador gana \$100. Si el jugador revela 2 símbolos iguales en el área de BONO \$200, el jugador gana \$200. No portion of the Display Printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Scratch Ticket.

2.1 Scratch Ticket Validation Requirements.

A. To be a valid Scratch Ticket, all of the following requirements must be met:

1. Exactly 78 (seventy-eight) Play Symbols must appear under the Latex Overprint on the front portion of the Scratch Ticket;
2. Each of the Play Symbols must have a Play Symbol Caption underneath, unless specified, and each Play Symbol must agree with its Play Symbol Caption;
3. Each of the Play Symbols must be present in its entirety and be fully legible;
4. Each of the Play Symbols must be printed in black ink except for dual image games;
5. The Scratch Ticket shall be intact;
6. The Serial Number and Game-Pack-Ticket Number must be present in their entirety and be fully legible;
7. The Serial Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the Scratch Ticket;
8. The Scratch Ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted or tampered with in any manner;
9. The Scratch Ticket must not be counterfeit in whole or in part;
10. The Scratch Ticket must have been issued by the Texas Lottery in an authorized manner;
11. The Scratch Ticket must not have been stolen, nor appear on any list of omitted Scratch Tickets or non-activated Scratch Tickets on file at the Texas Lottery;

12. The Play Symbols, Serial Number and Game-Pack-Ticket Number must be right side up and not reversed in any manner;

13. The Scratch Ticket must be complete and not miscut, and have exactly 78 (seventy-eight) Play Symbols under the Latex Overprint on the front portion of the Scratch Ticket, exactly one Serial Number and exactly one Game-Pack-Ticket Number on the Scratch Ticket;

14. The Serial Number of an apparent winning Scratch Ticket shall correspond with the Texas Lottery's Serial Numbers for winning Scratch Tickets, and a Scratch Ticket with that Serial Number shall not have been paid previously;

15. The Scratch Ticket must not be blank or partially blank, misregistered, defective or printed or produced in error;

16. Each of the 78 (seventy-eight) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the 78 (seventy-eight) Play Symbols on the Scratch Ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the Scratch Ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Game-Pack-Ticket Number must be printed in the Game-Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;

18. The Display Printing on the Scratch Ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and

19. The Scratch Ticket must have been received by the Texas Lottery by applicable deadlines.

B. The Scratch Ticket must pass all additional validation tests provided for in these Game Procedures, the Texas Lottery's Rules governing the award of prizes of the amount to be validated, and any confidential validation and security tests of the Texas Lottery.

C. Any Scratch Ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Executive Director may, solely at the Executive Director's discretion, refund the retail sales price of the Scratch Ticket. In the event a defective Scratch Ticket is purchased, the only responsibility or liability of the Texas Lottery shall be to replace the defective Scratch Ticket with another unplayed Scratch Ticket in that Scratch Ticket Game (or a Scratch Ticket of equivalent sales price from any other current Texas Lottery Scratch Ticket Game) or refund the retail sales price of the Scratch Ticket, solely at the Executive Director's discretion.

## 2.2 Programmed Game Parameters.

A. GENERAL: A Ticket can win up to fourteen (14) times in accordance with the approved prize structure.

B. GENERAL: Consecutive Non-Winning Tickets within a Pack will not have matching patterns, in the same order, of either Play Symbols or Prize Symbols.

C. PLAYBOARD 1/TABLA DE JUEGO 1: No matching Play Symbols in the CALLER'S CARD/CARTA DEL GRITÓN play area.

D. PLAYBOARD 1/TABLA DE JUEGO 1: At least eight (8) but no more than twelve (12) CALLER'S CARD/CARTA DEL GRITÓN Play Symbols will match a Play Symbol on the PLAYBOARD 1/TABLA DE JUEGO 1 play area.

E. PLAYBOARD 1/TABLA DE JUEGO 1: CALLER'S CARD/CARTA DEL GRITÓN Play Symbols will have a random distribution on the Ticket, unless restricted by other parameters, play action or prize structure.

F. PLAYBOARD 1/TABLA DE JUEGO 1: No matching Play Symbols are allowed on the same PLAYBOARD 1/TABLA DE JUEGO 1 play area.

## 2.3 Procedure for Claiming Prizes.

A. To claim a "MILLION DOLLAR LOTERIA" Scratch Ticket Game prize of \$20.00, \$30.00, \$40.00, \$50.00, \$100, \$150, \$200, \$250 or \$500, a claimant shall sign the back of the Scratch Ticket in the space designated on the Scratch Ticket and present the winning Scratch Ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, if appropriate, make payment of the amount due the claimant and physically void the Scratch Ticket; provided that the Texas Lottery Retailer may, but is not required, to pay a \$30.00, \$40.00, \$50.00, \$100, \$150, \$200, \$250 or \$500 Scratch Ticket Game. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and Section 2.3.C of these Game Procedures.

B. To claim a "MILLION DOLLAR LOTERIA" Scratch Ticket Game prize of \$1,000, \$5,000, \$20,000 or \$1,000,000, the claimant must sign the winning Scratch Ticket and present it at one of the Texas Lottery's Claim Centers. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning Scratch Ticket for that prize upon presentation of proper identification. When paying a prize of \$600 or more, the Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS if required. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

C. As an alternative method of claiming a "MILLION DOLLAR LOTERIA" Scratch Ticket Game prize, the claimant must sign the winning Scratch Ticket, thoroughly complete a claim form, and mail both to: Texas Lottery Commission, P.O. Box 16600, Austin, Texas 78761-6600. The Texas Lottery is not responsible for Scratch Tickets lost in the mail. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

D. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct the amount of a delinquent tax or other money from the winnings of a prize winner who has been finally determined to be:

1. delinquent in the payment of a tax or other money to a state agency and that delinquency is reported to the Comptroller under Government Code §403.055;

2. in default on a loan made under Chapter 52, Education Code;

3. in default on a loan guaranteed under Chapter 57, Education Code; or

4. delinquent in child support payments in the amount determined by a court or a Title IV-D agency under Chapter 231, Family Code.

E. If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

2.4 Allowance for Delay of Payment. The Texas Lottery may delay payment of the prize pending a final determination by the Executive Director, under any of the following circumstances:

- A. if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize;
- B. if there is any question regarding the identity of the claimant;
- C. if there is any question regarding the validity of the Scratch Ticket presented for payment; or
- D. if the claim is subject to any deduction from the payment otherwise due, as described in Section 2.3.D of these Game Procedures. No liability for interest for any delay shall accrue to the benefit of the claimant pending payment of the claim.

2.5 Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a cash prize under \$600 from the "MILLION DOLLAR LOTERIA" Scratch Ticket Game, the Texas Lottery shall deliver to an adult member of the minor's family or the minor's guardian a check or warrant in the amount of the prize payable to the order of the minor.

2.6 If a person under the age of 18 years is entitled to a cash prize of \$600 or more from the "MILLION DOLLAR LOTERIA" Scratch Ticket Game, the Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.7 Scratch Ticket Claim Period. All Scratch Ticket prizes must be claimed within 180 days following the end of the Scratch Ticket Game or within the applicable time period for certain eligible military personnel as set forth in Texas Government Code §466.408. Any rights to a prize that is not claimed within that period, and in the manner specified in these Game Procedures and on the back of each Scratch Ticket, shall be forfeited.

2.8 Disclaimer. The number of prizes in a game is approximate based on the number of Scratch Tickets ordered. The number of actual prizes available in a game may vary based on number of Scratch Tickets manufactured, testing, distribution, sales and number of prizes claimed. A Scratch Ticket Game may continue to be sold even when all the top prizes have been claimed.

### 3.0 Scratch Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of a Scratch Ticket in the space designated, a Scratch Ticket shall be owned by the physical possessor of said Scratch Ticket. When a signature is placed on the back of the Scratch Ticket in the space designated, the player whose signature appears in that area shall be the owner of the Scratch Ticket and shall be entitled to any prize attributable thereto. Notwithstanding any name or names submitted on a claim form, the Executive Director shall make payment to the player whose signature appears on the back of the Scratch Ticket in the space designated. If more than one name appears on the back of the Scratch Ticket, the Executive Director will require that one of those players whose name appears thereon be designated by such players to receive payment.

B. The Texas Lottery shall not be responsible for lost or stolen Scratch Tickets and shall not be required to pay on a lost or stolen Scratch Ticket.

4.0 Number and Value of Scratch Prizes. There will be approximately 6,000,000 Scratch Tickets in Scratch Ticket Game No. 2144. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 2144 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$20	720,000	8.33
\$30	420,000	14.29
\$40	120,000	50.00
\$50	240,000	25.00
\$100	216,000	27.78
\$150	48,000	125.00
\$200	31,450	190.78
\$250	15,600	384.62
\$500	2,800	2,142.86
\$1,000	400	15,000.00
\$5,000	80	75,000.00
\$20,000	10	600,000.00
\$1,000,000	5	1,200,000.00

\*The number of prizes in a game is approximate based on the number of tickets ordered.

The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed.

\*\*The overall odds of winning a prize are 1 in 3.31. The individual odds of winning for a particular prize level may vary based on sales, distribution, testing, and number of prizes claimed.

A. The actual number of Scratch Tickets in the game may be increased or decreased at the sole discretion of the Texas Lottery Commission.

5.0 End of the Scratch Ticket Game. The Executive Director may, at any time, announce a closing date (end date) for the Scratch Ticket Game No. 2144 without advance notice, at which point no further Scratch Tickets in that game may be sold. The determination of the closing date and reasons for closing will be made in accordance with the Scratch Ticket closing procedures and the Scratch Ticket Game Rules. See 16 TAC §401.302(j).

6.0 Governing Law. In purchasing a Scratch Ticket, the player agrees to comply with, and abide by, these Game Procedures for Scratch Ticket Game No. 2144, the State Lottery Act (Texas Government Code, Chapter 466), applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401, and all final decisions of the Executive Director.

TRD-201901353  
 Bob Biard  
 General Counsel  
 Texas Lottery Commission  
 Filed: May 8, 2019



Scratch Ticket Game Number 2148 "Super 10s Super Ticket®"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 2148 is "SUPER 10s SUPER TICKET®". The play style is "multiple games".

1.1 Price of Scratch Ticket Game.

A. The price for Scratch Ticket Game No. 2148 shall be \$10.00 per Scratch Ticket.

1.2 Definitions in Scratch Ticket Game No. 2148.

A. Display Printing - That area of the Scratch Ticket outside of the area where the overprint and Play Symbols appear.

B. Latex Overprint - The removable scratch-off covering over the Play Symbols on the front of the Scratch Ticket.

C. Play Symbol - The printed data under the latex on the front of the Scratch Ticket that is used to determine eligibility for a prize. Each Play Symbol is printed in Symbol font in black ink in positive except for dual-image games. The possible black Play Symbols are:

BALL SYMBOL, BAR SYMBOL, BELL SYMBOL, BOOT SYMBOL, BOW SYMBOL, CAR SYMBOL, CHERRY SYMBOL, CHEST SYMBOL, CHIP SYMBOL, CLOVER SYMBOL, CLUB

SYMBOL, CONFETTI SYMBOL, CROWN SYMBOL, COWBOY HAT SYMBOL, DIAMOND SYMBOL, DICE SYMBOL, DRUM SYMBOL, EMERALD SYMBOL, FLAG SYMBOL, FLAME SYMBOL, FOOT SYMBOL, GLOVE SYMBOL, GOLD SYMBOL, GRAPES SYMBOL, HEART SYMBOL, JOKER SYMBOL, KEY SYMBOL, KITE SYMBOL, LEMON SYMBOL, LIGHTNING SYMBOL, MELON SYMBOL, MOON SYMBOL, NECKLACE SYMBOL, PLANE SYMBOL, POT OF GOLD SYMBOL, RAINBOW SYMBOL, RING SYMBOL, SEVEN SYMBOL, SHADES SYMBOL, SHIRT SYMBOL, HORSESHOE SYMBOL, SHOVEL SYMBOL, SPADE SYMBOL, SPUR SYMBOL, STAR SYMBOL, SUN SYMBOL, TROPHY SYMBOL, WISHBONE SYMBOL, 10 SYMBOL, 5X SYMBOL, 10X SYMBOL, MONEY BAG SYMBOL,

ARMORED CAR SYMBOL, BAG SYMBOL, BANK SYMBOL, BILL SYMBOL, ATM CARD SYMBOL, CASHIER SYMBOL, CHECK SYMBOL, DOLLAR SIGN SYMBOL, REGISTER SYMBOL, VAULT SYMBOL, WALLET SYMBOL, \$5.00, \$10.00, \$20.00, \$50.00, \$100, \$500, \$10,000 and \$250,000.

D. Play Symbol Caption - The printed material appearing below each Play Symbol which explains the Play Symbol. One caption appears under each Play Symbol and is printed in caption font in black ink in positive. The Play Symbol Caption which corresponds with and verifies each Play Symbol is as follows:



Figure 1: GAME NO. 2148 - 1.2D

<b>PLAY SYMBOL</b>	<b>CAPTION</b>
BALL SYMBOL	BALL
BAR SYMBOL	BAR
BELL SYMBOL	BELL
BOOT SYMBOL	BOOT
BOW SYMBOL	BOW
CAR SYMBOL	CAR
CHERRY SYMBOL	CHERRY
CHEST SYMBOL	CHEST
CHIP SYMBOL	CHIP
CLOVER SYMBOL	CLOVER
CLUB SYMBOL	CLUB
CONFETTI SYMBOL	CONFETTI
CROWN SYMBOL	CROWN
COWBOY HAT SYMBOL	COWBOYHAT
DIAMOND SYMBOL	DIAMND
DICE SYMBOL	DICE
DRUM SYMBOL	DRUM
EMERALD SYMBOL	EMLD
FLAG SYMBOL	FLAG
FLAME SYMBOL	FLAME
FOOT SYMBOL	FOOT
GLOVE SYMBOL	GLOVE
GOLD SYMBOL	GOLD
GRAPES SYMBOL	GRAPES
HEART SYMBOL	HEART
JOKER SYMBOL	JOKER
KEY SYMBOL	KEY
KITE SYMBOL	KITE
LEMON SYMBOL	LEMON
LIGHTNING SYMBOL	LIGHTN
MELON SYMBOL	MELON
MOON SYMBOL	MOON
NECKLACE SYMBOL	NECKLACE
PLANE SYMBOL	PLANE
POT OF GOLD SYMBOL	POTGOLD
RAINBOW SYMBOL	RAINBOW
RING SYMBOL	RING

SEVEN SYMBOL	SEVEN
SHADES SYMBOL	SHADES
SHIRT SYMBOL	SHIRT
HORSESHOE SYMBOL	SHOE
SHOVEL SYMBOL	SHOVEL
SPADE SYMBOL	SPADE
SPUR SYMBOL	SPUR
STAR SYMBOL	STAR
SUN SYMBOL	SUN
TROPHY SYMBOL	TROPHY
WISHBONE SYMBOL	WISH
10 SYMBOL	WIN
5X SYMBOL	WINX5
10X SYMBOL	WINX10
MONEY BAG SYMBOL	WIN\$100
ARMORED CAR SYMBOL	ARM CAR
BAG SYMBOL	BAG
BANK SYMBOL	BANK
BILL SYMBOL	BILL
ATM CARD SYMBOL	CARD
CASHIER SYMBOL	CASHIER
CHECK SYMBOL	CHECK
DOLLAR SIGN SYMBOL	DOLLAR
REGISTER SYMBOL	REGISTER
VAULT SYMBOL	VAULT
WALLET SYMBOL	WALLET
\$5.00	FIV\$
\$10.00	TEN\$
\$20.00	TWY\$
\$50.00	FFTY\$
\$100	ONHN
\$500	FVHN
\$10,000	10 <sup>TH</sup>
\$250,000	250 <sup>TH</sup>

E. Serial Number - A unique 13 (thirteen) digit number appearing under the latex scratch-off covering on the front of the Scratch Ticket. The Serial Number is for validation purposes and cannot be used to play the game. The format will be: 0000000000000.

F. Bar Code - A 24 (twenty-four) character interleaved two (2) of five (5) Bar Code which will include a four (4) digit game ID, the seven (7) digit Pack number, the three (3) digit Ticket number and the ten (10) digit Validation Number. The Bar Code appears on the back of the Scratch Ticket.

G. Game-Pack-Ticket Number - A 14 (fourteen) digit number consisting of the four (4) digit game number (2148), a seven (7) digit Pack number, and a three (3) digit Ticket number. Ticket numbers start with 001 and end with 050 within each Pack. The format will be: 2148-0000001-001.

H. Pack - A Pack of "SUPER 10s SUPER TICKET®" Scratch Ticket Game contains 050 Tickets, packed in plastic shrink-wrapping and fan-folded in pages of one (1). Ticket 001 will be shown on the front of the Pack; the back of Ticket 050 will be revealed on the back of the Pack. All Packs will be tightly shrink-wrapped. There will be no breaks between the Tickets in a Pack. Every other Pack will reverse i.e., reverse order will be: the back of Ticket 001 will be shown on the front of the Pack and the front of Ticket 050 will be shown on the back of the Pack.

I. Non-Winning Scratch Ticket - A Scratch Ticket which is not programmed to be a winning Scratch Ticket or a Scratch Ticket that does not meet all of the requirements of these Game Procedures, the State Lottery Act (Texas Government Code, Chapter 466), and applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401.

J. Scratch Ticket Game, Scratch Ticket or Ticket - Texas Lottery "SUPER 10s SUPER TICKET®" Scratch Ticket Game No. 2148.

2.0 Determination of Prize Winners. The determination of prize winners is subject to the general Scratch Ticket validation requirements set forth in Texas Lottery Rule 401.302, Scratch Ticket Game Rules, these Game Procedures, and the requirements set out on the back of each Scratch Ticket. A prize winner in the "SUPER 10s SUPER TICKET®" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose 100 (one hundred) Play Symbols. If a player reveals a "10" Play Symbol, the player wins the PRIZE for that symbol. If a player reveals a "MONEY BAG" Play Symbol, the player wins \$100 instantly! If a player reveals a "5X" Play Symbol, the player wins 5 TIMES the PRIZE for that symbol! If a player reveals a "10X" Play Symbol, the player wins 10 TIMES the PRIZE for that symbol! SUPER \$50 SPOT: If a player reveals 2 matching symbols in the same SUPER \$50 SPOT, the player wins \$50. No portion of the Display Printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Scratch Ticket.

### 2.1 Scratch Ticket Validation Requirements.

A. To be a valid Scratch Ticket, all of the following requirements must be met:

1. Exactly 100 (one hundred) Play Symbols must appear under the Latex Overprint on the front portion of the Scratch Ticket;
2. Each of the Play Symbols must have a Play Symbol Caption underneath, unless specified, and each Play Symbol must agree with its Play Symbol Caption;
3. Each of the Play Symbols must be present in its entirety and be fully legible;
4. Each of the Play Symbols must be printed in black ink except for dual image games;

5. The Scratch Ticket shall be intact;

6. The Serial Number and Game-Pack-Ticket Number must be present in their entirety and be fully legible;

7. The Serial Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the Scratch Ticket;

8. The Scratch Ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted or tampered with in any manner;

9. The Scratch Ticket must not be counterfeit in whole or in part;

10. The Scratch Ticket must have been issued by the Texas Lottery in an authorized manner;

11. The Scratch Ticket must not have been stolen, nor appear on any list of omitted Scratch Tickets or non-activated Scratch Tickets on file at the Texas Lottery;

12. The Play Symbols, Serial Number and Game-Pack-Ticket Number must be right side up and not reversed in any manner;

13. The Scratch Ticket must be complete and not miscut, and have exactly 100 (one hundred) Play Symbols under the Latex Overprint on the front portion of the Scratch Ticket, exactly one Serial Number and exactly one Game-Pack-Ticket Number on the Scratch Ticket;

14. The Serial Number of an apparent winning Scratch Ticket shall correspond with the Texas Lottery's Serial Numbers for winning Scratch Tickets, and a Scratch Ticket with that Serial Number shall not have been paid previously;

15. The Scratch Ticket must not be blank or partially blank, misregistered, defective or printed or produced in error;

16. Each of the 100 (one hundred) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the 100 (one hundred) Play Symbols on the Scratch Ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the Scratch Ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Game-Pack-Ticket Number must be printed in the Game-Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;

18. The Display Printing on the Scratch Ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and

19. The Scratch Ticket must have been received by the Texas Lottery by applicable deadlines.

B. The Scratch Ticket must pass all additional validation tests provided for in these Game Procedures, the Texas Lottery's Rules governing the award of prizes of the amount to be validated, and any confidential validation and security tests of the Texas Lottery.

C. Any Scratch Ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Executive Director may, solely at the Executive Director's discretion, refund the retail sales price of the Scratch Ticket. In the event a defective Scratch Ticket is purchased, the only responsibility or liability of the Texas Lottery shall be to replace the defective Scratch Ticket with another unplayed Scratch Ticket in that Scratch Ticket Game (or a Scratch Ticket of equivalent sales price from any other current Texas Lottery Scratch Ticket Game) or refund the retail sales price of the Scratch Ticket, solely at the Executive Director's discretion.

### 2.2 Programmed Game Parameters.

A. GENERAL: A Ticket can win up to fifty (50) times in accordance with the approved prize structure.

B. GENERAL: Consecutive Non-Winning Tickets within a Pack will not have matching patterns, in the same order, of either Play Symbols or Prize Symbols.

C. GENERAL: The top Prize Symbol will appear on every Ticket, unless restricted by other parameters, play action or prize structure.

D. SUPER 10s: The \$5 Prize Symbol will only appear on winning Tickets in which the \$5 prize is part of a winning pattern.

E. SUPER 10s: Non-winning Play Symbols will be different.

F. SUPER 10s: When the "MONEY BAG" (WIN\$100) Play Symbol appears, the corresponding Prize Symbol will always be \$100.

G. SUPER 10s: The "MONEY BAG" (WIN\$100) Play Symbol will only appear on winning Tickets as dictated by the prize structure and the corresponding prize will always be \$100.

H. SUPER 10s: The "5X" (WINX5) and the "10X" (WINX10) Play Symbols will only appear on winning Tickets as dictated by the prize structure.

I. SUPER 10s: Non-winning Prize Symbols will never appear more than eight (8) times.

J. SUPER 10s: Non-winning Prize Symbols will never be the same as the winning Prize Symbol(s).

K. SUPER \$50 SPOTS: Tickets winning in the SUPER \$50 SPOTS will only appear as dictated by the prize structure.

L. SUPER \$50 SPOTS: In the same SUPER \$50 SPOT, non-winning Play Symbols will be different.

### 2.3 Procedure for Claiming Prizes.

A. To claim a "SUPER 10s SUPER TICKET®" Scratch Ticket Game prize of \$10.00, \$20.00, \$50.00, \$100 or \$500, a claimant shall sign the back of the Scratch Ticket in the space designated on the Scratch Ticket and present the winning Scratch Ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, if appropriate, make payment of the amount due the claimant and physically void the Scratch Ticket; provided that the Texas Lottery Retailer may, but is not required, to pay a \$50.00, \$100 or \$500 Scratch Ticket Game. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and Section 2.3.C of these Game Procedures.

B. To claim a "SUPER 10s SUPER TICKET®" Scratch Ticket Game prize of \$10,000 or \$250,000, the claimant must sign the winning Scratch Ticket and present it at one of the Texas Lottery's Claim Centers. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning Scratch Ticket for that prize upon presentation of proper identification. When paying a prize of \$600 or more, the Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS if required. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

C. As an alternative method of claiming a "SUPER 10s SUPER TICKET®" Scratch Ticket Game prize, the claimant must sign the

winning Scratch Ticket, thoroughly complete a claim form, and mail both to: Texas Lottery Commission, P.O. Box 16600, Austin, Texas 78761-6600. The Texas Lottery is not responsible for Scratch Tickets lost in the mail. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

D. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct the amount of a delinquent tax or other money from the winnings of a prize winner who has been finally determined to be:

1. delinquent in the payment of a tax or other money to a state agency and that delinquency is reported to the Comptroller under Government Code §403.055;

2. in default on a loan made under Chapter 52, Education Code;

3. in default on a loan guaranteed under Chapter 57, Education Code; or

4. delinquent in child support payments in the amount determined by a court or a Title IV-D agency under Chapter 231, Family Code.

E. If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

2.4 Allowance for Delay of Payment. The Texas Lottery may delay payment of the prize pending a final determination by the Executive Director, under any of the following circumstances:

A. if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize;

B. if there is any question regarding the identity of the claimant;

C. if there is any question regarding the validity of the Scratch Ticket presented for payment; or

D. if the claim is subject to any deduction from the payment otherwise due, as described in Section 2.3.D of these Game Procedures. No liability for interest for any delay shall accrue to the benefit of the claimant pending payment of the claim.

2.5 Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a cash prize under \$600 from the "SUPER 10s SUPER TICKET®" Scratch Ticket Game, the Texas Lottery shall deliver to an adult member of the minor's family or the minor's guardian a check or warrant in the amount of the prize payable to the order of the minor.

2.6 If a person under the age of 18 years is entitled to a cash prize of \$600 or more from the "SUPER 10s SUPER TICKET®" Scratch Ticket Game, the Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.7 Scratch Ticket Claim Period. All Scratch Ticket prizes must be claimed within 180 days following the end of the Scratch Ticket Game or within the applicable time period for certain eligible military personnel as set forth in Texas Government Code §466.408. Any rights to a prize that is not claimed within that period, and in the manner specified in these Game Procedures and on the back of each Scratch Ticket, shall be forfeited.

2.8 Disclaimer. The number of prizes in a game is approximate based on the number of Scratch Tickets ordered. The number of actual prizes available in a game may vary based on number of Scratch Tickets manufactured, testing, distribution, sales and number of prizes claimed. A Scratch Ticket Game may continue to be sold even when all the top prizes have been claimed.

3.0 Scratch Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of a Scratch Ticket in the space designated, a Scratch Ticket shall be owned by the physical possessor of said Scratch Ticket. When a signature is placed on the back of the Scratch Ticket in the space designated, the player whose signature appears in that area shall be the owner of the Scratch Ticket and shall be entitled to any prize attributable thereto. Notwithstanding any name or names submitted on a claim form, the Executive Director shall make payment to the player whose signature appears on the back of the Scratch Ticket in the space designated. If more than one name appears on the back of the Scratch Ticket, the

Executive Director will require that one of those players whose name appears thereon be designated by such players to receive payment.

B. The Texas Lottery shall not be responsible for lost or stolen Scratch Tickets and shall not be required to pay on a lost or stolen Scratch Ticket.

4.0 Number and Value of Scratch Prizes. There will be approximately 6,000,000 Scratch Tickets in Scratch Ticket Game No. 2148. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 2148 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$10	690,000	8.70
\$20	600,000	10.00
\$50	240,000	25.00
\$100	76,000	78.95
\$500	5,000	1,200.00
\$10,000	6	1,000,000.00
\$250,000	4	1,500,000.00

\*The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed.

\*\*The overall odds of winning a prize are 1 in 3.72. The individual odds of winning for a particular prize level may vary based on sales, distribution, testing, and number of prizes claimed.

A. The actual number of Scratch Tickets in the game may be increased or decreased at the sole discretion of the Texas Lottery Commission.

5.0 End of the Scratch Ticket Game. The Executive Director may, at any time, announce a closing date (end date) for the Scratch Ticket Game No. 2148 without advance notice, at which point no further Scratch Tickets in that game may be sold. The determination of the closing date and reasons for closing will be made in accordance with the Scratch Ticket closing procedures and the Scratch Ticket Game Rules. See 16 TAC §401.302(j).

6.0 Governing Law. In purchasing a Scratch Ticket, the player agrees to comply with, and abide by, these Game Procedures for Scratch Ticket Game No. 2148, the State Lottery Act (Texas Government Code, Chapter 466), applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401, and all final decisions of the Executive Director.

TRD-201901349  
 Bob Biard  
 General Counsel  
 Texas Lottery Commission  
 Filed: May 7, 2019



**Panhandle Regional Planning Commission**

Legal Notice

The Panhandle Regional Planning Commission (PRPC) encourages applications from providers of training programs that lead to employment in the target occupations in the Panhandle Workforce Development Area. A current list of these occupations may be accessed through the Workforce Solutions Panhandle's website at: <https://wspanhandle.com/TargetedOccupations.php>.

Applications must be submitted through the online, automated Workforce Innovation and Opportunity Act (WIOA) Eligible Training Provider System (ETPS). For information or instructions about such submissions, please see <http://tpcs.twc.state.tx.us> or contact Leslie Hardin, PRPC's Workforce Development Training Coordinator, at (806) 372-3381 or [lhardin@theprpc.org](mailto:lhardin@theprpc.org). Submissions will be accepted throughout the year and reviewed for certification by the Texas Workforce Commission (TWC).

TRD-201901308  
 Leslie Hardin  
 WFD Contracts Coordinator  
 Panhandle Regional Planning Commission  
 Filed: May 6, 2019

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## Texas Department of Transportation

### Aviation Division - Request for Qualifications (RFQ) for Professional Engineering Services

The City of Sugar Land, through its agent, the Texas Department of Transportation (TxDOT), intends to engage a qualified firm for professional 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 Sugar Land; Airport: Sugar Land Regional Airport; TxDOT CSJ No.: 18HGSUGAR. The TxDOT Project Manager is Stephanie Kleiber, P.E.

**Scope:** Provide engineering and design services, including construction administration, to construct box hangar.

In accordance with Texas Government Code §2161.252, qualifications that do not contain an up-to-date "HUB Subcontracting Plan (HSP)" are non-responsive and will be rejected without further evaluation. In addition, if TxDOT determines that the HSP was not developed in good faith, it will reject the qualifications for failing to comply with material specifications based on the RFQ.

To assist in your qualification statement preparation, the criteria, 5010 drawing, project diagram, and most recent Airport Layout Plan are available online at <http://www.txdot.gov/inside-txdot/division/aviation/projects.htm> by selecting "Sugar Land 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 for current scope.

#### 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 June 11, 2019, 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 Stephanie Kleiber, P.E., 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-201901305

Joanne Wright

Deputy General Counsel

Texas Department of Transportation

Filed: May 3, 2019

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### Request for Qualifications

Pursuant to the authority granted under Transportation Code, Chapter 223, Subchapter F (enabling legislation), the Texas Department of Transportation (department), may enter into, in each fiscal year, up to three design-build contracts for the design, construction, expansion, extension, related capital maintenance, rehabilitation, alteration, or repair of a highway project with a construction cost estimate of \$150 million or more. The enabling legislation authorizes private involvement in design-build projects and provides a process for the department to solicit proposals for such projects. Transportation Code §223.245 prescribes requirements for issuance of a request for qualifications and requires the department to publish a notice of such issuance in the *Texas Register*. The Texas Transportation Commission (commission) adopted Texas Administrative Code, Title 43, Chapter 9, Subchapter I relating to design-build contracts (the rules). The enabling legislation, as well as the rules, govern the submission and processing of qualifications statements, and provide for the issuance of a request for qualifications that sets forth the basic criteria for qualifications, experience, technical competence, and ability to develop a proposed project and such other information the department considers relevant or necessary.

The commission has authorized the issuance of a request for qualifications (RFQ) to design, develop, construct, and maintain the I-35 Northeast Expansion Project (Project) in Bexar, Comal, and Guadalupe Counties, Texas. The Project consists of approximately 15.4 miles of non-tolled improvements along I-35 from approximately I-410 South in Bexar County to FM 1103 in Comal County. As part of the Project, at I-410 South to I-410 North, improvements will include the construction of additional elevated mainlanes comprised of two General Pur-

pose (GP) lanes and one High Occupancy Vehicle (HOV) lane in each direction; four additional direct connectors at the I-410 South interchange to connect to the I-35 elevated lanes; and two additional direct connectors at the I-410 North interchange to connect to the I-35 South elevated lane. At I-410 North to FM 3009, improvements will include the construction of additional elevated mainlanes comprised of two GP lanes and one HOV lane in each direction from I-410 North to FM 3009; two additional direct connectors at the I-410 North interchange to connect to the I-35 North elevated lanes; and four direct connectors for the State Loop (SL) 1604 western connections to the I-35 elevated lanes at the I-35/SL 1604 interchange. At FM 3009 to FM 1103, improvements will include reconstruction to provide at-grade additional mainlanes from FM 3009 to FM 1103 comprised of one GP lane and one HOV lane in each direction.

The Project has an estimated design-build cost of approximately \$1.938 billion.

Through this notice, the department is seeking qualifications statements (QSs) from teams interested in entering into a design-build contract and a capital maintenance contract. The department intends to evaluate any QS received in response to the RFQ and may request submission of detailed proposals, potentially leading to the negotiation, award, and execution of a design-build contract and a capital maintenance contract. The department will accept for consideration any QS received in accordance with the enabling legislation, the rules, and the RFQ, on or before the deadline in this notice. The department anticipates issuing the RFQ, receiving and evaluating the QSs, developing a shortlist of proposing entities or consortia, and issuing a request for proposals (RFP) to the shortlisted entities. After review and a best value evaluation of the responses to the RFP, the department may negotiate and enter into a design-build contract and a capital maintenance contract for the Project.

**RFQ Evaluation Criteria.** QSs will be evaluated by the department for shortlisting purposes using the following general criteria: project qualifications and experience, statement of technical approach, and safety qualifications. The specific criteria under the foregoing categories will be identified in the RFQ, as will the relative weighting of the criteria.

**Release of RFQ and Due Date.** The department currently anticipates that the RFQ will be available on May 17, 2019. Copies of the RFQ will be available at the Texas Department of Transportation, 7600 Chevy Chase Drive, Building 2, Suite 400, Austin, Texas 78752, or at the following website:

<https://www.txdot.gov/inside-txdot/division/debt/strategic-projects/alternative-delivery/i35-nex/rfq.html>

QSs will be due by 12:00 p.m. (noon) CT on July 22, 2019, at the address specified in the RFQ.

TRD-201901357

Leonard Reese

Associate General Counsel

Texas Department of Transportation

Filed: May 8, 2019

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## Texas Water Development Board

### Applications for April 2019

Pursuant to Texas Water Code §6.195, the Texas Water Development Board provides notice of the following applications:

Project ID #73831, a request from Cedar Bayou Park Utility District, P.O. Box 809, Baytown, Texas 77522, received on April 4, 2019, for \$1,450,000 in financial assistance, from the Clean Water State Revolving Fund for wastewater treatment plant abandonment, demolition, and transfer of wastewater flow to the City of Baytown. Acquiring the real estate to build an improved lift station to code. Rebuilding the bridge to access the abandoned wastewater treatment plant site.

Project ID #62853, a request from Ector County Utility District, 1039 North Moss Avenue Odessa, Texas 79763, received on April 4, 2019, for \$45,765,000 in financial assistance, from the Drinking Water State Revolving Fund will add 2,500,000 gallons of elevated storage, 4,000,000 gallons of ground storage, and approximately 11,000,000 gallons per day of firm pumping capacity. The proposed improvements will bring Ector County Utility District into compliance with TCEQ criteria. The proposed projects will increase the reliability of the system and allow Ector Co UD to expand service to nearby residents.

Project ID #73841, a request from the City of Rockdale, 505 West Cameron, Rockdale, Texas 76567, received on April 5, 2019, for \$15,000,000 in financial assistance, from the Clean Water State Revolving Fund for improvements and rehabilitation of the sewer infrastructure, including improvements, repairs, and upgrades to the wastewater treatment plant, lift stations, manholes, and sewer lines.

Project ID #21782, a request from Cameron County Irrigation District No. 6, 32343 Farm-to-Market Road 803, Los Fresnos, Texas 78566, received on April 5, 2019, for \$865,000 in financial assistance from the Texas Water Development Board Fund for a flume improvement project.

Project ID #73842, a request from the City of Conroe, 401 Sgt. Ed Holcomb Boulevard, South, Conroe, Texas 77305, received on April 25, 2019, for \$500,000 in financial assistance, from the Clean Water State Revolving Fund for removal and replacement of existing concrete ditch lining that was damaged during the Hurricane Harvey event. The concrete sections will be removed, the sub-grade repaired as necessary, and new concrete lining installed.

TRD-201901350

Todd Chenoweth

General Counsel

Texas Water Development Board

Filed: May 7, 2019

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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>

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**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.



## 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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