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THE ATTORNEY GENERAL

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

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

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

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

Requests for Opinions

RQ-0297-KP

Requestor:

The Honorable Jo Anne Bernal

El Paso County Attorney

500 East San Antonio, Room 503

El Paso, Texas 79901

Re: Construction of Transportation Code section 502.010, concerning a county assessor-collector's authority to refuse to register motor vehicles based on certain "scofflaw" information (RQ-0297-KP)

Briefs requested by August 23, 2019

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

TRD-201902434

Ryan L. Bangert

Deputy Attorney General for Legal Counsel

Office of the Attorney General

Filed: July 30, 2019





EMERGENCY RULES

Emergency Rules include new rules, amendments to existing rules, and the repeals of existing rules. A state agency may adopt an emergency rule without prior notice or hearing if the agency finds that an imminent peril to the public health, safety, or welfare, or a requirement of state or federal law, requires adoption of a rule on fewer than 30 days' notice. An emergency rule may be effective for not longer than 120 days and may be renewed once for not longer than 60 days (Government Code, §2001.034).

TITLE 19. EDUCATION

PART 1. TEXAS HIGHER EDUCATION COORDINATING BOARD

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

19 TAC §§4.83 - 4.85

The Texas Higher Education Coordinating Board (Coordinating Board) proposes, on an emergency basis, 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, §4.83, concerning definitions; §4.84, concerning institutional agreements; and §4.85, concerning dual credit requirements. The proposed amendments to §4.84 add additional items to dual credit agreements between an institution of higher education and a school district to align the rule with amendments to Texas Education Code, §28.009 by HB 3650 and SB 1276, 86th Texas Legislature, Regular Session. The proposed amendments to §4.83 and §4.85 establish additional state funding provisions for dual credit courses to align the rule with amendments to Texas Education Code, §61.059 by SB 25, 86th Texas Legislature, Regular Session.

The amendments are being adopted on an emergency basis pursuant to §2001.034 of the Government Code, which allows a state agency to adopt an emergency rule if a requirement of state or federal law requires adoption of the rule on less than a 30 days' notice. The rule will be in effect for 120 days and may be renewed once for not longer than 60 days. During this time, the rule will be posted for a 30-day comment period and will be presented for Committee approval at the next quarterly meeting.

The amendments are proposed 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.

The amendments affect Texas Education Code, §§28.009 and §61.059.

§4.83. Definitions.

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

(1) - (12) (No change.)

(13) Program of Study Curriculum (POSC)--The block of courses which progress in content specificity by beginning with all aspects of an industry or career cluster and incorporate rigorous college and career readiness standards, including career and technical education standards that address both academic and technical content which incorporate multiple entry and exit points with portable demonstrations of technical or career competency, which may include credit transfer agreements or industry-recognized certifications.

(14) ~~[(13)]~~ Public two-year associate degree-granting institution--A community college, a technical college, or a state college.

§4.84. Institutional Agreements

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

(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 on or after September 1, 2019, 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 common advising strategies and terminology related to dual credit and college readiness;

(3) provide for the alignment of endorsements described by §28.025 (c)(1) offered by the district, and dual credit courses offered under the agreement that apply towards those endorsements, with post-secondary pathways and credentials at the institution and industry certifications;

(4) identify tools, including tools developed by the Texas Education Agency, Texas Higher Education Coordinating Board, or the Texas Workforce Commission, to assist counselors, students, and families in selecting endorsements offered by the district and dual credit courses offered under the agreement;

(5) ~~[(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;

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

(7) ~~[(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]~~

(8) state the sources of funding for courses offered under the program, including, at a minimum, the sources of funding for tu-

ition, transportation, and any required fees or textbooks for students participating in the program;

(9) require the district and the institution to consider the use of free or low-cost open educational resources in courses offered under the program; and

(10) [(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) - (2) (No change.)

(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, or POSC.

(4) (No change.)

(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) - (3) (No change.)

(4) - (8) (No change.)

(c) - (h) (No change.)

(i) Funding.

(1) (No change.)

(2) The college may only claim funding for students earning [getting] college credit in core curriculum, field of study curriculum, program of study curriculum, career and technical education, and foreign language dual credit courses.

(3) - (4) (No change.)

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

Filed with the Office of the Secretary of State on July 29, 2019.

TRD-201902413

Bill Franz

General Counsel

Texas Higher Education Coordinating Board

Effective date: July 29, 2019

Expiration date: November 25, 2019

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



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 1. ADMINISTRATION

PART 3. OFFICE OF THE ATTORNEY GENERAL

CHAPTER 55. CHILD SUPPORT ENFORCEMENT

SUBCHAPTER G. AUTHORIZED COSTS AND FEES IN IV-D CASES

1 TAC §55.155

The Office of the Attorney General (OAG), the State's Title IV-D agency under Family Code §231.001, proposes amendments to Texas Administrative Code (TAC), Title 1, Part 3, Chapter 55, Subchapter G, §55.155, regarding authorized fees in IV-D cases.

Section 454(6)(B)(ii) of the Social Security Act (42 U.S.C. §654(6)(B)(ii)) requires a State's Title IV-D agency to impose an annual service fee of \$35 for furnishing services under the State's plan for child support enforcement. Section 13.01 of Senate Bill 891 (SB 891), 86th Legislature, Regular Session, 2019, amended Family Code §231.103(a) to increase the annual service fee that may be charged in Title IV-D cases from \$25 to \$35 as required by federal law. This amendment to Family Code §231.103(a) is effective September 1, 2019. The proposed amendments to §55.155 update fee information consistent with §454(6)(B)(ii) of the Social Security Act and the amendment to Family Code §231.103(a) and provide a central and convenient location for information regarding these child support fees on the OAG's website.

Ruth Anne Thornton, Director of Child Support, has determined that for each of the first five years the proposed amendments are in effect, the estimated reductions in costs to state government as a result of administering the rule will be \$6.6 million, and the estimated increase in state revenue will be \$6.6 million. There are no foreseeable fiscal implications for local governments.

Ms. Thornton has also determined that for each year of the first five years the proposed amendments are in effect, the anticipated benefit to the public will be receiving information regarding the fees required by federal law. The proposed amendments will implement the fee increase adopted by the Legislature in SB 891, and therefore there is a probable economic cost to persons required to comply with the amendments. The OAG is excluded from the definition of "state agency" in Government Code §2001.0045, and therefore is not subject to the requirements of that section concerning a proposed rule that imposes a cost on regulated persons.

Ms. Thornton has determined that the proposed amendments will not impact local economies and will not have an adverse

economic effect on small businesses, micro-businesses, or rural communities.

In compliance with Government Code §2001.0221, the OAG has prepared the following government growth impact statement. During the first five years the proposed amendments are in effect, the proposed amendments will not: create or eliminate a government program; require the creation of new employee positions or the elimination of existing employee positions; require an increase or decrease in future legislative appropriations to the OAG; create a new regulation; expand, limit, or repeal an existing regulation; increase or decrease the number of individuals subject to the rule's applicability; or positively or adversely affect this state's economy. The proposed amendments will implement the fee increase required by federal law and adopted by the Legislature in SB 891, and therefore will require an increase in fees paid to the OAG.

Comments on the proposed amendments should be submitted to Ildefonso Ochoa, Deputy Director for Policy, Legal, Program Operations and General Counsel, Child Support Division, Office of the Attorney General, (physical address) 5500 East Oltorf, Austin, Texas, 78741 or (mailing address) P.O. Box 12017, Mail Code 044, Austin, Texas 78711-2017. Comments on the proposed amendments must be submitted no later than 30 days from the date of this publication.

The amendments to §55.155 are proposed under Family Code §231.103(g), which grants the OAG rulemaking authority to establish procedures for the imposition of fees and recovery of costs authorized under §231.103.

The proposed amendments implement §13.01 of SB 891, which amends Family Code §231.103(a) effective September 1, 2019.

§55.155. Collecting Annual Service and Payment Processing Fees.

(a) The Title IV-D agency may assess and collect an [a \$25] annual service fee allowed under Texas Family Code §231.103(a)(2) and 42 U.S.C. §654(6)(B)(ii). Beginning October 1, 2019, an [October 1, 2011, the] annual service fee of \$35 will be assessed in full service monitoring and enforcement cases which are not current or former TANF or foster care cases and have received over \$550 [500] in child support collections during the federal fiscal year. The annual service fee will be automatically deducted from the child support payment when the child support collections for that fiscal year total over \$550. [500.]

(b) The Title IV-D agency may assess and collect a \$3 monthly payment processing fee allowed under Texas Family Code §231.103(f). Beginning September 1, 2011, a monthly fee will be assessed in cases that receive only payment processing and record keeping services through the State Disbursement Unit, and receive over \$3 per month in child support collections that month. The monthly service fee will be automatically deducted from the child support payment each month in which at least \$3 in child support is

received. If a parent has more than one case, fees will be assessed in each case.

(c) Information regarding child support fees can be obtained from the Texas Attorney General's website.

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 July 26, 2019.

TRD-201902384

Ryan L. Bangert

Deputy Attorney General for Legal Counsel

Office of the Attorney General

Earliest possible date of adoption: September 8, 2019

For further information, please call: (512) 475-3210



PART 8. TEXAS JUDICIAL COUNCIL

CHAPTER 171. REPORTING REQUIREMENTS

1 TAC §§171.4 - 171.6, 171.9, 171.10

The Texas Judicial Council (the Council) proposes to amend §§171.4 - 171.6, 171.9, and 171.10 regarding requirements for case activity reports and other reports required to be submitted to the Office of Court Administration (OCA). The purpose of the proposed amendments to Chapter 171 is to implement changes in law or rule made by Senate Bill 42, Senate Bill 291, and House Bill 3994, 85th Legislature, Regular Session (2017); Senate Bill 891 and House Bill 601, 86th Legislature, Regular Session (2019); the expiration of Texas Government Code Sec. 72.031(c); and the repeal of Supreme Court Miscellaneous Order 07-9188.

Fiscal Note

Jennifer Henry, chief financial officer of the Office of Court Administration (OCA), has determined that for each year of the first five-year period the amendments are in effect, there will be no significant fiscal implication for the state or for local governments.

Public Benefit and Economic Impact

Jeffrey Tsunekawa, interim director of research and court services with OCA, has determined that for each year of the first five years the new sections are in effect, the public benefit anticipated as a result of the new sections will be clarity in what is required by law and rule for reporting case activity and other information to OCA. There will be no cost to small business or individuals.

Local Employment and Government Growth Impact Statement

Mr. Tsunekawa has also determined that a local employment impact statement for the proposed amendments is not required because there will be no impact to the local economy for each year of the first five years the amendments are in effect. Mr. Tsunekawa has also determined that the proposed amendment does not: 1) create or eliminate government programs or employee positions; 2) require an increase or decrease in future legislative appropriations or fees paid to the agency; 3) increase or decrease the number of individuals subject to the rule; and

4) positively or adversely affect the state's economy. The proposed rule does not create a new regulation; it expands an existing regulation by implementing additional required reporting imposed by statute and repeals existing regulations that are no longer required by law or Supreme Court rule.

Comments

Comments on the proposal may be submitted to Jeffrey Tsunekawa at Jeffrey.Tsunekawa@txcourts.gov, at P.O. Box 12066, Austin, Texas 78711-2066, or at fax number (512) 463-1648.

Statutory Authority

The amendments are proposed under the following Government Code sections: §71.019, which authorizes the Council to adopt rules expedient for the administration of its functions, and §71.038, which requires the Council to collect judicial statistics from the presiding judges of the administrative judicial regions. They are also proposed under the following Code of Criminal Procedure Articles: Art. 2.212, which requires the clerk of a court to report to the Council information regarding writs of attachment issued by a court; Art. 16.22(e) which requires the Council to adopt rules to require the reporting of written reports provided to a court under Art. 16.22(a)(1)(B); and Art. 102.017, which requires a sheriff, constable, or other law enforcement entity that provides security for a court to provide the Council reports of court security incidents. The amendments are also proposed under §33.003(l-1) of the Family Code which requires district and county clerks to submit a report regarding the filing of an application for a court order authorizing the minor to consent to the performance of an abortion without notification and consent of a parent, managing conservator or guardian. The provisions proposed to be repealed are done pursuant to Government Code §72.031(c), the provision that requires local governments and appellate courts to certify to OCA that the filing fee they collect under Government Code §72.031(c) is necessary to recover system operating costs to implement e-filing, which will expire on September 1, 2019, and Supreme Court Miscellaneous Order 16-9123 which repealed Supreme Court Miscellaneous Order 07-9188.

No other statutes, articles, or codes are affected by these sections.

§171.4. District Court Reports.

(a) Method. The district clerk of each county shall submit a district court activity report of the criminal, civil, family law and juvenile cases in the county's district courts. A separate report may be submitted for each district court or a single report may be submitted showing the combined activity of all the district courts in the county. Unless OCA grants a waiver for good cause, the district clerk shall submit the reports by electronic means approved by OCA. The maximum duration of a waiver is one year, but OCA may approve successive waivers.

(b) Reporting Categories.

(1) Criminal Cases.

(A) Criminal case type categories. The monthly report contains the following categories of felony case types: capital murder, murder, other homicides, aggravated assault or attempted murder, sexual assault of an adult, indecency with or sexual assault of a child, family violence assault, aggravated robbery or robbery, burglary, theft, automobile theft, drug sale or manufacture, drug possession, felony

D.W.I., and other felonies; and a misdemeanor case type category for all misdemeanors.

(B) Criminal case activity categories. The monthly report contains sections for reporting cases on docket, dispositions, supplemental information and additional court activity.

(C) Report of a request for a hate crime finding. This section of the monthly report requests information pursuant to Article 2.211 of the Code of Criminal Procedure.

(D) Other Case Activity Reporting.

(i) Pursuant to Section 71.0353 of the Government Code, the clerk shall also report the number of cases filed for the following offenses:

(I) [(+)] trafficking of persons under Sec. 20A.02, Penal Code,

(II) [(+)] prostitution under Sec. 43.02, Penal Code; and

(III) [(+)] compelling prostitution under Sec. 43.05, Penal Code.

(ii) The clerk shall also report the number of reports provided to the court under Art. 16.22(a)(1)(B) of the Code of Criminal Procedure.

(2) Civil Cases.

(A) Civil case type categories. The monthly report contains the following categories of civil cases: injury or damage--motor vehicle, injury or damage--medical malpractice, injury or damage--other professional malpractice, injury or damage--asbestos/silica product liability, injury or damage--other product liability, other injury or damage, real property--eminent domain, other real property, contract--consumer/commercial/debt, other contract, civil cases relating to criminal matters, other civil cases, and tax cases.

(B) Civil case activity categories. The monthly report contains sections for reporting cases on docket, dispositions and additional court activity.

(3) Family Law Cases.

(A) Family law case type categories. The monthly report contains the following categories of family law cases: divorce--children, divorce--no children, parent/child--no divorce, child protective services, termination of parental rights, adoption, protective orders--no divorce, Title IV-D--paternity, Title IV-D--support order, and Title IV-D--UIFSA, all other family law cases, and post-judgment actions for modification--custody, modification--other, enforcement, and Title IV-D.

(B) Family law case activity categories. The monthly report contains sections for cases on docket, dispositions and additional court activity section.

(4) Juvenile Cases.

(A) Juvenile case type categories. The monthly report contains a category for conduct indicating a need for supervision (C.I.N.S.) cases and the following categories of delinquent conduct cases: capital murder, murder, other homicides, aggravated assault or attempted murder, assault, indecency with a child or sexual assault, aggravated robbery or robbery, burglary, theft, automobile theft, felony drug offenses, misdemeanor drug offenses, D.W.I., contempt of court, and all other offenses.

(B) Juvenile case activity categories. The monthly report contains sections for reporting cases on docket, adjudications, dispositions and additional court activity.

§171.5. *Statutory County Court Reports.*

(a) Method. Each district clerk or county clerk who maintains the records for the statutory county courts (including statutory probate courts) of a county shall submit a court activity report of criminal, civil, family law, juvenile, probate and guardianship, and mental health cases for these courts. A separate report may be submitted for each statutory county court or a single report may be submitted for all statutory county courts in the county. Unless OCA grants a waiver for good cause, the clerk shall submit the reports by electronic means approved by the OCA. The maximum duration of a waiver is one year, but OCA may approve successive waivers.

(b) Reporting Categories.

(1) Criminal Cases.

(A) Criminal case type categories. The monthly report for criminal cases is divided into sections for misdemeanors and felonies.

(i) Misdemeanor case types. The report contains the following categories for reporting misdemeanor cases: D.W.I.--first offense, D.W.I.--second offense, theft, theft by check, drug possession--marijuana, drug offenses--other, family violence assault, other assault, traffic, D.W.L.S./D.W.L.I., and other misdemeanor cases.

(ii) Felony case types. The report contains the following categories for reporting felony cases: capital murder, murder, other felony homicides, aggravated assault or attempted murder, sexual assault of an adult, indecency with or sexual assault of a child, family violence assault, aggravated robbery or robbery, burglary, theft, automobile theft, drug sale or manufacture, drug possession, felony D.W.I., and other felonies.

(B) Criminal case activity categories. The monthly report contains sections for reporting cases on docket, dispositions, supplemental information and additional court activity.

(C) Report of a request for a hate crime finding. This section of the monthly report requests information pursuant to Article 2.211 of the Code of Criminal Procedure.

(D) Other Case Activity Reporting.

(i) Pursuant to Section 71.0353 of the Government Code, the clerk shall also report the number of cases filed for the following offenses:

(I) [(+)] trafficking of persons under Sec. 20A.02, Penal Code,

(II) [(+)] prostitution under Sec. 43.02, Penal Code; and

(III) [(+)] compelling prostitution under Sec. 43.05, Penal Code.

(ii) The clerk shall also report the number of reports provided to the court under Art. 16.22(a)(1)(B) of the Code of Criminal Procedure.

(2) Civil Cases.

(A) Civil case type categories. The monthly report contains the following categories of civil cases: injury or damage--motor vehicle, injury or damage--medical malpractice, injury or damage--other professional malpractice, injury or damage--asbestos/silica product liability, injury or damage--other product liability, other injury

or damage, real property--eminent domain, other real property, contract--consumer/commercial/debt, other contract, civil cases relating to criminal matters, all other civil cases, and tax cases.

(B) Civil case activity categories. The monthly report contains sections for reporting cases on docket, dispositions and additional court activity.

(3) Family Law Cases.

(A) Family law case type categories. The monthly report contains the following categories of family law cases: divorce--children, divorce--no children, parent/child--no divorce, child protective services, termination of parental rights, adoption, protective orders--no divorce, Title IV-D--paternity, Title IV-D--support order, Title IV-D--UIFSA, all other family law cases, and post-judgment actions for modification--custody, modification--other, enforcement, and Title IV-D.

(B) Family law case activity categories. The monthly report contains sections for reporting cases on docket, dispositions and additional court activity.

(4) Juvenile Cases.

(A) Juvenile case type categories. The monthly report contains a category for C.I.N.S. cases and the following categories of delinquent conduct cases: capital murder, murder, other homicides, aggravated assault or attempted murder, assault, indecency with a child or sexual assault, aggravated robbery or robbery, burglary, theft, automobile theft, felony drug offenses, misdemeanor drug offenses, D.W.I., contempt of court, and all other offenses.

(B) Juvenile case activity categories. The monthly report contains sections for reporting juvenile case activity for cases on docket, adjudications, dispositions and additional court activity.

(5) Probate and Guardianship Cases.

(A) Probate and guardianship case type categories. The monthly report contains the following categories for reporting probate and guardianship case types: decedents' estates (independent administration, dependent administration, and all other estate proceedings), guardianships (minor and adult), and other cases.

(B) Probate and guardianship activity categories. The monthly report contains activity report categories for cases on docket and additional information.

(6) Mental Health Cases.

(A) Mental health case type categories. The monthly report contains the following categories for reporting mental health cases: temporary mental health services, extended mental health services, modification--inpatient to outpatient, modification--outpatient to inpatient, and orders to authorize psychoactive medications.

(B) Mental health activity categories. The monthly report contains activity report categories for intake, hearings, and other information.

(C) Mental health commitments. Pursuant to Section 574.014 of the Health and Safety Code, the clerk shall report the number of applications for commitment orders for involuntary mental health services filed with the court and the disposition of those cases, including the number of commitment orders for inpatient and outpatient mental health services.

§171.6. *Constitutional County Courts Reports.*

(a) Method. County clerks shall submit a court activity report of criminal, civil, juvenile, probate and guardianship, and mental health cases for each constitutional county court. Unless OCA grants a waiver

for good cause, county clerks shall submit the reports by electronic means approved by the OCA. The maximum duration of a waiver is one year, but OCA may approve successive waivers.

(b) Reporting Categories.

(1) Criminal Cases.

(A) Criminal case type categories. The monthly report contains the following categories of misdemeanor case types: D.W.I.--first offense, D.W.I.--second offense, theft, theft by check, drug possession--marijuana, drug offenses--other, family violence assault, other assault, traffic, D.W.L.S./D.W.L.I., and other misdemeanor cases.

(B) Criminal case activity categories. The monthly report contains sections for reporting cases on docket, dispositions, supplemental information and additional court activity.

(C) Report of a request for a hate crime finding. This section of the monthly report requests information pursuant to Article 2.211 of the Code of Criminal Procedure.

(D) Other Case Activity Reporting. The clerk shall also report the number of reports provided to the court under Art. 16.22(a)(1)(B) of the Code of Criminal Procedure.

(2) Civil Cases.

(A) Civil case type categories. The monthly report contains the following categories of civil cases: injury or damage--motor vehicle, other injury or damage, real property, contract--consumer/commercial/debt, contract--landlord/tenant, other contract, civil cases relating to criminal matters, and all other civil cases.

(B) Civil case activity categories. The monthly report contains sections for reporting cases on docket, dispositions and additional court activity.

(3) Juvenile Cases.

(A) Juvenile case type categories. The monthly report contains a category for C.I.N.S. cases and the following categories of delinquent conduct cases: capital murder, murder, other homicides, aggravated assault or attempted murder, assault, indecency with a child or sexual assault, aggravated robbery or robbery, burglary, theft, automobile theft, felony drug offenses, misdemeanor drug offenses, D.W.I., contempt of court, and all other offenses.

(B) Juvenile case activity categories. The monthly report contains sections for reporting cases on docket, adjudications, dispositions and additional court activity.

(4) Probate and Guardianship Cases.

(A) Probate and guardianship case type categories. The monthly report contains the following categories for reporting probate and guardianship case types: decedents' estates--independent administration, decedents' estates--dependent administration, and all other decedents' estate proceedings, guardianships--minor, guardianships--adult, and other cases.

(B) Probate and guardianship activity categories. The monthly report contains activity report categories for cases on docket and additional information.

(5) Mental Health Cases.

(A) Mental health case type categories. The monthly report contains the following categories for reporting mental health cases: temporary mental health services, extended mental health services, modification--inpatient to outpatient, modification--outpatient to inpatient, and orders to authorize psychoactive medications.

(B) Mental health activity categories. The monthly report contains the activity report categories for intake, hearings, and other information.

(C) Mental health commitments. Pursuant to Section 574.014 of the Health and Safety Code, the clerk shall report the number of applications for commitment orders for involuntary mental health services filed with the court and the disposition of those cases, including the number of commitment orders for inpatient and outpatient mental health services.

§171.9. Other Reports Required from the Courts.

(a) Judicial Appointments and Fees. The clerk of each court shall submit a monthly report to OCA in the format prescribed by OCA. The report must:

(1) pursuant to Section 36.004 of the Government Code, list every appointment made for an attorney ad litem, guardian ad litem, guardian, mediator, or competency evaluator and the compensation paid, if any. Appointments made by the court for positions exempted from reporting under Sec. 36.003, Tex. Gov't Code, are not required to be reported.

(2) [pursuant to Supreme Court Order 07-9188, list every appointment in a civil, probate or family case for any other position for which a fee may be paid and the compensation paid, if any.]

[(3)] The report shall include the case number and style, and the name of the judge and date of order approving compensation. The report is due no later than 15 days following the end of the month reported. If no appointments were made or fees were approved by the courts in the preceding month, the clerk shall file a report indicating that no appointments or payments were made in that month.

(b) Jury Charges and Sentences in Capital Cases. Pursuant to Section 72.087 of the Government Code, the judge or clerk of a court in which a capital case is heard must submit to OCA a written record of the case that includes the content of the trial court's charge to the jury and the sentence issued in the case. The information must be submitted no later than 30 days after the date of judgment of conviction or acquittal.

(c) Vexatious Litigants. Pursuant to Section 11.104 of the Civil Practice and Remedies Code, the clerk of each court shall submit to OCA within 30 days a copy of any order declaring a person a vexatious litigant and prohibiting the person from filing new litigation without the consent of the local administrative judge.

(d) Judicial Bypass. Pursuant to Section 33.003(1-1) [33.003(4)] of the Family Code, the district clerk or county clerk shall submit a report to OCA on a form prescribed by OCA the information required under Sec. 33.003(1-1) regarding a case [listing the case number and style of each case] in which a minor files an application for a court order authorizing the minor to consent to the performance of an abortion without notification and consent of a parent, managing conservator, or guardian.

(e) Court Security Incident. Pursuant to Article 102.017 of the Code of Criminal Procedure, the sheriff, constable or other law enforcement agency that provides security for a court [a local administrative judge] is required to submit a report to OCA regarding any incident involving court security that occurs in or around a building housing a court for which the sheriff, constable, agency or entity provides security [judge serves as local administrative judge]. The report is due no later than three business days after the date the incident occurred.

(f) Private Professional Guardians. Pursuant to Section 1104.306 of the Estates Code, the clerk of each county shall annually submit to the Judicial Branch Certification Commission the name and business address of each private professional guardian who has

satisfied the registration requirements of Sec. 1104.303, Tex. Estates Code. The report is due no later than January 31 of each year.

(g) Writ of Attachment. Pursuant to Art. 2.212 of the Code of Criminal Procedure, not later than the 30th day after the court issues a writ of attachment, the clerk of a district, statutory county or county court shall report to OCA on a form prescribed by OCA the following regarding the issued writ of attachment:

- (1) the date the attachment was issued;
- (2) whether the attachment was issued in connection with a grand jury investigation, criminal trial, or other criminal proceeding;
- (3) the names of the persons requesting and the judge issuing the attachment; and
- (4) the statutory authority under which the attachment was issued.

[(g) E-filing Fee. Pursuant to Section 72.031 of the Government Code, an appellate court that charges a \$2 fee for each electronic filing must certify annually to OCA on a form prescribed by OCA that the amount of the fee is necessary to recover the actual system operating costs incurred by the appellate court. The report is due 30 days after the last day of the county's fiscal year.]

(h) Regional Presiding Judges Report. Pursuant to Government Code Sec. 71.038, the presiding judges of the administrative judicial regions shall submit on a form approved by the Council information requested by the Council regarding the business transacted by the judges.

§171.10. Other Reports Required by Non-Court Personnel.

[(a)] Municipal Officers. Pursuant to Section 29.013(a) of the Government Code, the secretary of a municipality with a municipal court, including a municipal court of record, or the person responsible for maintaining the records of the municipality's governing body, shall submit the name of each person who is elected or appointed mayor, municipal court judge, or clerk of a municipal court and each person who vacates these offices. This information must be reported no later than 30 days after the person's election or appointment to the office or vacancy from office.

[(b) E-filing Fee. Pursuant to Section 72.031 of the Government Code, each local government that charges a \$2 fee for each electronic filing must certify annually to OCA on a form prescribed by OCA that the amount of the fee is necessary to recover the actual system operating costs incurred by the local government. The report is due 30 days after the last day of the county's fiscal year.]

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 July 25, 2019.

TRD-201902381

Maria Elena Ramon

General Counsel

Texas Judicial Council

Earliest possible date of adoption: September 8, 2019

For further information, please call: (512) 936-7553



CHAPTER 175. COLLECTION IMPROVEMENT PROGRAM

1 TAC §§175.1 - 175.6

The Texas Judicial Council (the Council) proposes to repeal Chapter 175, regarding the Collection Improvement Program. The purpose of the repeal is to implement the change in law made by Senate Bill 891, 86th Legislature, Regular Session (2019).

Fiscal Note

Jennifer Henry, chief financial officer of the Office of Court Administration (OCA), has determined that for each year of the first five-year period the repeal is in effect, there will be no additional cost to the state or local governments resulting from the repeal of Chapter 175. The loss of revenue to the counties and the state that may result from the repeal cannot be determined as it is unknown how many jurisdictions will cease all collection efforts and the result that this may have on the amount of court costs and fees that will be collected.

Public Benefit and Economic Impact

Jeffery Tsunekawa, interim director of research and court services with OCA, has determined that for each year of the first five years following the repeal of Chapter 175, the public benefit will be clarity regarding the effect of Senate Bill 891. There will be no cost to small businesses, micro-businesses, rural communities, or individuals.

Local Employment and Government Growth Impact Statement

Mr. Tsunekawa has also determined that a local employment impact statement for the proposed repeal is not required because there will be no impact to the local economy for each year of the first five years following the repeal of Chapter 175. Mr. Tsunekawa has also determined that the proposed repeal does not: 1) create government programs or employee positions; 2) require an increase or fees paid to the agency; 3) create a new regulation; or 4) expand an existing regulation. The proposed amendment gives effect to Senate Bill 891, the legislation that repeals Art. 103.0033 of the Code of Criminal Procedure, the statutory authority for the rules set out in Chapter 175. As a result of the repeal, funding for one state employee position was also removed from OCA's general appropriation. Additionally, as stated in the fiscal note above, there may be a loss of revenue to the state from the repeal, but whether this will positively or adversely affect the state's economy cannot be determined as it is unknown how many local jurisdictions will cease all collection efforts and the resulting impact this may have on court costs and fees collection.

Comments

Comments on the proposal may be submitted to Jeffrey Tsunekawa at Jeffrey.Tsunekawa@txcourts.gov, P.O. Box 12066, Austin, Texas 78711-2066, or at fax number (512) 463-1648.

Statutory Authority

The repeal is proposed under Government Code §71.019, which authorizes the Council to adopt rules expedient for the administration of its functions and Section 15.01 of Senate Bill 891, which repeals Code of Criminal Procedure Art. 103.0033.

No other statutes, articles, or codes are affected by these sections.

§175.1. *Purpose and Scope.*

§175.2. *Definitions.*

§175.3. *Collection Improvement Program Components.*

§175.4. *Content and Form of Local Government Reports.*

§175.5. *Compliance Review Standards.*

§175.6. *Waivers.*

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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Maria Elena Ramon

General Counsel

Texas Judicial Council

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For further information, please call: (512) 936-7553



TITLE 10. COMMUNITY DEVELOPMENT

PART 1. TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

CHAPTER 2. ENFORCEMENT

SUBCHAPTER B. ENFORCEMENT FOR NONCOMPLIANCE WITH PROGRAM REQUIREMENTS OF CHAPTERS 6 AND 7

10 TAC §2.203, §2.204

The Texas Department of Housing and Community Affairs (the Department) proposes the repeal of 10 TAC Chapter 2, Subchapter B, §2.203, Termination and Reduction of Funding for CSBG Eligible Entities and §2.204, Contents of a Quality Improvement Plan. The purpose of the proposed repeal is to eliminate outdated rules that warrant revision while adopting new updated rules under separate action.

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

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

Mr. Cervantes has determined that, for the first five years the proposed repeals would be in effect:

1. The proposed repeals do not create or eliminate a government program, but relates to a simultaneous readoption making a change to an existing activity, the administration of the Community Services Block Grant (CSBG).
2. The proposed repeals do not require a change in work that would require the creation of new employee positions, nor are the proposed repeals significant enough to reduce workload to a degree that any existing employee positions are eliminated.
3. The proposed repeals do not require additional future legislative appropriations.
4. The proposed repeals do not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.
5. The proposed repeals are not creating a new regulation, except that they are being replaced by new rules simultaneously to provide for revisions.

6. The proposed action will repeal existing regulations, but is associated with a simultaneous readoption making changes to an existing activity, of the rules governing the administration of the CSBG.

7. The proposed repeals will not increase nor decrease the number of individuals subject to the rule's applicability.

8. The proposed repeals will not negatively nor positively affect this state's economy.

b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002. The Department has evaluated the proposed repeals and determined that the proposed repeals will not create an economic effect on small or micro-businesses or rural communities.

1. The Department has evaluated the rules and determined that none of the adverse affect strategies outlined in Tex. Gov't Code §2006.002(b) are applicable.

2. The rules relate to the Department's implementation of the U.S. Department of Health and Human Services' (HHS) Information Memorandum (IM) 116. Other than a CSBG Eligible Entity who may consider itself a small or micro-business, which would not generally be the case, no small or micro-businesses are subject to the rules. However, if a CSBG Eligible Entity considers itself a small or micro-business, the rule changes provide greater clarity.

3. The Department has determined that because the rules apply only to existing CSBG Eligible Entities, there will be no economic effect on small or micro-businesses or rural communities.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The proposed repeals do not contemplate nor authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

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

The Department has evaluated the rules as to their possible effects on local economies and has determined that for the first five years the proposed repeals will be in effect there would be no economic effect on local employment because the rules relate only to a process which has already been in effect for existing CSBG Eligible Entities; therefore, no local employment impact statement is required to be prepared for the rules.

Tex. Gov't Code §2001.022(a) states that this "impact statement must describe in detail the probable effect of the rule on employment in each geographic region affected by this rule..." Considering that the rules pertain to all CSBG Eligible Entities throughout the state, regardless of location, there are no "probable" effects of the new rules on particular geographic regions.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). David Cervantes, Acting Director, has determined that, for each year of the first five years the proposed repeals are in effect, the public benefit anticipated as a result of the repealed sections would be a more streamlined version of the HHS IM 116 implementation process. There will not be economic costs to individuals required to comply with the repealed sections.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Cervantes also has determined that for

each year of the first five years the proposed repeals are in effect, enforcing or administering the repeals do not have any foreseeable implications related to costs or revenues of the state or local governments.

g. REQUEST FOR PUBLIC COMMENT. The public comment period will be held August 9, 2019, to September 9, 2019, to receive input on the proposed repealed sections. Written comments may be mailed to the Texas Department of Housing and Community Affairs, Gavin Reid, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941, by fax to (512) 475-3935; or email to gavin.reid@tdhca.state.tx.us. ALL COMMENTS MUST BE RECEIVED BY 5:00 p.m., Austin local time September 9, 2019.

STATUTORY AUTHORITY. The repeals are adopted pursuant to Tex. Gov't Code, §2306.053, which authorizes the Department to adopt rules.

Except as described herein the repeals affect no other code, article, or statute.

§2.203. *Termination and Reduction of Funding for CSBG Eligible Entities.*

§2.204. *Contents of a Quality Improvement Plan.*

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 July 26, 2019.

TRD-201902388

David Cervantes

Acting Director

Texas Department of Housing and Community Affairs

Earliest possible date of adoption: September 8, 2019

For further information, please call: (512) 475-1762



10 TAC §2.203, §2.204

The Texas Department of Housing and Community Affairs (the Department) proposes new 10 TAC Chapter 2, Subchapter B, §2.203, Termination and Reduction of Funding for CSBG Eligible Entities, and new §2.204, Contents of a Quality Improvement Plan. The purpose of the proposed new sections are to update the rules to provide greater clarity to Community Services Block Grant (CSBG) Eligible Entities on how the Department will implement the U.S. Department of Health and Human Services' (HHS) Information Memorandum (IM) 116 process.

Tex. Gov't Code §2001.0045(b) does not apply to the rules proposed for action because it is exempt under §2001.0045(c)(4), which exempts rule changes necessary to receive a source of federal funds or to comply with federal law. This revision is being proposed to provide more clarity to the process that will be used to either terminate the status of a CSBG Eligible Entity or reduce a CSBG Eligible Entity's funding. The Department does not anticipate any costs associated with this proposed rule action. Compliance with the proposed rules are intended to ensure adherence to federal statute while operating federal grants.

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

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

Mr. David Cervantes, Acting Director, has determined that, for the first five years the proposed new rules would be in effect:

1. The proposed rules do not create or eliminate a government program, but relate to the repeals, and simultaneous readoption making changes to an existing activity, the administration of the Community Services Block Grant (CSBG).
2. The proposed new rules do not require a change in work that would require the creation of new employee positions, nor are the proposed new rules significant enough to reduce workload to a degree that eliminates any existing employee positions.
3. The proposed rule changes do not require additional future legislative appropriations.
4. The proposed rule changes will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.
5. The proposed rules are not creating new regulations, except that they are replacing rules being repealed simultaneously to provide for revisions.
6. The proposed rules will not expand, limit, or repeal existing regulations.
7. The proposed rules will not increase nor decrease the number of individuals subject to the rule's applicability.
8. The proposed rules will not negatively nor positively affect the state's economy.

b. **ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.** The Department, in drafting the proposed rules, has attempted to reduce any adverse economic effect on small or micro-business or rural communities while remaining consistent with the statutory requirements of Tex. Gov't Code, §2306, Subchapter E.

1. The Department has evaluated the proposed rules and determined that none of the adverse effect strategies outlined in Tex. Gov't Code §2006.002(b) are applicable.
2. The rules relate to the Department's implementation of the U.S. Department of Health and Human Services' (HHS) Information Memorandum (IM) 116. Other than a CSBG Eligible Entity who may consider itself a small or micro-business, which would not generally be the case, no small or micro-businesses are subject to the rules. However, if a CSBG Eligible Entity considers itself a small or micro-business, the rule changes provide greater clarity.
3. The Department has determined that because the rules apply only to existing CSBG Eligible Entities, there will be no economic effect on small or micro-businesses or rural communities.

c. **TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043.** The proposed rules do not contemplate nor authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

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

The Department has evaluated the rules as to their possible effect on local economies and has determined that for the first five years the proposed rules will be in effect there would be no economic effect on local employment because the rules relate only to a process which has already been in effect for existing CSBG

Eligible Entities; therefore, no local employment impact statement are required to be prepared for the rules.

Tex. Gov't Code §2001.022(a) states that this "impact statement must describe in detail the probable effect of the rule on employment in each geographic region affected by this rule..." Considering that the rules pertain to all CSBG Eligible Entities throughout the state, regardless of location, there are no "probable" effects of the new rules on particular geographic regions.

e. **PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5).** Mr. Cervantes has also determined that, for each year of the first five years the new sections are in effect, the public benefit anticipated as a result of the new sections would be a more streamlined version of the HHS IM 116 implementation process. There will not be economic costs to individuals required to comply with the new sections because the processes described by the rules have already been in place through the rules found at the sections being repealed.

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

g. **REQUEST FOR PUBLIC COMMENT.** The public comment period will be held August 9, 2019, to September 9, 2019, to receive input on the proposed new sections. Written comments may be mailed to the Texas Department of Housing and Community Affairs, Gavin Reid, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941, by fax to (512) 475-3935; or email to gavin.reid@tdhca.state.tx.us. ALL COMMENTS MUST BE RECEIVED BY 5:00 p.m., Austin local time, September 9, 2019.

STATUTORY AUTHORITY. The new sections are proposed pursuant to Tex. Gov't Code, §2306.053, which authorizes the Department to adopt rules.

Except as described herein the proposed new sections affect no other code, article, or statute.

§§2.203. Termination and Reduction of Funding for CSBG Eligible Entities.

(a) This section describes the Department's process for implementing HHS Information Memorandum 116 (Corrective Action, Termination, or Reduction of Funding) (IM 116) and 42 U.S.C. 9915.

(b) Capitalized words used herein have the meaning assigned in, Chapter 1 of this title (relating to Administration), Chapter 2 of this title (relating to Enforcement), Chapter 6 of this title (relating to Community Affairs Programs), or assigned by federal or state law.

(c) A Deficiency may be identified through failure to resolve issues identified in an onsite monitoring review, a review of the Eligible Entity's Single Audit, a review prompted by a complaint, through the Department's procedures for reviewing performance and expenditure reports, or in any other review under 42 U.S.C. §9914(a)(1) - (4).

(d) If a Deficiency is identified, the Eligible Entity will be notified in writing. The Department will also review the training and technical assistance that has been provided to the Eligible Entity to determine if further training and technical assistance germane to the Deficiency is warranted. If so, the Eligible Entity will be offered additional training and technical assistance that specifically focuses on the Deficiency.

(e) If an Eligible Entity does not respond to the written notification, does not resolve the Deficiency, or does not propose a reason-

able corrective action plan, the uncorrected Deficiency identified by the Department will be considered a final decision that the Eligible Entity has failed to comply with requirements in a review pursuant to the CSBG Act, and can be considered cause for proceedings to terminate Eligible Entity status or reduce funding in accordance with IM 116 and 42 U.S.C. §§9908(b)(8) and 9915. Such a determination will be issued in a final determination letter from the Department to the Eligible Entity.

(f) If the Department determines that the development and implementation of a Quality Improvement Plan (QIP) is an appropriate requirement and/or that additional training and technical assistance are needed, that requirement will be stated in the final determination letter. The Eligible Entity will be provided 25 calendar days from the date of the final determination letter to submit a proposed QIP compliant with §2.204 of this subchapter and identifying dates for correction. In general, the Deficiency should be cured within 60 calendar days from the date of the final determination letter. If a Deficiency will require more than 60 calendar days, the Eligible Entity must explain why and propose a later date for correction, which the Department may elect to accept or deny. In the event a Deficiency cannot be corrected due to it being a singular past occurrence, the Eligible Entity must demonstrate to the Department that the Deficiency's cause has been identified and properly addressed, so that the Deficiency will not reoccur.

(g) Within 25 calendar days from the date the proposed QIP is received, the Department will either approve it or specify the reasons it cannot be approved. While the Department is reviewing the submitted QIP, the Department will consider the corrective action timeline proposed by the Eligible Entity and may accept that timeline, or recommend an alternate timeline, based on the nature of the Deficiency, and the nature of the correction. The Eligible Entity's inability to resolve the Deficiency within a reasonable timeframe may trigger the commencement of formal legal proceedings to terminate Eligible Entity status.

(h) The Department approved QIP must be implemented as soon as possible and resolution of the Deficiency must be fully met within the specified and approved timelines agreed to by the Department.

(i) If it is determined and/or documented that training and technical assistance are not appropriate; that a QIP is not appropriate; the QIP has not been approved; the QIP has not been met within the specified and approved timeline agreed to within the QIP; or the processes described in subsection (f) of this section have failed to resolve the Deficiency, the Department will contact the Executive Director of the Eligible Entity, and all known members of the Eligible Entity's Board to notify them that staff will be requesting that the Department's Governing Board authorize staff to pursue a hearing with the State Office of Administrative Hearings (SOAH). Such notification will be made at least 30 days prior to the date of the meeting of the Department's Governing Board. If approved by the Department's Governing Board, the Department will arrange and set a date for a hearing with SOAH. If the Eligible Entity does not respond or appear for the SOAH hearing, the consideration of termination of the Eligible Entity's status or reduction of funding will appear on the agenda at a subsequent regularly scheduled meeting of the Department's Governing Board. An Eligible Entity receiving notice of the initiation of a contested case before SOAH is reminded that they will need to read and comply with SOAH's requirements in the way they handle and respond to the matter.

(j) SOAH will issue a proposal for decision to the TDHCA Governing Board recommending whether there is cause, as defined by the CSBG Act, 42 U.S.C. §9908(c), to terminate or reduce funding to the Eligible Entity. The TDHCA Governing Board will be provided the proposal for decision and it will be considered as part of any final order by the Board in the matter.

(k) If the TDHCA Governing Board determines that there is cause to terminate or reduce funding, pursuant to 42 U.S.C. §9915, the Department will notify the Eligible Entity that it has the right under 42 U.S.C. §9915 to seek review of the decision by the HHS. If HHS does not overturn the decision, or if the Eligible Entity does not seek HHS review, the entity's status as an Eligible Entity under the CSBG Act, and all active CSBG Contracts will be terminated on the 90th calendar day after the Board decision.

(l) Any right or remedy given to the Department by this chapter does not preclude the existence of any other right or remedy, nor shall any action or lack of action by the Department in the exercise of any right or remedy be deemed a waiver of any other right or remedy.

§2.204. Contents of a Quality Improvement Plan.

(a) Capitalized words used herein have the meaning assigned in, Chapter 1 of this title (relating to Administration), Chapter 2 of this title (relating to Enforcement), Chapter 6 of this title (relating to Community Affairs Programs), or assigned by federal or state law.

(b) If a QIP is required of an Eligible Entity under §2.203(f) of this chapter (relating to Termination and Reduction of Funding for CSBG Eligible Entities), it must comply with this section. While each QIP developed by an Eligible Entity is unique and must be responsive to the specific Deficiency identified, all of the items in this section, at a minimum, must be addressed.

(c) The QIP must set forth a timeline for resolution of each Deficiency. In general, issues should be fully resolved within 60 calendar days from the final determination letter issued to the Eligible Entity as referenced in §2.203(e) of this chapter.

(d) At minimum, the QIP must identify:

- (1) Specific actions that will be taken to address each Deficiency;
- (2) The date by when each Deficiency will be corrected; and
- (3) If applicable, an explanation for any Deficiency that cannot be corrected within 60 calendar days.

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 July 26, 2019.

TRD-201902390

David Cervantes

Acting Director

Texas Department of Housing and Community Affairs

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For further information, please call: (512) 475-1762



CHAPTER 20. SINGLE FAMILY PROGRAMS UMBRELLA RULE

10 TAC §§20.1 - 20.16

The Texas Department of Housing and Community Affairs (the Department) proposes the repeal of 10 TAC, Chapter 20, Single Family Programs Umbrella Rule, §§20.1 - 20.16. The purpose of the repeal is to eliminate an outdated rule while adopting a new updated rule under separate action.

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

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

David Cervantes, Acting Director, has determined that, for the first five years the repeal will be in effect:

1. The repeal does not create or eliminate a government program, but relates to the repeal, and simultaneous adoption making changes to the Single Family Programs Umbrella Rule.
2. The repeal does not require a change in work that will require the creation of new employee positions, nor will the repeal reduce workload to a degree that any existing employee positions are eliminated.
3. The repeal does not require additional future legislative appropriations.
4. The repeal does not result in an increase in fees paid to the Department nor in a decrease in fees paid to the Department.
5. The repeal is not creating a new regulation, except that it is being replaced by a new rule simultaneously to provide for revisions.
6. The action will repeal an existing regulation, but is associated with a simultaneous re-adoption making changes to the existing Single Family Programs Umbrella Rule.
7. The repeal will not increase nor decrease the number of individuals subject to the rule's applicability.
8. The repeal will not negatively nor positively affect the state's economy.

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

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

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The repeal does not contemplate nor authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

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

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

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Cervantes has determined that, for each year of the first five years the repeal is in effect, the public benefit anticipated as a result of the repealed section would be an elimination of an outdated rule while adopting a new updated rule under separate action. There will be no economic costs to individuals required to comply with the repealed section.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Cervantes also has determined that for each year of the first five years the repeal is in effect, enforcing

or administering the repeal does not have any foreseeable implications related to costs or revenues of the state or local governments.

g. REQUEST FOR PUBLIC COMMENT. The public comment period will be held August 9, 2019, to September 9, 2019, to receive input on the repealed rule. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Raul Gonzales, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941 or email htf@tdhca.state.tx.us. ALL COMMENTS MUST BE RECEIVED BY 5:00 p.m., Austin local time, September 9, 2019.

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

Except as described, herein the proposed repealed rule affects no other code, article, or statute.

- §20.1. Purpose.
- §20.2. Applicability.
- §20.3. Definitions.
- §20.4. Eligible Single Family Activities.
- §20.5. Funding Notices.
- §20.6. Applicant Eligibility.
- §20.7. Household Eligibility Requirements.
- §20.8. Single Family Housing Unit Eligibility Requirements.
- §20.9. Fair Housing, Affirmative Marketing and Reasonable Accommodations.
- §20.10. Inspection Requirements for Construction Activities.
- §20.11. Survey Requirements.
- §20.12. Insurance Requirements.
- §20.13. Loan, Lien and Mortgage Requirements for Activities.
- §20.14. Amendments and Modifications to Written Agreements and Contracts.
- §20.15. Compliance and Monitoring.
- §20.16. Waivers and Appeals.

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

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David Cervantes

Acting Director

Texas Department of Housing and Community Affairs

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For further information, please call: (512) 475-1762



10 TAC §§20.1 - 20.16

The Texas Department of Housing and Community Affairs (the Department) proposes new 10 TAC, Chapter 20, Single Family Programs Umbrella Rule, §§20.1 - 20.16. The purpose of the new rule is to clarify applicability of the Rule; update definitions; update eligibility requirements with respect to household property tax liabilities; clarify housing counseling and mobility counseling requirements; update insurance and title requirements for mortgage loan activities; specify refinancing guidelines; improve readability through the re-ordering of phrases; and improve consistency in terminology and capitalization.

Tex. Gov't Code §2001.0045(b) does apply to the rule being proposed because no exceptions apply, however it should be

noted that no costs are associated with this action that would have prompted a need to be offset.

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

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

David Cervantes, Acting Director, has determined that, for the first five years the proposed rule will be in effect:

1. The new rule does not create or eliminate a government program, but relates to the readoption of this rule making changes to the Single Family Programs Umbrella Rule.
2. The new rule does not require a change in work that will require the creation of new employee positions, nor will the new rule reduce workload to a degree that any existing employee positions are eliminated.
3. The new rule does not require additional future legislative appropriations.
4. The new rule does not result in an increase in fees paid to the Department nor in a decrease in fees paid to the Department.
5. The new rule is not creating a new regulation, except that it is replacing a rule being repealed simultaneously to provide for revisions.
6. The new rule will not limit, expand or repeal an existing regulation but merely revises a rule.
7. The new rule will not increase nor decrease the number of individuals subject to the rule's applicability.
8. The new rule will not negatively nor positively affect the state's economy.

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

The Department has evaluated this new rule and determined that it will not create an economic effect on small or micro-businesses or rural communities.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The new rule does not contemplate nor authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

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

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

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Cervantes has determined that, for each year of the first five years the new rule is in effect, the public benefit anticipated as a result of the new rule would be to further clarify the purpose and guidelines for Single Family Programs. There will be no economic costs to individuals required to comply with the new rule.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Cervantes also has determined that for

each year of the first five years the new rule is in effect, enforcing or administering the rule does not have any foreseeable implications related to costs or revenues of the state or local governments.

g. REQUEST FOR PUBLIC COMMENT. The public comment period will be held August 9, 2019, to September 9, 2019, to receive input on the new rule. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Raul Gonzales, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941 or email htf@tdhca.state.tx.us. ALL COMMENTS MUST BE RECEIVED BY 5:00 p.m., Austin local time, September 9, 2019.

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

Except as described, herein the proposed new rule affects no other code, article, or statute.

§20.1. Purpose.

This Chapter sets forth the common elements of the Texas Department of Housing and Community Affairs' (the Department) single family Programs, which include the Department's HOME Investment Partnerships Program (HOME), State Housing Trust Fund (SHTF), Texas Neighborhood Stabilization Program (NSP), and Office of Colonia Initiatives (OCI) Programs and other single family Programs as developed by the Department. Single family Programs are designed to improve and provide affordable housing opportunities to low-income individuals and families in Texas and in accordance with Chapter 2306 of the Tex. Gov't Code and any applicable statutes and federal regulations.

§20.2. Applicability.

(a) This Chapter only applies to single family Programs. Program Rules may impose additional requirements related to any provision of this chapter. Where a Program Rule is less restrictive and the item is not preempted by federal law, the provisions of this chapter will govern Program decisions.

(b) Excluded from this Chapter are Activities performed under Chapter 27 (relating to Texas First Time Homebuyer Program Rule) and Chapter 28 (related to Taxable Mortgage Program) of this title.

§20.3. Definitions.

The following words and terms, when used in this chapter, shall have the following meanings unless the context indicates otherwise. Any capitalized terms not specifically defined in this section or any section referenced in this chapter shall have the meaning as defined in Chapter 2306 of the Tex. Gov't Code, the Program Rules, the Texas Administrative Code (TAC), or applicable federal regulations.

(1) Activity--The assistance provided to a specific Household or Administrator by which funds are used for acquisition, new construction, reconstruction, rehabilitation, refinance of an existing Mortgage, tenant-based rental assistance, or other Department approved Expenditure under a single family housing Program.

(2) Administrator--A unit of local government, Nonprofit Organization or other entity acting as a subrecipient, Developer, or similar organization that has an executed written Agreement with the Department.

(3) Affirmative Marketing Plan--HUD Form 935.2B or equivalent plan created in accordance with HUD requirements to direct specific marketing and outreach to potential tenants and homebuyers who are considered "least likely" to know about or apply for housing based on an evaluation of market area data. May be referred to as "Affirmative Fair Housing Marketing Plan" (AFHMP).

(4) Affiliate--If, directly or indirectly, either one Controls or has the power to Control the other or a third person Controls or has the power to Control both. The Department may determine Control to include, but not be limited to:

- (A) Interlocking management or ownership;
- (B) Identity of interests among family members;
- (C) Shared facilities and equipment;
- (D) Common use of employees; or

(E) A business entity which has been organized following the exclusion of a person which has the same or similar management, ownership, or principal employees as the excluded person.

(5) Affiliated Party--A person or entity with a contractual relationship with the Administrator as it relates to a Program, the form of assistance under a Program, or an Activity.

(6) Agreement--Same as "Contract." May be referred to as a "Reservation System Agreement" or "Reservation Agreement" when providing access to the Department's Reservation System as defined in this chapter.

(7) Amy Young Barrier Removal Program--A program designed to remove barriers and address immediate health and safety issues for Persons with Disabilities as outlined in the Program Rule.

(8) Annual Income--The definition of Annual Income and the methods utilized to establish eligibility for housing or other types of assistance as defined under the Program Rule.

(9) Applicant--An individual, unit of local government, nonprofit corporation or other entity, as applicable, who has submitted to the Department or to an Administrator an Application for Department funds or other assistance.

(10) Application--A request for a Contract award or a request to participate in a Reservation System submitted by an Applicant to the Department in a form prescribed by the Department, including any exhibits or other supporting material.

(11) Certificate of Occupancy--Document issued by a local authority to the owner of premises attesting that the structure has been built in accordance with building ordinances.

(12) Combined Loan to Value (CLTV)--The aggregate principal balance of all the Mortgage Loans, including Forgivable Loans, divided by the appraised value.

(13) Competitive Application Cycle--A defined period of time that Applications may be submitted according to a published Notice of Funding Availability (NOFA) that will include a submission deadline and selection or scoring criteria.

(14) Concern--A policy, practice or procedure that has not yet resulted in a Finding, but if not changed will or may result in a Finding, or disallowed costs.

(15) Contract--The executed written Agreement between the Department and an Administrator performing an Activity related to a single family Program that describes performance requirements and responsibilities. May also be referred to as "Agreement."

(16) Control--The possession, directly or indirectly, of the power to direct or cause the direction of the management, operations or policies of any person or entity, whether through the ownership of voting securities, ownership interests, or by contract or otherwise.

(17) Debt--A duty or obligation to pay money to a creditor, lender, or person which can include car payments, credit card bills, loans, child support payments, and student loans.

(18) Debt-to-Income Ratio--The percentage of gross monthly income from Qualifying Income that goes towards paying off Debts and is calculated by dividing total recurring monthly Debt by gross monthly income expressed as a percentage.

(19) Deobligate--The cancellation of or release of funds under a Contract or Agreement as a result of expiration of, termination of, or reduction of funds under a Contract or Agreement.

(20) Developer--Any person, general partner, Affiliate, or Affiliated Party or affiliate of a person who owns or proposes a Developer during the development period and is the person responsible for performing under the Contract with the Department.

(21) Development--A residential housing project for homeownership that consists of one or more units owned by the Developer during the development period and financed under a common plan which has applied for Department funds. This includes a project consisting of multiple units of housing that are located on scattered sites.

(22) Domestic Farm Laborer--Individuals (and the Household) who receive a substantial portion of their income from the production or handling of agricultural or aquacultural products.

(23) Draw--Funds requested by the Administrator, approved by the Department and subsequently disbursed to the Administrator.

(24) Enforcement Committee--The Committee as defined in Chapter 2 of this title (relating to Enforcement).

(25) Finding--An Administrator's material failure to comply with rules, regulations, the terms of the Contract, or to provide services under a Program to meet appropriate standards, goals, and other requirements established by the Department or funding source (including performance objectives). A Finding impacts the organization's ability to achieve the goals of the program and may jeopardize continued operations of the Administrator. A Finding includes the identification of an action or failure to act that results or may result in disallowed costs.

(26) Forgivable Loan--Financial assistance in the form of a Mortgage Loan that is not required to be repaid if the terms of the Mortgage Loan are met.

(27) HOME Program--A HUD funded Program authorized under the HOME Investment Partnerships Program at 42 U.S.C. §§12701 - 12839.

(28) Household--One or more persons occupying a rental unit or owner-occupied Single Family Housing Unit as their primary residence. May also be referred to as a "family" or "beneficiary."

(29) Housing Contract System (HCS)--The electronic information system that is part of the "central database" established by the Department to be used for tracking, funding, and reporting single family Contracts and Activities.

(30) Housing Trust Fund or State Housing Trust Fund (SHTF)--State-funded Programs authorized under Chapter 2306 of Tex. Gov't Code.

(31) HUD--The United States Department of Housing and Urban Development or its successor.

(32) Improvement Survey--A boundary survey plus land improvements by a Texas surveyor with a surveyor's seal, license number, and signature, meeting the requirements of the Texas Board of Professional Land Surveying under Chapter 663, Part 29, Title 2 of the TAC, showing (at a minimum) the accompanying legal description; all boundaries clearly labeled with calls and distance found on the ground and per the legal description; the location of all improvements, structures, visible utilities, fences, or walls; any boundary or visible encroachments; all adjoinders and recording information; location of all easements, setback lines, and utilities; or other recorded matters affecting the use of the property.

(33) Life-of-Loan Flood Certification--Tracks the flood zone of the Single Family Housing Unit for the life of the Mortgage Loan.

(34) Limited English Proficiency (LEP)--Refers to persons who do not speak English as their primary language and who have a limited ability to read, speak, write, or understand English.

(35) Loan Assumption--An agreement between the buyer and seller of Single Family Housing Unit that the buyer will make remaining payments and adhere to terms and conditions of an existing Mortgage Loan on the Single Family Housing Unit and Program requirements. A Mortgage Loan assumption requires Department approval.

(36) Manufactured Housing Unit (MHU)--A structure that meets the requirements of Texas Manufactured Housing Standards Act, Chapter 1201 of the Texas Occupations Code or FHA guidelines as required by the Department.

(37) Mortgage--Has the same meaning as defined in §2306.004 of the Tex. Gov't Code.

(38) Mortgage Loan--Has the same meaning as defined in §2306.004 of the Tex. Gov't Code.

(39) Neighborhood Stabilization Program (NSP)--A HUD-funded program authorized by HR3221, the "Housing and Economic Recovery Act of 2008" (HERA) and Section 1497 of the Wall Street Reform and Consumer Protection Act of 2010, as a supplemental allocation to the CDBG Program.

(40) NOFA--Notice of Funding Availability or announcement of funding published by the Department notifying the public of available funds for a particular Program with certain requirements.

(41) Nonprofit Organization--An organization in which no part of its income is distributable to its members, directors or officers of the organization and has a current tax exemption classification status from the Internal Revenue Service in accordance with the Internal Revenue Code.

(42) Office of Colonia Initiatives--A division of the Department authorized under Chapter 2306 of Tex. Gov't Code, which acts as a liaison to the colonias and manages some Programs in the colonias.

(43) Parity Lien--A lien position whereby two or more lenders share a security interest of equal priority in the collateral.

(44) Persons with Disabilities--Any person who has a physical or mental impairment that substantially limits one or more major life activities; or has a record of such an impairment; or is being regarded as having such impairment. Included in this meaning is the term handicap as defined in the Fair Housing Act, and disability as defined by other applicable federal or state law.

(45) Principal Residence--The primary Single Family Housing Unit that a Household inhabits. May also be referred to as "primary residence."

(46) Program--The specific fund source from which single family funds are applied for and used.

(47) Program Income--Gross income received by the Administrator or Affiliate directly generated from the use of single family funds, including, but not limited to gross income received from matching contributions under the HOME Program.

(48) Program Manual--A set of guidelines designed to be an implementation tool for a single family Program which allows the Administrator to search for terms, statutes, regulations, forms and attachments. A Program Manual is developed by the Department and amended or supplemented from time to time.

(49) Program Rule--Chapters of this title which pertain to specific single family Program requirements.

(50) Qualifying Income--The income used to calculate the Applicant and co-Applicant's debt-to-income ratio and excludes the total of any income not received consistently for the past 12 months from the date of Application including, but not limited to, income from a full or part time job that lacks a stable job history, potential bonuses, commissions, and child support. Income received for less than 12 months such as retirement annuity or court ordered payments will be considered only if it is expected to continue at least 24 months in the foreseeable future.

(51) Reservation--Funds set-aside for a Household submitted through the Department's Reservation System.

(52) Reservation System--The Department's online tracking system that allows Administrators to reserve funds for a specific Household.

(53) Resolution--Formal action by a corporate board of directors or other corporate body authorizing a particular act, transaction, or appointment. Resolutions must be in writing and state the specific action that was approved and adopted, the date the action was approved and adopted, and the signature of person or persons authorized to sign resolutions. Resolutions must be approved and adopted in accordance with the corporate bylaws of the issuing organization.

(54) Reverse Mortgage--A Home Equity Conversion Mortgage insured by the FHA.

(55) Self-Help--Housing Programs that allow low, very low, and extremely low-income families to build or rehabilitate their Single Family Housing Units through their own labor or volunteers.

(56) Single Family Housing Unit--A residential dwelling designed and built for a Household to occupy as its primary residence where single family Program funds are used for rental, acquisition, construction, reconstruction or rehabilitation Activities of an attached or detached housing unit, including Manufactured Housing Units after installation. May be referred to as a single family "home," "housing," "property," "structure," or "unit."

(57) TAC--Texas Administrative Code.

(58) TMCS--Texas Minimum Construction Standards located at <http://www.tdhca.state.tx.us/single-family/training/index.htm>.

§20.4. Eligible Single Family Activities.

(a) Availability of funding for and specific Program requirements related to the Activities described in subsection (b)(1) - (7) of this section are defined in each Program's Rules.

(b) Activity Types for eligible single family housing Activities include the following, as allowed by the Program Rule or NOFA:

(1) Rehabilitation, or new construction of Single Family Housing Units;

(2) Reconstruction of an existing Single Family Housing Unit on the same site;

(3) Replacement of existing owner-occupied housing with a new MHU;

(4) Acquisition of Single Family Housing Units, including acquisition with rehabilitation and accessibility modifications;

(5) Refinance of an existing Mortgage or Contract for Deed mortgage;

(6) Tenant-based rental assistance; and

(7) Any other single family Activity as determined by the Department.

§20.5. Funding Notices.

(a) The Department will make funds available for eligible Administrators for single family activities through NOFAs, requests for qualifications (RFQs), request for proposals (RFPs), or other methods describing submission and eligibility guidelines and requirements.

(b) Funds may be allocated through Contract awards by the Department or by Department authority to submit Reservations.

(c) Funds may be subject to regional allocation in accordance with Chapter 2306 of the Tex. Gov't Code.

(d) Eligible Applicants must comply with the provisions of the Application materials and funding notice and are responsible for the accuracy and timely submission of all Applications and timely correction of all deficiencies.

§20.6. Applicant Eligibility.

(a) Eligible Applicants may include entities such as units of local government, Nonprofit Organizations, or other entities as further provided in the Program Rule and/or NOFA.

(b) An Applicant shall be in good standing with the Department, Texas Secretary of State, Texas Comptroller of Public Accounts and HUD, as applicable.

(c) An Applicant shall comply with all applicable state and federal rules, statutes, or regulations including those administrative requirements in Chapter 1 of this title (relating to Administration).

(d) An Applicant must provide Resolutions in accordance with the applicable Program Rule.

(e) The actions described in the following paragraphs (1) - (3) of this subsection may cause an Applicant and any Applications they have submitted, to be ineligible:

(1) Applicant did not satisfy all eligibility and/or threshold requirements described in the applicable Program Rule and NOFA;

(2) Applicant is debarred by HUD or the Department; or

(3) Applicant is currently noncompliant or has a history of noncompliance with any Department Program. Each Applicant will be reviewed by the Executive Award and Review Advisory Committee (EARAC) for its compliance history by the Department, as provided in §1.302 (relating to Previous Participation Reviews for Department Program Awards Not Covered by §1.301 of this Subchapter) and §1.303 (relating to Executive Award and Review Advisory Committee (EARAC)) of this title. An Application submitted by an Applicant

found to be in noncompliance or otherwise violating the rules of the Department may be recommended with conditions or not recommended for funding by EARAC.

(f) The Department reserves the right to adjust the amount awarded based on the Application's feasibility, underwriting analysis, the availability of funds, or other similar factors as deemed appropriate by the Department.

(g) The Department may decline to fund any Application if the proposed Activities do not, in the Department's sole determination, represent a prudent use of the Department's funds. The Department is not obligated to proceed with any action pertaining to any Applications which are received, and may decide it is in the Department's best interest to refrain from pursuing any selection process. The Department reserves the right to negotiate individual components of any Application.

(h) If an Applicant/Administrator is originating or servicing a Mortgage Loan, the Applicant/Administrator must possess all licenses required under state or federal law for taking the Application of and/or servicing a residential mortgage loan and must be in good standing with respect thereto, unless Applicant/Administrator is specifically exempted from such licensure pursuant to the applicable state and federal laws and regulations regarding residential mortgage loans.

§20.7. Household Eligibility Requirements.

(a) The method used to determine Annual Income will be provided in the Program Rule.

(b) A Household must occupy the Single Family Housing Unit as their Principal Residence for the entirety of the affordability period as established by the Program Rule. If the Household fails to do so, the Department may declare the Mortgage Loan in default and accelerate the note.

§20.8. Single Family Housing Unit Eligibility Requirements.

(a) A Single Family Housing Unit must be located in the State of Texas.

(b) Real property taxes assessed on an owner-occupied Single Family Housing Unit must be current prior to the date of Mortgage Loan closing or effective date of the grant agreement. Delinquent property taxes will result in disapproval of the Activity unless one or more of the following conditions are satisfied:

(1) Household must be satisfactorily participating in an approved installment agreement in accordance with Texas Tax Code §33.02 with the taxing authority, and must be current for at least three consecutive months prior to the date of Application;

(2) Household must have qualified for an approved tax deferral plan agreement in accordance with Texas Tax Code §§33.06 or 33.065; or

(3) Household must have entered into an installment agreement under Texas Tax Code §§31.031 or 31.032, have made at least one payment under the agreement, and be current on the installment plan.

(c) A Single Family Housing Unit must not be encumbered with any liens which impair the good and marketable title as of the date of the Mortgage Loan closing or effective date of the grant agreement.

(d) Prior to any Department assistance, the owner must be current on any existing Mortgage Loans or home equity loans.

§20.9. Fair Housing, Affirmative Marketing, Homebuyer Counseling, and Reasonable Accommodations.

(a) In addition to Chapter 1, Subchapter B of this title (relating to Accessibility and Reasonable Accommodations), an Administrator must comply with all applicable state and federal rules, statutes,

or regulations, involving accessibility including the Fair Housing Act, Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act, and the Architectural Barriers Act as well as state and local building codes that contain accessibility requirements; where local, state, or federal rules are more stringent, the most stringent rules shall apply. Administrators receiving Federal or state funds must comply with the Age Discrimination Act of 1975.

(b) Affirmative Marketing and Procedures. An Administrator receiving Federal or state funds must have an Affirmative Marketing Plan. The AFHMP must be submitted to the Department each time the Administrator applies for a new contract or a new type of activity, and reflect marketing activities specific to the activity type. The plan must be submitted at a minimum of every three years if the Administrator continues to accept new applications.

(1) Administrators must use HUD Form 935.2B, the form on the Department's website, or create an equivalent AFHMP that includes:

(A) Identification of the population "least likely to apply" for the Administrator's Program(s) without special outreach efforts. Administrators may use the Department's single family affirmative marketing tool to determine populations "least likely to apply." If Administrators use another method to determine the populations "least likely to apply" the AFHMP must provide a detailed explanation of the methodology used. Persons with Disabilities must always be included as a population least likely to apply.

(B) Identification of the methods of outreach that will be used to attract persons identified as least likely to apply. Outreach methods must include identification of a minimum of three organizations with whom the Administrator plans to conduct outreach, and whose membership or clientele consists primarily of protected class members in the groups least likely to apply. If the Administrator is unable to locate three such groups, the reason must be documented in the file.

(C) Identification of the methods to be used for collection of data and periodic evaluation to determine the success of the outreach efforts. If efforts have been unsuccessful, the Administrator's AFHMP should be revised to include new or improved outreach efforts.

(D) Description of the fair housing trainings required for Administrator staff, including delivery method, training provider and frequency. Training must include requirements of the Fair Housing Act relating to financing and advertising, expected real estate broker conduct, as well as redlining and zoning for all programs, and discriminatory appraisal practices for programs involved in homebuyer transactions.

(E) A description for the provision of applicable counseling programs and educational materials that will be offered to Applicants. An Administrator offering any Mortgage Loan utilizing federal funds must require that potential home purchasers receive homeownership counseling and education at the time assistance is approved. Housing counseling may take place in-person or by telephone. Counseling may be provided online only if it is customized to the individual Household. Counseling must address pre- and/or post-purchase topics, as applicable to the Borrower's needs. A certificate of completion of counseling must be dated not more than 12 months from the date of submission of Mortgage Loan application. For an Applicant who will receive assistance from a federally funded Program on or after August 1, 2020, homeownership counseling must be provided by HUD-certified counselors working for agencies participating in HUD's Housing Counseling Program.

(2) Applicability.

(A) Affirmative marketing is required as long as an Administrator is accepting applications or until all dwelling units are sold in the case of single family homeownership programs.

(B) An Administrator that currently has an existing list of Applicants and are not accepting new Applicants or establishing a waitlist are not required to affirmatively market until preparing to accept new Applications, but must develop a plan as described in this subsection. EXAMPLE: An Administrator has an active HOME Reservation System Participation Agreement with a closed waiting list. The Administrator must develop an affirmative marketing plan, but does not have to affirmatively market that portion of its Program. The Administrator should serve its waitlist. When the Administrator is nearing the bottom of the waitlist it should begin to affirmatively market the program, open up the program to new Applicants, finish serving the existing Households on the waitlist, and all new Applicants will be held for 30 calendar days, and then selected based on the neutral random selection process as described in paragraph (3) of this subsection.

(C) An Administrator providing assistance in more than one service area must provide a separate plan for each market area in which the housing assistance will be provided.

(3) After the required outreach efforts have been made, an Administrator must accept Applications from possible eligible Applicants for a minimum of a 30 calendar day period. A first-come, first-served basis may not be used when initially selecting among eligible Applicants. At the close of the minimum 30 calendar day application period an Administrator must select Applicants through a neutral random selection process that the Administrator has written. Only after the Administrator has allowed for the minimum 30 calendar day period to accept applications and has used a neutral random selection process to assist Households, may the Administrator then accept applications on a first-come, first-served basis if funds remain in the current contract or Activity type. A HOME Tenant Based Rental Assistance Reservation System Applicant or Administrator applying for disaster funds may request that the Director of Programs or designee approve an exemption from the 30 calendar day period and the neutral random selection process, as necessary to respond to the disaster.

(4) An Administrator must include as an attachment to HUD Form 935.2B or equivalent AFHMP, a waitlist policy including any Department approved preferences used in selecting Applicants from the list. Administrators of the Amy Young Barrier Removal Program may have a preference prioritizing Households to prevent displacement from permanent housing, or to foster returning to permanent housing related to inaccessible features of the unit. An Administrator that has defined preferences in its written waitlist procedures or tenant selection plans, as applicable, will employ preferences first and select Applicants from the list of Applicants meeting the defined preference, still using the neutral random selection process. An Administrator of a federally funded Program may only request to establish preferences that are included in Department planning documents, specifically the One Year Action Plan or Consolidated Plan, or as otherwise allowed for CDBG funded Activities. EXAMPLE: A HOME Program Administrator has specific program requirements to assist one in every four Households at 30% area median family income. This Administrator should use a neutral random selection process to rank Applicants, and select going down the list. When the Administrator must assist a Household at or below 30% area median income they will then go down the list and select, in order, a Household at the 30% income level.

(5) An Administrator offering homeownership or rental assistance that allows the Household to relocate from their current resi-

dence must provide the Household access to mobility counseling. For homeownership, mobility counseling may be included in homeownership counseling and education trainings, and must cover the criteria noted in subparagraphs (A) - (C) of this paragraph.

(A) Mobility counseling must, at a minimum, include easily understandable information that the Household can use in determining areas of opportunity within a service area, which must at minimum include the following: which areas have lower poverty rates, average income information of different areas, school ratings, crime statistics, available area services, public transit, and other items the Administrator deems appropriate in helping the Household make informed choices when identifying housing.

(B) Mobility counseling may be offered online or in-person, and must be customized for the Household.

(C) An Administrator must collect signed certifications from Applicants acknowledging they have received mobility counseling. Certifications may be collected as a standalone form or may be integrated into existing program forms.

(6) Administrator must conduct an analysis of the AFHMP at the close out of the contract or Activity and attach it to any subsequent AFHMP submitted for the same program.

(7) In the case of any Applicant's denial from a program, a letter providing the specific reason for the denial must be provided to the Applicant within seven calendar days of the denial. Administrators must keep a record of all denied Applicants including the basis for denial. Such records must be retained for the record retention period described by the Agreement or other sources.

(8) Administrator must provide Applicants with eligibility criteria, which shall include the procedures for requesting a reasonable accommodation to the Administrator's rules, policies, practices, and services, including but not limited to, as it relates to the Application process.

(9) Administrators must include the Equal Housing Opportunity logo and slogan on any commercial and other media used in marketing outreach.

(10) Copies of all outreach and media ads must be kept and made available to the Department upon request.

(c) A copy of all Reasonable Accommodation requests and the Administrator's compliant responses to such requests, in accordance with §1.204 of this title (relating to Reasonable Accommodations), must be kept as stated in §1.409 of this title (relating to Records Retention).

(d) Provisions Related to Limited English Proficiency.

(1) Administrator must have a Language Access Plan that ensures persons with Limited English Proficiency (LEP) have meaningful access and an equal opportunity to participate in services, activities, programs, and other benefits.

(2) Materials that are critical for ensuring meaningful access to an Administrator's major activities and programs, including but not limited to Applications, mortgage loan applications, consent forms and notices of rights, should be translated for any population considered least likely to apply that meets the threshold requirements of Safe Harbor LEP provisions as provided by HUD and published on the Department's website. Materials considered critical for ensuring meaningful access should be outlined in the Administrator's Language Access Plan.

(3) The Administrator is required to translate Vital Documents under Safe Harbor guidelines, they must include in their Lan-

guage Access Plan how such translation services will be provided (e.g., whether the Administrator will use voluntary or contracted qualified translation services, telephonic services, or will identify bilingual staff that will be available to assist Applicants in completing vital documents and/or accessing vital services). If the Administrator plans to use bilingual staff in its translation services, contact information for bilingual staff members must be provided.

(4) The Language Access Plan must be submitted to the Department upon request and be available for review during monitoring visits. HUD and the Department of Justice have issued requirements to ensure meaningful and appropriate access to programs for LEP individuals.

(5) Administrators must offer reasonable accommodations information and Fair Housing rights information in both English and Spanish, and other languages as required by the inclusion of "least likely to apply" groups to reach populations identified as least likely to apply.

(e) The plans noted in subsections (b)(1) and (d)(1) of this section, any documentation supporting the plans, and any changes made to the plans, must be kept in accordance with recordkeeping requirements for the specific Program, and in accordance with 10 TAC §1.409.

§20.10. *Inspection Requirements for Construction Activities.*

(a) The inspection requirements in this section are applicable to all construction activities, except for the Amy Young Barrier Removal Program, to the extent funded with SHTF.

(1) Interim inspections of construction progress are required for a Draw request.

(2) Final inspections are required for all single family construction Activities. The inspection must document that the Activity is complete; meets all applicable codes, requirements, zoning ordinances; and has no known deficiencies related to health and safety standards.

(A) A copy of the final inspection report must be provided to the Department and to the Household.

(B) Third party certification of compliance with the Minimum Energy Efficiency Requirements for Single Family Construction Activities under 10 TAC Chapter 21 is required, as applicable.

(b) New construction requirements.

(1) A Certificate of Occupancy shall be issued prior to final payment for construction, as applicable. In instances where the local jurisdiction does not issue a Certificate of Occupancy for the Activity undertaken, the Administrator must provide to the Department documentation evidencing that the Single Family Housing Unit has passed all required building codes in accordance to subsection (a)(2) of this section.

(2) Applicant must demonstrate compliance with Tex. Gov't Code §2306.514, "Construction Requirements for Single Family Affordable Housing," and applicable Program Rules.

(c) Reconstruction requirements.

(1) The initial inspection must identify all substandard conditions listed in TMCS along with any other health or safety concerns, unless the unit has been condemned or in the case of a HOME Activity, the unit to be reconstructed is an MHU.

(A) A copy of the initial inspection report must be provided to the Department and to the Household as applicable. The initial inspection may be waived if the local building official certifies that the

extent of the subject property's substandard conditions is beyond repair, or the property has been condemned.

(B) All substandard conditions identified in the initial inspection report shall be addressed in the work write-up and cost-estimate in adequate detail to document the need for reconstruction.

(2) A Certificate of Occupancy shall be issued prior to final payment for construction, as applicable. In instances where the local jurisdiction does not issue a Certificate of Occupancy for the Activity undertaken, the Administrator must provide to the Department documentation evidencing that the Single Family Housing Unit has passed all required building codes in accordance with subsection (a)(2) of this section.

(3) Applicant must demonstrate compliance with Tex. Gov't Code §2306.514, "Construction Requirements for Single Family Affordable Housing," and applicable Program Rules.

(d) Rehabilitation requirements.

(1) The initial inspection must identify all substandard conditions listed in TMCS, along with any other health and safety concerns.

(A) A copy of the initial inspection report must be provided to the Department and to the Household.

(B) All substandard conditions identified in the initial inspection report shall be addressed in the work write-up and cost-estimate in adequate detail to ensure that all substandard conditions are properly corrected.

(2) Final inspections must document that all substandard and health and safety issues identified in the initial inspection have been corrected. Also, all deficient items noted on the final inspection report must be corrected prior to the final draw of funds.

(3) Administrator shall meet the applicable requirements of the TMCS. TMCS requirements may be waived only through the process provided in §20.16 of this chapter (relating to Appeals).

(4) Correction of cosmetic issues, such as paint, wall texture, etc., will not be required if acceptable to the Program as outlined in the Program Rule, or if utilizing a Self-Help Construction Program.

(e) Inspector Requirements.

(1) Inspectors hired to verify compliance with this chapter must meet Program requirements as outlined in the Program Rule, as applicable.

(2) Within city limits and extraterritorial jurisdictions, municipal code inspectors shall conduct all inspections for local code requirements as applicable.

(3) For areas not within a city or an extraterritorial jurisdiction, all code inspectors shall conduct inspections using applicable construction standards prescribed by the Department, and Department-approved inspection forms and checklists as applicable.

(f) The Department reserves the right to reject any inspection report if, in its sole and reasonable determination, the report does not accurately represent the property conditions or if the inspector does not meet Program requirements. All related construction costs in a rejected inspection report may be disallowed until the deficiencies are adequately cured.

(g) A Single Family Housing Unit condemned by a unit of government will not be rehabilitated.

§20.11. Survey Requirements.

(a) The Amy Young Barrier Removal Program is excluded from the survey requirements in subsections (b) - (d) to the extent funded with SHTF.

(b) When Program funds are used for acquisition or construction, an Improvement Survey is required when:

(1) The rehabilitation project is enlarging the footprint; or

(2) The Activity is reconstruction, new construction, or acquisition of an existing home.

(c) If allowed by the Program Rules or NOFA, existing surveys for acquisition only activities may be used if the owner certifies that no changes were made to the footprint of any building or structure, or to any improvement on the Single Family Housing Unit, and the title company accepts the certification and survey.

(d) The Department reserves the right to determine the survey requirements on a per Activity basis if additional survey requirements would, at the sole discretion of the Department, benefit the Activity.

§20.12. Insurance and Title Requirements.

(a) The Amy Young Barrier Removal Program is excluded from this section, to the extent funded with SHTF.

(b) Title Insurance Requirements. A "Mortgagee's Title Insurance Policy" is required for all Department Mortgage Loans, exclusive of subordinate lien Mortgage Loans for down payment assistance and closing costs.

(1) The title insurance policy shall be issued by an entity that is licensed and in good standing with the Texas Department of Insurance.

(2) The policy must be in the amount of the Mortgage Loan. The mortgagee named shall be: "Texas Department of Housing and Community Affairs."

(3) The policy must include survey deletion coverage.

(c) Title Reports.

(1) Title reports are acceptable only for grants when title insurance is not available.

(2) Title reports must disclose the current ownership, easements, restrictions, and liens relating to the property, and include a search for judgements, mortgages or liens, affidavits, deed restrictions, building setback and easements, and any other factors which may impair the good and marketable title to the property.

(3) The preliminary title report may not be older than six months from the date of submission of the Activity to the Department.

(d) Builder's Risk. Builder's Risk (non-reporting form only) is required when the Department provides construction funds for a Single Family Housing Unit. At the end of the construction period, the binder must be endorsed to remove the "pending disbursements" clause.

(e) Hazard Insurance. If Department funds are provided in an amount that exceeds \$20,000, then:

(1) The Department requires property insurance for fire and extended coverage;

(2) Homeowner's policies or package policies that provide property and liability coverage are acceptable. All risk policies are acceptable;

(3) The amount of hazard insurance coverage should be no less than 100% of the current insurable value of improvements as of the date of Mortgage Loan closing or effective date of the grant agreement; and

(4) The Department must be named as a loss payee and mortgagee on the hazard insurance policy for any Activity receiving a Mortgage Loan from the Department.

(f) Flood Insurance. Flood insurance must be maintained for all structures located in special flood hazard areas as determined by the U.S. Federal Emergency Management Agency (FEMA).

(1) A Household may elect to obtain flood insurance even though flood insurance is not required. However, the Household may not be coerced or required to obtain flood insurance unless it is required in accordance with this section.

(2) Evidence of insurance, as required in this chapter, must be obtained prior to Mortgage Loan funding. A one year insurance policy must be paid. For Amortizing Mortgage Loans, a minimum of two months of reserves must be collected at the closing of the Mortgage Loan. The Department must be named as the loss payee on the policy.

§20.13. Loan, Lien, and Mortgage Requirements for Activities.

(a) The term "Borrower" in this section means the Household that is borrowing funds from or through the Department for the acquisition, new construction and/or rehabilitation of a Principal Residence.

(b) The fees to be paid by the Department or Borrower upfront or through the closing must be reasonable for the service rendered, in accordance with the typical fees paid in the market place for such activities and:

(1) Fees charged by third party Mortgage lenders are limited to the greater of 2% of the Mortgage Loan amount or \$3,500, including but not limited to origination, loan application, and/or underwriting fees, and

(2) Fees paid to other parties that are supported by an invoice and/or reflected on the Closing Disclosure will not be included in the limit in paragraph (1) of this subsection.

(c) A Loan made by a third-party lender in conjunction with Mortgage Loan from a federal source must be fixed-rate and may not include pre-payment penalties, balloon payments, negative amortization, or interest-only periods.

(d) Mortgage Loan Underwriting Requirements. The requirements in this paragraph shall apply to all non-forgivable amortizing Mortgage Loans.

(1) Debt-to-Income Ratio. The Household's total Debt-to-Income Ratio shall not exceed 45% of Qualifying Income (unless otherwise allowed or dictated by a participating lender providing a fixed rate Mortgage Loan that is insured or guaranteed by the federal government or a conventional Mortgage Loan that adheres to the guidelines set by Fannie Mae and Freddie Mac.) A potential Borrower's spouse who does not apply for the Mortgage Loan will be required to execute the information disclosure form(s) and the deed of trust as a "non-purchasing" spouse. The "non-purchasing" spouse will not be required to execute the note. For credit underwriting purposes all debts and obligations of the primary potential Borrower(s) and the "non-purchasing" spouse will be considered in the potential Borrower's total Debt-to-Income Ratio.

(2) Credit Qualifications.

(A) Potential Borrowers must have a credit history that indicates reasonable ability and willingness to meet debt obligations. In order for the Department to make a reasonable determination, all Borrowers must provide a credit release form. The Department may utilize credit reports if less than 90 days old as part of the Mortgage Loan application or obtain tri-merge credit reports on all potential Borrowers submitted to the Department for approval at the time of Mortgage

Loan application. In addition to the initial credit report, the Department may at its discretion obtain one or more additional credit reports before Mortgage Loan closing to ensure the potential Borrower still meets Program requirements. Acceptable outstanding debt means that all accounts are paid as agreed and are current.

(B) Unacceptable Credit. Applicants meeting one or more of the following criteria will not be qualified to receive a single family Mortgage Program Loan from the Department:

(i) A credit history reflecting payments on any open consumer, retail and/or installment account (e.g., auto loans, signature loans, payday loans, credit cards or any other type of retail and/or installment loan, with the exception of a medical account) which have been delinquent for more than 30 days on two or more occasions within the last 12 months and must be current for the six months immediately preceding the loan application date;

(ii) A foreclosure or deed-in-lieu of foreclosure or a potential Borrower in default on a mortgage at the time of the short sale any of which had occurred or been completed within the last 24 months prior to the date of Mortgage Loan application;

(iii) An outstanding Internal Revenue Service tax lien or any other outstanding tax liens where the potential Borrower has not entered into a satisfactory repayment arrangement and been current for at least 12 months prior to the date of Mortgage Loan application;

(iv) A court-created or court-affirmed obligation or judgment caused by nonpayment that is outstanding at the date of Mortgage Loan application or any time prior to closing of the Mortgage Loan;

(v) Any account (with the exception of a medical account that is delinquent or has been placed for collection) that has been placed for "collection," "profit and loss" or "charged off" within the last 24 months prior to the date of Mortgage Loan application;

(vi) Any reported delinquency on any government debt at the date of Mortgage Loan application;

(vii) A bankruptcy that has been filed within the past 24 months prior to the date of Mortgage Loan; or

(viii) Any reported child support payments in arrears unless the potential Borrower has evidence of having met satisfactory payment arrangements for at least 12 months prior to the date of Mortgage Loan.

(C) Mitigation for Unacceptable Credit. The following exceptions will be considered as mitigation to the unacceptable credit criteria in subparagraph (B) of this paragraph.

(i) The potential Borrower is a Domestic Farm Laborer and receives a substantial portion of his/her income from the production or handling of agriculture or aquacultural products, and has demonstrated the ability and willingness to meet debt obligations as determined by the Department.

(ii) The potential Borrower provides documentation to evidence that the outstanding delinquency or unpaid account has been paid or settled or the potential Borrower has entered into a satisfactory repayment arrangement or debt management plan and been current for at least 12 consecutive months prior to the date of Mortgage Loan.

(iii) The potential Borrower submits to the Department a written explanation of the cause for the previous delinquency, which has since been brought current and is acceptable to the Executive Director or his or her designee.

(iv) Any and all outstanding judgments must be released prior to closing of Mortgaged Loan.

(v) If a potential Borrower is currently participating in a debt management plan, and the trustee or assignee provides a letter to the Department stating they are aware and agree with the potential borrower applying for a Mortgage Loan. If a potential Borrower filed a bankruptcy, the bankruptcy must have been discharged or dismissed more than 12 months prior to the date of Mortgage Loan application and the potential Borrower has re-established good credit with at least one existing or new active consumer account or credit account that is in good standing with no delinquencies for at least 12 months prior to the date of Mortgage Loan application.

(vi) If a Chapter 13 Bankruptcy was filed, a potential Borrower must have satisfactorily made 12 consecutive payments and obtain court trustee's written approval to enter into Mortgage Loan.

(D) Liabilities.

(i) The potential Borrower's liabilities include all revolving charge accounts, real estate loans, alimony, child support, installment loans, and all other debts of a continuing nature with more than 10 monthly payments remaining. Debts for which the potential borrower is a co-signer will be included in the total monthly obligations. For payments with 10 or fewer monthly payments remaining, there shall be no late payments within the past 12 months or the debt will be included into the Debt-to-Income Ratio calculation. Payments on installment debts which are paid off prior to funding are not included for qualification purposes. Payments on all revolving debts (e.g., credit cards, payday loans, lines of credit, unsecured loans) and certain types of installment loans that appear to be recurring in nature will be included in the Debt-to-Income Ratio calculation, even if the potential Borrower intends to pay off the accounts, since the potential Borrower can reuse those credit sources, unless the account is paid off and closed. If the credit report shows a revolving account with an outstanding balance but no specific minimum payment, the payment must be calculated as the greater of 5% of the outstanding balance or \$10. If the potential Borrower provides a copy of the current statement reflecting the monthly payment that amount may be used for the Debt-to-Income Ratio calculation.

(ii) if a potential Borrower provides written evidence that a debt will be deferred at least 12 months from the date of closing, the debt will not be included in the Debt-to-Income Ratio calculation. Payments on any type of loan that have been deferred or have not yet commenced, including student loans and accounts in forbearance, will be calculated using 1% of the outstanding balance or monthly payment reported on the potential Borrower's credit report, whichever is less. Other types of loans with deferred payment will be calculated using the monthly payment shown on the potential Borrower's credit report. If the credit report does not include a monthly payment for the loan, the monthly payment shown in the loan agreement or payment statement will be utilized.

(E) Non-Traditional Credit and Insufficient Credit. If sufficient credit history is not evidenced based on subparagraph (A) of this paragraph, an Applicant must provide three lines of nontraditional credit such as utility payments, auto insurance, cell phone payments, child care or other credit, as approved by the Department, listed in their name and reflecting no more than one 30 day delinquency on payments due to nontraditional creditors within the last 12 months. The Non-Traditional Credit provided must not qualify as Unacceptable Credit as specified in subparagraph (B) of this paragraph.

(F) Equal Credit Opportunity Act. The Department and/or the Administrator on behalf of the Department will comply with all federal and state laws and regulations relating to the extension

of credit, including the Equal Credit Opportunity Act (ECOA) (15 U.S.C. 1691 et seq.) and its implementing regulation at 12 CFR Part 1002 (Regulation B) when qualifying potential Borrower(s) to receive a single family Mortgage Loan from the Department.

(e) The Department reserves the right to deny assistance in the event that the senior lien conditions are not to the satisfaction of the Department, as outlined in the Program Rules.

(f) Lien Position Requirements.

(1) A Mortgage Loan made by the Department shall be secured by a first lien on the real property if the Department's Mortgage Loan is the largest Mortgage Loan secured by the real property; or

(2) The Department may accept a Parity Lien position if the original principal amount of the leveraged Mortgage Loan is equal to or greater than the Department's Mortgage Loan; or

(3) The Department may accept a subordinate lien position if the original principal amount of the leveraged Mortgage Loan is at least 55% of the combined loans; however, liens related to other subsidized funds provided in the form of grants and non-amortizing Mortgage Loans, such as deferred payment or Forgivable Loans, must be subordinate to the Department's payable Mortgage Loan.

(g) Loan Terms. All Mortgage Loan terms must meet all of the following criteria:

(1) May not exceed a term of 30 years;

(2) May not be for a term of less than five years; and

(3) Interest rate may be as low as 0% as provided in the Program Rules.

(h) Loan Assumption. A Mortgage Loan may be assumable if the Department determines the potential Borrower assuming the Mortgage Loan is eligible according to the underwriting criteria of this section and complies with all Program requirements in effect at the time of the assumption.

(i) Cash Assets. An Applicant with unrestricted cash assets in excess of \$25,000 must use such excess funds towards the acquisition of the property in lieu of loan proceeds. Unrestricted cash assets for this purpose are Net Family Assets defined in 24 CFR §5.603.

(j) Appraisals.

(1) An appraisal is required by the Department on each property that is part of an acquisition Activity, except for down payment assistance only, prior to closing to determine the current market value.

(2) The appraisal must conform to the Uniform Standards of Professional Appraisal Practice (USPAP) as adopted by the Appraisal Standards Board of the Appraisal Foundation.

(3) The Appraiser must have an active and current license by the Texas Appraisal Licensing and Certification Board.

(k) Combined Loan to Value. The Combined Loan to Value ratio of the property may not exceed 100% of the cost to acquire the property. The lien amounts of Forgivable Loans shall be included when determining the Combined Loan to Value ratio. The cost to acquire the property may exceed the appraised value only for an amount not to exceed the closing costs but in no case may result in cash back to the Borrower or exceed the limits under subsection (b)(1) of this section.

(l) Escrow Accounts.

(1) An escrow account must be established if:

(A) The Department holds a first lien Mortgage Loan which is due and payable on a monthly basis to the Department; or

(B) The Department holds a subordinate Mortgage Loan and the first lien lender does not require an escrow account, the Department will require an escrow account to be established.

(2) If an escrow account held by the Department is required under one of the provisions described in this subsection, then the following provisions described in subparagraphs (A) - (F) of this paragraph are applicable:

(A) The Borrower must contribute monthly payments to cover the anticipated costs, as calculated by the Department, of real estate taxes, hazard and flood insurance premiums, and other related costs as applicable;

(B) Escrow reserves shall be calculated based on land and completed improvement values;

(C) The Department may require up to two months of reserves for hazard and/or flood insurance, and property taxes to be collected at the time of closing to establish the required escrow account;

(D) In addition, the Department may also require that the property taxes be prorated at the time of closing and those funds be deposited with the Department;

(E) The Borrower will be required to deposit monthly funds to an escrow account with the Mortgage Loan servicer in order to pay the taxes and insurance. This will ensure that funds are available to pay for the cost of real estate taxes, insurance premiums, and other assessments when they come due;

(F) These funds are included in the Borrower's monthly payment to the Department or to the servicer; and

(G) The Department will establish and administer the escrow accounts in accordance with the Real Estate Settlement and Procedures Act of 1974 (RESPA) under 12 U.S.C. §2601 and its implementing regulations at 12 CFR Part 1024 (Regulation X), as applicable.

(m) Requirements for Originating Mortgage Loans for the Department.

(1) Any Administrator or staff member of an Administrator originating Mortgage Loans for the Department must be properly licensed and registered as a residential mortgage loan originator in accordance with Chapters 157 and 180 of the Texas Finance Code and its implementing regulations at Chapter 81, Part 4 of Title 7 of the TAC, unless exempt from licensure or registration pursuant to the applicable state and federal laws and regulations regarding residential mortgage loans.

(A) The Department reserves the right to reject any Mortgage Loan application originated by an Administrator or individual that is not properly licensed or registered.

(B) The Department will not reimburse any expenses related to a Mortgage Loan application received from an Administrator or individual that is not properly licensed or registered.

(2) Only Administrators approved by the Department may issue initial mortgage disclosures, including the Loan Estimate and other integrated disclosures for Mortgage Loans made by the Department as required under RESPA, Regulation X, the Dodd Frank Wall Street Reform and Consumer Protection Act (Dodd Frank) at 124 Stat.1375, the Truth in Lending Act (TILA) at 15 U.S.C. §1601 and its implementing regulations at 12 CFR §1026 (Regulation Z), and any applicable Texas laws, statutes, and regulations regarding consumer disclosures for residential mortgage loan transactions.

(A) The Department reserves the right to reject any application for Mortgage Loan and Loan Estimate submitted by an Administrator that has not received Department approval because the loan product as disclosed is not offered or the Borrower does not qualify for that loan product.

(B) The Department will not reimburse any expenses related to a Loan Estimate or Application received from an Administrator that does not have Department approval.

(3) Only an Administrator approved by the Department may issue final mortgage disclosures, including the Closing Disclosures and other integrated disclosures, for Mortgage Loans made by the Department as required under RESPA, Regulation X, Dodd Frank, TILA, Regulation), and any applicable Texas laws, statutes, and regulations regarding consumer disclosures for residential mortgage loan transactions.

(A) The Department reserves the right to reject any Closing Disclosure issued by an Administrator or title company without Department approval.

(B) The Department reserves the right to refuse to fund a Mortgage Loan with a Closing Disclosure that does not have Department approval.

(4) The Department will not allow disbursement of any portion of the Department's Mortgage Loan for acquisition until seller delivers to the Borrower a fully executed deed to the property. After execution of the deed, the deed must be recorded in the records of the county where the property is located.

(5) The first monthly mortgage payment upon closing of the Mortgage Loan with monthly scheduled payments will be due one full month after the last day of the month in which the Mortgage Loan closed. For example, if the Mortgage Loan closed on May 10th or May 30th, the first Mortgage payment will be due July 1st.

(n) Principal Residence. Loans are only permitted for potential Borrowers who will occupy the property as their Principal Residence. The property must be occupied by the potential Borrower within the later of 60 days after closing or completion of the final Draw of Department funds for rehabilitation. It must remain the Household's Principal Residence as defined in the Mortgage Loan documents or in the case of Forgivable Loans, until the forgiveness period has concluded in accordance with the Mortgage documents.

(o) Life-of-Loan Flood Certifications will be required to monitor for FEMA flood map revisions and community participation status changes for the term of the Mortgage Loan.

(p) Requirements for Subordinating to a Refinanced Loan. The Department may consent to the refinancing of the Household's superior third-party lender mortgage and execute a subordination agreement when the following conditions are met:

(1) Borrower is not refinancing into an adjustable rate mortgage;

(2) Combined loan balances do not exceed 100% of appraised value;

(3) There is no increase in principal or interest payments, with the exception made for Borrowers refinancing from a 30-year term to a shorter loan term;

(4) The Borrower will not receive any proceeds from the transaction unless it is for overpayment of Borrower's costs;

(5) All lienholders have consented to the refinancing; and

(6) In the case of Reverse Mortgages insured by the federal government (e.g. Home Equity Conversion Mortgage insured by the Federal Housing Administration), all other requirements are met.

§20.14. Amendments to Written Agreements and Contracts.

(a) The Department, acting by and through its Executive Director or his/her designee, may authorize, execute, and deliver amendments to any written Agreement or Contract that is not a Household commitment contract, provided that the requirements of this section are met unless otherwise indicated in the Program Rules.

(1) Time extensions. The Executive Director or his/her designee may grant up to a cumulative 12 months extension to the end date of any Contract unless otherwise indicated in the Program Rules. Any additional time extension granted by the Executive Director shall include a statement by the Executive Director identifying the unusual, non-foreseeable or extenuating circumstances justifying the extension. If more than a cumulative 12 months of extension is requested and the Department determines there are no unusual, non-foreseeable, or extenuating circumstances, it will be presented to the Board for approval, approval with revisions, or denial of the requested extension.

(2) Award or Contract Reductions. The Department may decrease an award for any good cause including but not limited to the request of the Administrator, insufficient eligible costs to support the award, or failure to meet deadlines or benchmarks.

(3) Changes in Household. Reductions in Contractual deliverables and the number of Households to be served shall require an amendment to the Contract. Increases in Contractual deliverables and Households that do not shift funds, or cumulatively shift less than 10% of total award or Contract funds, shall be completed through an amendment to the Contract and be approved administratively. If such amendment is not approved, the Applicant will have the right to appeal in accordance with §1.7 of this title (relating to Appeals Process).

(4) Increases in Award and Contract Amounts.

(A) For a specific single family Program's Contract, the Department can award a cumulative increase of funds up to 50% of the original award amount.

(B) Requests for increases in funding will be evaluated by the Department on a first-come, first-served basis to assess the capacity to manage additional funding, the demonstrated need for additional funding and the ability to expend the increase in funding within the Contract period.

(C) The considerations to approve an increase in funding shall include, at a minimum, Administrator's ability to continue to meet existing deadlines, benchmarks, and reporting requirements.

(D) Increases in funds may come from Program funds, Deobligated funds, or Program Income.

(E) Qualifying requests will be recommended to the Executive Director or his/her designee for approval.

(F) The Board must approve requests for increases in Program funds in excess of the cumulative increase threshold established in this subsection.

(5) The single family Program Directors may approve Contract budget amendments that meet the requirements of paragraphs (A) - (D) of this subsection if:

(A) Funds must be available in a budget line item;

(B) The budget change(s) are less than 10% of the total Contract's budget;

(C) If units or Activities are desired to be increased, but funds must be shifted from another budget line item in which units or Activities from that budget line item have been completed; and

(D) The cumulative total of a Contract's budget modifications cannot exceed 10% of the original total Contract's budget amount.

(6) The Division Director may approve other amendments to a Contract or an Agreement, including amendments to the Administrator's service area, benchmarks, or selection of Activities administered under a Contract or an Agreement, provided that the amendment would not have negatively impacted the priority of Board approved Applications.

(b) The Department may terminate a Contract in whole or in part if the Administrator does not achieve performance benchmarks as outlined in the Program Rule and/or Contract, or for any other reason in the Department's reasonable discretion.

(c) In all instances noted in this section, where an expected Mortgage Loan transaction is involved, Mortgage Loan documents will be modified accordingly at the expense of the Administrator/borrower.

§20.15. Compliance and Monitoring.

(a) The Department will perform monitoring of single family Program Contracts and Activities in order to ensure that applicable requirements of federal laws and regulations, and state laws and rules have been met, and to provide Administrators with clear communication regarding the condition and operation of these Contracts and Activities so they understand clearly, with a documented record, how they are performing in meeting obligations.

(1) The physical condition of assisted properties and Administrator's documented compliance with contractual and Program requirements may be subject to monitoring.

(2) The Department may contract with an independent third party to monitor an Activity for compliance with any conditions imposed by the Department in connection with the award of any Department funds, and appropriate state and federal laws.

(b) If an Administrator has Contracts for more than one single family Program, or other programs through the Department or the State, the Department may, at its discretion, coordinate monitoring of those programs with monitoring of single family Contracts under this chapter.

(c) In general, Administrators will be scheduled for monitoring based on federal or state monitoring requirements, or a risk assessment process including but not limited to: the number of Contracts administered by the Administrator, the amount of funds awarded and expended, the length of time since the last monitoring, Findings identified during previous monitoring, issues identified through the submission or lack of submission of a Single Audit, complaints, and reports of fraud, waste and/or abuse. The risk assessment will also be used to determine which Administrators will have an onsite review, and which may have a desk review.

(d) The Department will provide an Administrator with written notice of any upcoming onsite or desk monitoring review, and such notice will be given to the Administrator by email to the Administrator's chief executive officer at the email address most recently provided to the Department by the Administrator. In general, a 30 calendar day notice will be provided. However, if a credible complaint of fraud is received, the Department reserves the right to conduct unannounced monitoring visits, or provide a shorter notice period. If the Department receives a complaint under §1.2 of this title (relating to Department Complaint System to the Department), it will follow the procedures

outlined therein instead of this section. It is the responsibility of the Administrator to maintain current contact information with the Department for the organization, key staff members, and governing body in accordance with §1.22 of this title (relating to Providing Contact Information to the Department).

(e) Upon request, an Administrator must make available to the Department all books and records that the Department determines are reasonably relevant to the scope of the Department's review, along with access to assisted properties.

(f) Post Monitoring Procedures. After the review, a written monitoring report will be prepared for the Administrator describing the monitoring assessment and any corrective actions, if applicable. The monitoring report will be emailed to the Administrator. Issues of concern over which there is uncertainty or ambiguity may be discussed by the Department with the staff of cognizant agencies overseeing federal funding.

(g) Administrator Response. If there are any Findings and/or Concerns of noncompliance requiring corrective action, the Administrator will be provided a 30 day corrective action period, which may be extended for good cause. In order to receive an extension, the Administrator must submit a written request to the Compliance Division within the corrective action period, stating the basis for good cause that the Administrator believes justifies the extension. In general, the Department will approve or deny the extension request within three business days. Failure to timely respond to a corrective action notice and/or failure to correct all Findings will be taken into consideration if the Administrator applies for additional funding and may result in suspension of the Contract, referral to the Enforcement Committee, or other action under this title.

(h) Monitoring Close Out. After completion of the monitoring review, a close out letter will be issued to the Administrator. If the Administrator supplies evidence establishing continual compliance that negates the Finding of noncompliance, the issue of noncompliance will be rescinded. If the Administrator's response satisfies all Findings and Concerns noted in the monitoring letter, the issue of noncompliance will be noted as resolved. In some circumstances, the Administrator may be unable to secure documentation to resolve a Finding. In those instances, if there are mitigating circumstances, the Department may note the Finding is not resolved but may close the issue with no further action required. If the Administrator's response does not correct all Findings noted, the close out letter will identify the documentation that must be submitted to correct the issue. Results of monitoring Findings may be reported to the EARAC for consideration relating to Previous Participation.

(i) Options for Review. If, following the submission of corrective action documentation, Compliance staff continues to find the Administrator in noncompliance, and the Administrator disagrees, the Administrator may request or initiate review of the matter using the following options, where applicable:

(1) If the issue is related to a federal program requirement or prohibition, Administrators may contact an applicable federal program officer for guidance, or request that the Department contact applicable federal program officer for guidance without identifying the Administrator.

(2) If the issue is related to a provision of the Contract or a requirement of the TAC, or a provision of UGMS, the Administrator may submit an appeal to the Executive Director consistent with §1.7 of this title (relating to Appeals Process).

(3) An Administrator may request Alternative Dispute Resolution (ADR). An Administrator must send a proposal to the De-

partment's Dispute Resolution Coordinator to initiate ADR pursuant to §1.17 of this title (relating to Alternative Dispute Resolution).

(j) If an Administrator does not respond to a monitoring letter or fails to provide acceptable evidence of timely compliance after notification of an issue, the matter will be reported to the Department's Enforcement Committee for consideration of administrative penalties, full or partial cost reimbursement, or suspension.

(k) An Administrator must provide timely response to corrective action requirements imposed by other agencies. Administrator records may be reviewed during the course of monitoring or audit of the Department by HUD, the Office of the Inspector General, the State Auditor's Office, or others. If a Finding or Concern is identified during the course of a monitoring or audit by another agency, the Administrator is required to provide timely action and response within the conditions imposed by that agency's notice.

§20.16. Appeals.

Appeal of Department staff decisions or actions will follow requirements in Program Rules and Chapter 1 of this title (relating to Administration).

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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David Cervantes

Acting Director

Texas Department of Housing and Community Affairs

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For further information, please call: (512) 475-1762



CHAPTER 21. MINIMUM ENERGY EFFICIENCY REQUIREMENTS FOR SINGLE FAMILY CONSTRUCTION ACTIVITIES

10 TAC §§21.1 - 21.6

The Texas Department of Housing and Community Affairs (the Department) proposes the repeal of 10 TAC Chapter 21, Minimum Energy Efficiency Requirements for Single Family Construction Activities, §§21.1 - 21.6. The purpose of the repeal is to eliminate an outdated rule while adopting a new updated rule under separate action.

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

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

David Cervantes, Acting Director, has determined that, for the first five years the repeal will be in effect:

1. The repeal does not create or eliminate a government program, but relates to the repeal, and simultaneous adoption making changes to the rule governing Minimum Energy Efficiency Requirements for Single Family Construction Activities.

2. The repeal does not require a change in work that will require the creation of new employee positions, nor will the repeal reduce workload to a degree that any existing employee positions are eliminated.

3. The repeal does not require additional future legislative appropriations.
4. The repeal does not result in an increase in fees paid to the Department nor in a decrease in fees paid to the Department.
5. The repeal is not creating a new regulation, except that it is being replaced by a new rule simultaneously to provide for revisions.
6. The action will repeal an existing regulation, but is associated with a simultaneous readoption making changes to the existing procedures for Minimum Energy Efficiency Requirements for Single Family Construction Activities.
7. The repeal will not increase nor decrease the number of individuals subject to the rule's applicability.
8. The repeal will not negatively nor positively affect this state's economy.

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

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

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The repeal does not contemplate nor authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

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

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

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Cervantes has determined that, for each year of the first five years the repeal is in effect, the public benefit anticipated as a result of the repealed section would be an elimination of an outdated rule while adopting a new updated rule under separate action. There will be no economic costs to individuals required to comply with the repealed section.

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

REQUEST FOR PUBLIC COMMENT. The public comment period will be held August 9, 2019, to September 9, 2019, to receive input on the repealed rule. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Raul Gonzales, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941 or email htf@tdhca.state.tx.us. **ALL COMMENTS MUST BE RECEIVED BY 5:00 p.m., Austin local time, September 9, 2019.**

STATUTORY AUTHORITY. The repeal is proposed pursuant to Tex. Gov't Code, §2306.053, which authorizes the Department to adopt rules, and §2306.187, which authorizes the Department

to develop and adopt rules relating to Minimum Energy Efficiency requirements for new construction, reconstruction, and rehabilitation activities for Single Family dwellings.

Except as described, herein the proposed repealed rule affects no other code, article, or statute.

§21.1. *Purpose.*

§21.2. *General Requirements.*

§21.3. *Definitions.*

§21.4. *New Construction and Reconstruction Activities.*

§21.5. *Manufactured Housing Unit Activities.*

§21.6. *Rehabilitation Activities.*

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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David Cervantes

Acting Director

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10 TAC §§21.1 - 21.6

The Texas Department of Housing and Community Affairs (the Department) proposes new 10 TAC Chapter 21, Minimum Energy Efficiency Requirements for Single Family Construction Activities, §§21.1 - 21.6. The purpose of the new rule is to further clarify construction requirements.

Tex. Gov't Code §2001.0045(b) does apply to the rule being proposed because no exceptions apply, however it should be noted that no costs are associated with this action that would have prompted a need to be offset.

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

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

David Cervantes, Acting Director, has determined that, for the first five years the proposed rule will be in effect:

1. The new rule does not create or eliminate a government program, but relates to the readoption of this rule which makes changes governing Minimum Energy Efficiency Requirements for Single Family Construction Activities.
2. The new rule does not require a change in work that will require the creation of new employee positions, nor will the new rule reduce workload to a degree that any existing employee positions are eliminated.
3. The new rule does not require additional future legislative appropriations.
4. The new rule does not result in an increase in fees paid to the Department nor in a decrease in fees paid to the Department.
5. The new rule is not creating a new regulation, except that it is replacing a rule being repealed simultaneously to provide for revisions.

6. The new rule will not limit, expand or repeal an existing regulation but merely revises a rule.

7. The new rule will not increase nor decrease the number of individuals subject to the rule's applicability.

8. The new rule will not negatively nor positively affect the state's economy.

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

The Department has evaluated this new rule and determined that it will not create an economic effect on small or micro-businesses or rural communities.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The new rule does not contemplate nor authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

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

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

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Cervantes has determined that, for each year of the first five years the new rule is in effect, the public benefit anticipated as a result of the new rule would be to further clarify Minimum Energy Efficiency Requirements for Single Family Construction Activities. The purpose of the new rule is to further clarify construction requirements. There will be no economic costs to individuals required to comply with the new rule.

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

REQUEST FOR PUBLIC COMMENT. The public comment period will be held August 9, 2019, to September 9, 2019, to receive input on the new rule. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Raul Gonzales, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941 or email hff@tdhca.state.tx.us. ALL COMMENTS MUST BE RECEIVED BY 5:00 p.m., Austin local time, September 9, 2019.

STATUTORY AUTHORITY. The new rule is proposed pursuant to Tex. Gov't Code, §2306.053, which authorizes the Department to adopt rules, and §2306.187, which authorizes the Department to develop and adopt rules relating to Minimum Energy Efficiency requirements for new construction, reconstruction, and rehabilitation activities for Single Family dwellings.

Except as described, herein the proposed new rule affects no other code, article, or statute.

§21.1. Purpose.

(a) Tex. Gov't Code, §2306.187 requires that the Department develop and adopt rules relating to Minimum Energy Efficiency requirements for new construction, reconstruction, and rehabilitation activities in Single Family Programs.

(b) This chapter describes the Minimum Energy Efficiency Requirements for all single family construction activities, which includes the Department's HOME Investments Partnership Program (HOME), Housing Trust Fund (HTF), Neighborhood Stabilization Program (NSP), Office of Colonia Initiatives (OCI) Programs, and other single family programs as developed by the Department.

§21.2. General Requirements.

Unless otherwise noted, this chapter only applies to single family programs. Program rules may impose additional requirements related to any provision of this chapter. Elements of local residential building codes that require a greater degree of energy efficiency than this chapter, in part or in whole, shall also be followed.

§21.3. Definitions.

(a) Any capitalized terms that are defined in Tex. Gov't Code, §2306, and Chapter 1 of this title (relating to Administration), Chapter 2 of this title (relating to Enforcement), Chapter 20 of this title (relating to Single Family Programs Umbrella Rule), or other applicable Department Program Rule, have, when capitalized, the meanings ascribed to them therein.

(b) The following words and terms, when used in this chapter, shall have the following meanings unless the context or the Notice of Funding Availability (NOFA) indicates otherwise.

(1) ENERGY STAR Certified Appliances, Equipment, and Products--Labeled appliances, equipment, and products that are independently certified to save energy without sacrificing features or functionality, meeting the US EPA's specifications for energy efficiency and performance.

(2) ENERGY STAR Certified Home--A new construction home that has earned the ENERGY STAR label and has undergone a process of inspections, testing, and verification to meet requirements set forth by the US EPA.

(3) ENERGY STAR Certified Manufactured Housing Unit--A manufactured home that has been designed, produced and installed by the home manufacturer to meet ENERGY STAR requirements for energy efficiency.

(4) RESNET--Residential Energy Services Network. RESNET is an independent, nonprofit organization established in 1995 to help homeowners reduce the cost of their utility bills by making their homes more energy efficient. RESNET-certified Home Energy Systems Raters are required to inspect, test, and verify homes for ENERGY STAR certification.

(5) WaterSense Labeled Fixtures--Labeled products that are backed by independent, third-party testing and certification, meeting the US EPA's specifications for water efficiency and performance.

(6) US EPA--United States Environmental Protection Agency.

§21.4. New Construction and Reconstruction Activities.

(a) Single family residential dwellings, as defined in §388.002 of the Health and Safety Code, that are newly constructed or reconstructed shall comply with §388 of the Health and Safety Code (Texas Building Energy Performance Standards).

(b) Effective September 1, 2016, the Texas State Energy Conservation Office adopted the 2015 International Residential Code (Chapter 11) as the state-mandated energy code for all residential

construction, which includes one- and two-family residences of three stories or less above grade.

§21.5. Manufactured Housing Unit Activities.

All Manufactured Housing Units installed as replacement for sub-standard housing shall be ENERGY STAR certified.

§21.6. Rehabilitation Activities.

(a) All Rehabilitation activities shall comply with this chapter.

(b) Certifications of compliance with this chapter shall be required by the Administrator or a third party inspector for release of final payment from the Department as outlined in the Program Rule.

(c) If the proposed scope of work or the awarded construction contract for the Rehabilitation of an existing single family residential unit includes an item described in paragraphs (1) - (10) of this subsection, the specific requirement so noted in paragraphs (1) - (10) shall apply:

(1) Replacement or installation of central heating and cooling equipment and appliances shall be installed in accordance with the manufacturer's instructions and the requirements of Chapter 14 of the 2015 International Residential Code;

(2) Replacement or installation of duct systems serving heating, cooling and ventilation equipment shall be installed in accordance with the provisions of Chapter 16 of the 2015 International Residential Code;

(3) If central heating and cooling equipment is replaced or installed, attic insulation shall be installed or increased according to Chapter 11, Figure N1102.1.2 of the 2015 International Residential Code, including insulation covering the top plates of exterior walls. Eave baffles and access hatches shall be installed as specified in Chapter 11, Sections N1102.2.3- N1102.2.4 of the 2015 International Residential Code.

(4) If ductless heating and cooling systems (also known as mini-split, multi-split or variable refrigerant flow (VRF) heat pump systems) are replaced or installed, they shall be ENERGY STAR certified;

(5) If exhaust fans are replaced or installed in bathrooms or kitchens, they shall be ENERGY STAR certified and installed in accordance with Chapter 15 of the 2015 International Residential Code;

(6) If windows are installed, they shall be ENERGY STAR certified windows, meeting the U-factor and Solar Heat Gain Coefficient for the climate zone of the dwelling as identified in Chapter 11, Table N1102.1.2 of the 2015 International Residential Code;

(7) If doors are installed, they shall be ENERGY STAR certified doors;

(8) Electrical fixtures, equipment and appliances that are replaced or installed, where applicable, shall be ENERGY STAR certified products;

(9) Plumbing fixtures that are replaced or installed, where applicable, shall be WaterSense labeled products; and

(10) Domestic water heaters, storage and tankless, when replaced or installed, shall meet the Federal Energy Conservation Standards required by 10 CFR 430.32, as they may be revised from time to time.

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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Acting Director

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CHAPTER 24. TEXAS BOOTSTRAP LOAN PROGRAM RULE

10 TAC §§24.1 - 24.13

The Texas Department of Housing and Community Affairs (the Department) proposes the repeal of 10 TAC Chapter 24, Texas Bootstrap Loan Program Rule, §§24.1 - 24.13. The purpose of the repeal is to eliminate outdated rules while adopting new updated rules under separate action.

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

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

David Cervantes, Acting Director, has determined that, for the first five years the repeal will be in effect:

1. The repeal does not create or eliminate a government program, but relates to the simultaneous adoption making changes to the rules governing the Texas Bootstrap Loan Program.

2. The repeal does not require a change in work that will require the creation of new employee positions, nor will the repeal reduce workload to a degree that any existing employee positions are eliminated.

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

4. The repeal does not result in an increase in fees paid to the Department nor in a decrease in fees paid to the Department.

5. The repeal is not creating a new regulation, except that it is being replaced by new rules simultaneously to provide for revisions.

6. The action will repeal an existing regulation, but is associated with a simultaneous readoption making changes to the existing procedures for the Texas Bootstrap Loan Program.

7. The repeal will not increase nor decrease the number of individuals subject to the rules' applicability.

8. The repeal will not negatively nor positively affect the state's economy.

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

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

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The repeal does not contemplate nor authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

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

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

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Cervantes has determined that, for each year of the first five years the repeal is in effect, the public benefit anticipated as a result of the repealed sections would be an elimination of outdated rules while adopting new updated rules under separate action. There will be no economic costs to individuals required to comply with the repealed sections.

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

g. REQUEST FOR PUBLIC COMMENT. The public comment period will be held August 9, 2019, to September 9, 2019, to receive input on the repealed rules. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Raul Gonzales, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941 or email hff@tdhca.state.tx.us. ALL COMMENTS MUST BE RECEIVED BY 5:00 p.m., Austin local time, September 9, 2019.

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

Except as described herein, the proposed repealed rules affect no other code, article, or statute.

§24.1. *Purpose.*

§24.2. *Definitions.*

§24.3. *Allocation of Funds.*

§24.4. *Participant Requirements.*

§24.5. *Program Activities.*

§24.6. *Prohibited Activities.*

§24.7. *Distribution of Funds.*

§24.8. *Criteria for Funding.*

§24.9. *Program Administration.*

§24.10. *Owner-Builder Qualifications.*

§24.11. *Types of Funding Transactions.*

§24.12. *Property Guidelines and Related Issues.*

§24.13. *Nonprofit Owner-Builder Housing Program Certification.*

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

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10 TAC §§24.1 - 24.13

The Texas Department of Housing and Community Affairs (the Department) proposes new 10 TAC Chapter 24, Texas Bootstrap Loan Program Rule, §§24.1 - 24.13. The purpose of the new rule is to further clarify program administration and Nonprofit Owner-Builder Housing Program certifications, modify the length of extension the Department may grant to an Owner-Builder, and improve readability and consistency throughout with the re-ordering of phrases and updating of terms.

Tex. Gov't Code §2001.0045(b) does apply to the rule being proposed because no exceptions apply; however, it should be noted that no costs are associated with this action that would have prompted a need to be offset.

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

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

David Cervantes, Acting Director, has determined that, for the first five years the proposed rule will be in effect:

1. The new rule does not create or eliminate a government program, but relates to the readoption of this rule which makes changes governing the Texas Bootstrap Loan Program.

2. The new rule does not require a change in work that will require the creation of new employee positions, nor will the new rule reduce workload to a degree that any existing employee positions are eliminated.

3. The new rule does not require additional future legislative appropriations.

4. The new rule does not result in an increase in fees paid to the Department nor in a decrease in fees paid to the Department.

5. The new rule is not creating a new regulation, except that it is replacing a rule being repealed simultaneously to provide for revisions.

6. The new rule will not limit, expand or repeal an existing regulation but merely revises a rule.

7. The new rule will not increase nor decrease the number of individuals subject to the rule's applicability.

8. The new rule will not negatively nor positively affect the state's economy.

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

The Department has evaluated this new rule and determined that it will not create an economic effect on small or micro-businesses or rural communities.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The new rule does not contemplate nor authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

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

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

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Cervantes has determined that, for each year of the first five years the new rule is in effect, the public benefit anticipated as a result of the new rule would be to further clarify the Texas Bootstrap Loan Program. The purpose of the new rule is to further clarify aspects of program administration and to improve readability. There will be no economic costs to individuals required to comply with the new rule.

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

g. REQUEST FOR PUBLIC COMMENT. The public comment period will be held August 9, 2019, to September 9, 2019, to receive input on the new rule. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Raul Gonzales, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941 or email htf@tdhca.state.tx.us. ALL COMMENTS MUST BE RECEIVED BY 5:00 p.m., Austin local time, September 9, 2019.

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

Except as described herein, the proposed new rule affects no other code, article, or statute.

§24.1. Purpose.

(a) This chapter clarifies the Texas Bootstrap Loan Program, administered by the Texas Department of Housing and Community Affairs (the Department), also known as the Owner-Builder Loan Program. The Texas Bootstrap Loan Program provides assistance to income-eligible individuals, families and households to purchase or refinance real property, on which to build new residential housing or improve existing residential housing. The Program is administered in accordance with Tex. Gov't Code, Chapter 2306, Subchapter FF, Chapter 1 of this title (relating to Administration), Chapter 2 of this title (relating to Enforcement), Chapter 20 of this title (relating to Single Family Programs Umbrella Rule), Chapter 21 of this title (relating to Minimum Energy Efficiency Requirements for Single Family Construction Activities), and Chapter 26 of this title (relating to Texas Housing Trust Fund Rule).

(b) The Texas Bootstrap Loan Program is a Self-Help construction Program that is designed to provide very low-income families an opportunity to help themselves attain homeownership or repair their existing homes through sweat equity. All applicable building codes and housing standards are adhered to under this Program.

§24.2. Definitions.

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise. Other definitions may be found in Tex. Gov't Code, Chapter 2306, Chapter 1 of this title (relating to Administration), Chapter 2 of this title (relating to Enforcement), Chapter 20 of this title (relating to Single Family Programs Umbrella Rule), Chapter 21 of this title (relating to Minimum Energy Efficiency Requirements for Single Family Construction Activities), and Chapter 26 of this title (relating to Texas Housing Trust Fund Rule).

(1) Capital Recovery Fee--A charge or assessment imposed by a political subdivision against new development in order to generate revenue for funding or recouping the costs of capital

improvements or facility expansions necessitated by and attributable to the new development. The term includes amortized charges, lump-sum charges, contributions in aid of construction, and any other fee that functions as described by this definition.

(2) Loan Origination Agreement--A written agreement, including all amendments thereto between the Department and the Participant that authorizes the Participant to originate certain loans under the Texas Bootstrap Loan Program.

(3) NOHP--Nonprofit Owner-Builder Housing Provider.

(4) Owner-Builder--A person, other than a person who owns or operates a construction business and who owns or purchases a piece of real property through a warranty deed and deed of trust; or is purchasing a piece of real property under a Contract for Deed entered into before January 1, 1999; and who undertakes to make improvements to that property.

(5) Participant--An NOHP or Colonia Self-Help Center that is certified by the Department to participate in the Program.

(6) Program--Texas Bootstrap Loan Program also known as the Owner-Builder Loan Program.

(7) Self-Help Housing Construction--The Self-Help Housing process enables Owner-Builders to Rehabilitate, Reconstruct or construct their own homes, usually working together in groups on other eligible Owner-Builder's houses at the same time. Owner-Builders use their own "sweat equity" to reduce the cost of their homes.

§24.3. Allocation of Funds.

(a) The Department administers all Texas Bootstrap Loan Program funds provided to the Department in accordance with Tex. Gov't Code, Chapter 2306, Subchapter FF.

(b) The Department may make loans for the Texas Bootstrap Loan Program from:

(1) Available funds in the Housing Trust Fund established under Tex. Gov't Code, §2306.201; or

(2) Federal block grants that may be used for the purposes of this chapter.

(c) Each state fiscal year the Department shall transfer at least \$3 million (or another amount if so required by Tex. Gov't Code and/or the General Appropriations Act) to the Texas Bootstrap Loan Program from money received under federal block grants or from available funds in the Housing Trust Fund.

(d) The Department may use up to 10% of Program funds available per state fiscal year to enhance the ability of tax-exempt organizations described by Tex. Gov't Code §2306.755(a) to increase the number of such organizations that are able to implement the Program. The Department shall use that available revenue to provide financial assistance, technical training and management support.

§24.4. Participant Requirements.

(a) Eligible Participants. The following organizations or entities are eligible to become Participants in the Texas Bootstrap Loan Program:

(1) Colonia Self Help Centers established under Tex. Gov't Code, Chapter 2306, Subchapter Z; or

(2) NOHPs certified by the Department pursuant to Tex. Gov't Code §2306.755.

(b) Eligibility requirements. The Participant must enter into a Loan Origination Agreement with the Department in order to be eligible to submit an Activity through the Reservation System. The Par-

participant must have the capacity to administer and manage resources as evidenced by previous experience of managing state and/or federal programs.

§24.5. Program Activities.

Texas Bootstrap Loan Program funds may be used to finance affordable housing and promote homeownership through acquisition, new construction, reconstruction, or rehabilitation of residential housing. All eligible organizations that satisfy the requirements of this chapter may reserve funds by submitting a loan application on behalf of an Owner-Builder Applicant for the Texas Bootstrap Loan Program.

§24.6. Prohibited Activities.

The fees described in paragraphs (1) - (8) of this section are prohibited Program expenditures and may not be charged directly to the Owner-Builder; however, these expenses may be charged as an allowable cost by a third party lender or servicer for a Texas Bootstrap loan:

(1) Payment of delinquent property taxes or related fees or charges on properties to be assisted with Texas Bootstrap Loan Program funds;

(2) Loan origination fees;

(3) Application fees;

(4) Discount fees;

(5) Underwriter fees;

(6) Loan processing fees;

(7) Loan servicing fees; and

(8) Other fees not approved by the Department in writing prior to expenditure.

§24.7. Distribution of Funds.

(a) Set-Asides. In accordance with Tex. Gov't Code §2306.753(d), at least two-thirds of the dollar amount of Program loans made in each fiscal year must be made to Owner-Builders whose real property is located in a census tract that has a median household income that is not greater than 75% of the median state household income for the most recent year for which statistics are available.

(b) Balance of State. The remaining one-third of the dollar amount of Program loans made may be made to Owner-Builders anywhere in the state.

(c) Loan Priority. The Department may allow a Participant access to the Reservation System 24 hours prior to all other Participants for reservations for Owner-Builder Applicants that meet the following criteria:

(1) Annual household income is less than \$17,500; or

(2) Real property is located in a county and/or municipality that agrees in writing to waive the Capital Recovery Fees, building permit fee or other fees related to the house(s) to be built with the loan proceeds. Owner-Builder Applicant will not receive priority if there are none of the above fees imposed by the county and/or municipality or water supply company.

§24.8. Criteria for Funding and Reservations.

(a) The Department will distribute Program funds in accordance with the Texas Housing Trust Fund (SHTF) Plan in effect at the time. The Department will publish an announcement for a NOFA in the *Texas Register* and post the NOFA on the Department's website. The rules referenced in §24.1 of this chapter (relating to Purpose) and the

NOFA will establish and define the terms, conditions, and maximum Reservation amounts allowed per Participant. The Department may also set a deadline for receiving Reservations and/or Applications. The NOFA will indicate the approximate amount of available funds. The Department may increase the amount of funds made available through the NOFA from time to time without republishing the NOFA in the *Texas Register*. Such increases will be reflected on the Department's website.

(b) Any Reservation containing false information will be disqualified. The Department will review and process all Reservations in the order received.

(c) Reservations received by the Department in response to a NOFA will be handled as described in paragraphs (1) - (5) of this subsection.

(1) The Department will accept Reservations until all funds under the NOFA have been committed. The Department may limit the eligibility of Reservations in the NOFA.

(2) Each Reservation will be assigned a "received date" based on the date and time the Reservation was entered into the Texas Bootstrap Loan Program Reservation system. Each Reservation will be reviewed in accordance with the Program rules.

(3) Reservations must comply with all applicable Texas Bootstrap Loan Program requirements or regulations established in this chapter. Reservations that do not comply with such requirements may be disqualified. The Participant will be notified in writing of any cancelled and/or disqualified Reservations.

(4) If a Reservation contains deficiencies which, in the determination of the Department, require clarification or correction of information submitted at the time of the Reservation, the Department may request clarification or correction in the form of a deficiency notice to the Participant. If the Participant is unable to cure any deficiencies within 15 calendar days, the Department may decline to fund the Reservation. The Department may provide one 15-calendar-day extension to the deficiency notice.

(5) Prior to issuing an Applicant eligibility letter the Department may decline to fund any Reservation entered into the Reservation system if the proposed housing Activities do not, in the Department's sole determination, represent a prudent use of the Department's funds. The Department is not obligated to proceed with any action pertaining to any Reservation which are entered, and may decide it is in the Department's best interest to refrain from committing the funds. If the Department has issued an Applicant eligibility letter to the Owner-Builder Applicant, but the Participant and/or Owner-Builder Applicant has not complied with all the Program rules and guidelines, the Department may suspend funding until the Participant and/or Owner-Builder Applicant has satisfied all requirements of the Program.

§24.9. Program Administration.

(a) Pursuant to Tex. Gov't Code §2306.754(b), the Department shall not exceed \$45,000 in household assistance for any Texas Bootstrap Loan Program loan. If it is not possible for an Owner-Builder to purchase necessary real property and build or rehabilitate adequate housing for \$45,000, the Owner-Builder must obtain the additional amounts necessary from other sources, which may include other types of Department funds with the exception of other State Housing Trust Funds.

(b) The Department shall make loans for Owner-Builder Applicants to enable them to:

(1) Build new residential housing, including the purchase or refinance of real property, if needed, on which to undertake such Activity; or

(2) Improve existing residential housing, including the purchase or refinance of real property, if needed, on which to undertake such Activity.

(c) Upon approval by the Department, the Participant shall enter into, execute, and deliver to the Department the Loan Origination Agreement. The Department may terminate the Loan Origination Agreement in whole or in part if the Participant has not performed as outlined in the Program Rule, NOFA, Loan Origination Agreement, and/or Program Manual.

(d) If the Owner-Builder Applicant qualifies for the Program, the Department will issue an Applicant eligibility letter which reserves up to \$45,000 in funds for 12 months from the date of the Applicant eligibility letter. The Owner-Builder Applicant will not be required to re-qualify if the Owner-Builder Applicant closes by the expiration date on the Applicant eligibility letter. If an Owner-Builder Applicant does not close by the expiration date, the Owner-Builder Applicant must re-qualify for the Program; however, the Department may grant an extension of up to 180 days from the expiration date on the original Applicant eligibility letter. If the Owner-Builder Applicant fails to close on the loan after the extension is granted the Reservation and/or loan will be cancelled.

(e) Roles and responsibilities for administering the Program Contract. Participants are required to:

(1) Qualify potential Owner-Builders for loans;

(2) Provide Owner-Builder homeownership education classes;

(3) Supervise and assist Owner-Builders to build and/or Rehabilitate housing;

(4) Facilitate loans made or purchased by the Department under the Program; and

(5) Implement and administer the Program on behalf of the Department.

(f) Loan Servicing Agreement. If the Participant wishes to service the loans originated on behalf of the Department it must obtain prior approval and enter into a Loan Servicing Agreement with the Department. A Participant's approval to begin servicing loans and/or to continue servicing loans is at the written discretion of the Department.

(g) First Year Consultation Agreement. If the Department notifies the Participant that an Owner-Builder has failed to make a scheduled payment due under the Program loan, or other payments due under the Program loan documents, within the first 12 months of funding, the Participant must meet with the Owner-Builder and provide counseling to assist in bringing the payments current. After such consultation and in the event that the Department and Participant are not able to bring the Program loan current, the Department in accordance with its administrative rules may apply appropriate graduated sanctions leading up to, but not limited to, deobligation of funds and future debarment from participation in the Program.

(h) Administrative Fee. The Participant will be granted a 10% administration fee upon completion of the house and funding of each Mortgage loan.

(i) Blueprints. If the activity is new construction, Participant must submit a legible copy of the proposed blueprints for approval by the Department prior to the Participant accepting applications for Owner-Builder Applicants. Blueprints must include the construction

requirements pursuant to Tex. Gov't Code §2306.514, and be prepared and executed by an architect or engineer licensed by the state of Texas.

(j) Work Write-up. If Participant's activity is rehabilitation, Participant must adhere to TMCS and submit work write-ups and cost estimations for Department approval prior to construction.

(k) Loan Program requirements. The Department may purchase or originate loans that conform to the lending parameters and the specific loan Program requirements as described in paragraphs (1) - (7) of this subsection:

(1) Pursuant to Tex. Gov't Code §2306.754(b), the maximum Texas Bootstrap Loan Program loan amount per Household shall not exceed \$45,000. If it is not possible for an Owner-Builder to purchase necessary real property and build or rehabilitate adequate housing for \$45,000, the Owner-Builder must obtain the additional amounts necessary from other sources, which may include other types of Department funds with the exception of other State Housing Trust Funds;

(2) Minimum loan amount is \$1,000;

(3) Loan term may not exceed 30 years;

(4) Loan term may not be less than five years;

(5) 0% non-interest loan;

(6) When refinancing a Contract for Deed, the Department will not disburse any portion of the Department's loan until the Owner-Builder receives a deed to the property; and

(7) Owner-Builder must have resided in Texas for the preceding six months prior to the date of loan application.

(l) Loan Assumption. A Program loan is assumable if the Department determines that the Owner-Builder Applicant complies with all Program requirements in effect at the time of the assumption.

(m) Forgivable Loan. The term for a Forgivable Loan may not exceed 15 years from the date of closing.

§24.10. Owner-Builder Qualifications.

The Owner-Builder must:

(1) Own or be purchasing a piece of real property through a warranty deed or Contract for Deed;

(2) Not have an annual household income that exceeds 60% of the greater of the state or local area median family income as determined by HUD's current income table. Eligibility Income is the total Household income including all income (salary, tips, bonus, overtime, alimony, child support, benefits, etc.) received by the Owner-Builder Applicant, co-Applicant and/or any other persons living in the home. This income is used to determine whether the household income exceeds 60% of the Area Median Family Income or 60% of the State Median Family Income, adjusted for Household size, whichever is greater. No income is excluded in this calculation.

(3) Execute a Self-Help Agreement committing to specify and satisfy one of the criteria provided for in subparagraphs (A) - (D) of this paragraph:

(A) Provide at least 65% of the labor necessary to build or rehabilitate the proposed housing through a state-certified Participant;

(B) Provide an amount of labor equivalent to 65% in connection with building or rehabilitating housing for others through a state-certified Participant;

(C) Provide through the noncontract labor of friends, family, or volunteers and through personal labor at least 65% of the

labor necessary to build or rehabilitate the proposed housing through a state-certified Participant; or

(D) If due to a documented disability or other limiting circumstances the Owner-Builder cannot provide the amount of personal labor otherwise required, provide through the noncontract labor of friends, family or volunteers at least 65% of the labor necessary to build or rehabilitate the proposed housing through a state-certified Participant;

(4) Successfully complete an Owner-Builder homeownership education class prior to loan funding;

(5) Not have any outstanding judgments and/or liens on the property; and

(6) The Owner-Builder must occupy the residence as a Principal Residence within 30 days of the end of the construction period or the closing of the loan, whichever is later. If the Owner-Builder fails to do so, the Department may declare the loan in default and accelerate the note. Any additional habitable structures must be removed from the property prior to closing; however, a portion of the structure may be utilized as storage upon the Department's written approval prior to closing.

§24.11. Types of Funding Transactions.

All Mortgage Loans will be evidenced by a promissory note and will be secured by a lien on the subject property. The following transaction types are permitted by the Department under the Program.

(1) Purchase Money. All Program funds are used to finance the purchase of a single-family dwelling unit and/or a piece of real property. The Department makes a permanent loan to the Owner-Builder and the Owner-Builder's repayment obligation begins immediately. In certain situations, eligible closing costs may be financed by the loan proceeds.

(2) Residential Construction. This transaction is treated as a purchase and is a one-time closing with the Owner-Builder. Construction period may be up to 12 months.

(3) Interim Construction (Closing with Participant). Interim construction is a commercial transaction between the Participant and the Department that is with respect to a specific Owner-Builder. The construction period may be up to 12 months. Once the construction of the home is completed, the closing with the Owner-Builder will take place as a purchase money transaction.

(4) Purchase of Mortgage loans. The Department may purchase and take assignments from Mortgage lenders of notes and other obligations evidencing loans or interest in loans for purchase money transactions as described in paragraph (1) of this section or for residential construction transactions as described in paragraph (2) of this section.

§24.12. Property Guidelines and Related Issues.

(a) A final appraisal is required by the Department on each property prior to closing.

(b) Loan-to-value ratio may not exceed 95% of the appraised value. The lien amounts of Forgivable Loans and/or Grants will not be included in the loan-to-value calculation.

(c) Combined loan-to-value ratio, which will be calculated to include the amounts of Forgivable Loans, may not exceed 100% of the appraised value.

(d) Improvement Surveys are required on each property.

(e) Category 1A (Texas Society of Professional Surveyors) lot surveys are required for all interim and residential construction loans.

Upon Department approval a recorded subdivision plat may be used in lieu of lot surveys for interim construction loans only. Upon completion of construction an Improvement Survey must also be provided.

(f) Title Commitment. A copy of the preliminary title report including complete legal description and copies of covenants, conditions and restrictions, easements, and any supplements thereto is required. The preliminary title report should not be more than 30 days old at the time the submission or funding package is sent to the Department and must list the Department's Loan.

(g) Existing Property. A property inspection will be required to be completed by a professional inspector licensed by the Texas Real Estate Commission for all existing properties. A copy of the inspection report must be submitted and any deficiencies listed on the report must be corrected prior to closing. Cosmetic issues such as paint, wall texture, etc. may not be required to be corrected if utilizing a Self-Help construction Program. A copy of the inspection report must be provided to the Owner-Builder Applicant and the Department. The Participant and/or the Owner-Builder Applicant will be responsible for the selection and/or the fee of the licensed inspector.

§24.13. Nonprofit Owner-Builder Housing Program Certification.

(a) The term, Applicant, when used in this section, shall mean a Nonprofit Organization that is an NOHP or has submitted a request to the Department for certification as an NOHP in order to participate in the Texas Bootstrap Loan Program.

(b) Application Procedures for NOHP Certification or NOHP Recertification. An entity requesting NOHP certification or a Participant requesting recertification must submit an Application prior to submitting an Application for the Texas Bootstrap Loan Program Reservation system. Initial NOHP certification must meet all of the criteria listed in paragraphs (1) - (6) of this subsection. NOHP recertification must occur every three years. NOHP recertification for only loan servicing activities will only require that the NOHP be in good standing with the Department and that they complete an annual recertification to the loan servicing agreement. NOHP recertification for loan origination requires that the NOHP be in good standing with the Department; submission of the criteria listed in paragraphs (1) - (6) of this subsection is only required if any changes have occurred.

(1) The entity legal status must satisfy all of the criteria in subparagraphs (A) - (E) of this paragraph:

(A) Must be organized as a nonprofit organization under the Texas Business Code or other state not-for-profit/nonprofit statute as evidenced by charter or Certificate of Formation, or must be a Colonia Self-Help Center;

(B) Must be registered and in good standing with the Office of the Secretary of State and the State Comptroller's Office to do business in the state of Texas;

(C) No part of the Nonprofit Organization's net earnings may inure to the benefit of any member, founder, contributor, or individual, as evidenced by charter or Certificate of Formation;

(D) Must have the following tax status and a pending application for §501(c)(3) status cannot be used to comply with this requirement;

(i) a current letter of determination from the Internal Revenue Service (IRS) under §501(c)(3), a charitable, nonprofit corporation, of the Internal Revenue Code of 1986, as evidenced by a certificate from the IRS dated 1986 or later. The exemption ruling must be effective on the date of the Application and must continue to be effective while certified as an NOHP; or

(ii) classification as a subordinate of a central Non-profit Organization under the Internal Revenue Code §501(c)(3), as evidenced by a current group exemption letter dated 1986 or later; and

(E) Must have among its purposes the provision of decent housing that is affordable to low and moderate income people as evidenced by a statement in the organization's charter, Certificate of Formation, Resolutions, or Bylaws.

(2) The entity must:

(A) Conform to the United States Generally Accepted Accounting Principles (GAAP) as evidenced by a:

(i) notarized statement by the Executive Director or chief financial officer of the organization in a form prescribed by the Department; or

(ii) certification from a Certified Public Accountant; and

(B) If the entity will be utilizing interim or residential construction funds it must provide an audited financial statement for the most recent fiscal year or a signed and dated financial statement for the period since last published audit. If the entity does not have audited financial statements or a signed and dated financial statement for the period since last published audit must provide a resolution from the Board of Directors that is signed and dated within 6 months from the date of application and certifies that the accounting procedures used by the organization conform to the GAAP. Participants that are certified NOHPs and do not have audited financial statements or a signed and dated financial statement for the period since last published audit are restricted to only originating permanent loans and will be ineligible for any interim or residential construction loans until the Department has reviewed the most current audited financial statements;

(C) Have a demonstrated capacity of at least one year for carrying out Mortgage loan origination and Self-Help housing construction Activities, as evidenced by resumes and/or statements that describe the experience of key staff members who have successfully completed projects similar to those to be assisted with Texas Bootstrap Loan Program funds; or contract(s) with consultant firms or individuals who have housing experience similar to projects to be assisted with Texas Bootstrap Loan Program funds, to train appropriate key staff of the organization. If applying for NOHP recertification the organization is in good standing as determined by the Department, the organization will not be required to submit any additional information regarding experience.

(3) Must submit a current roster of all Board of Directors, including names and mailing addresses.

(4) A local or state government and/or public agency cannot qualify as an NOHP, but may sponsor the creation of an NOHP.

(5) Religious or Faith-based Organizations may sponsor an NOHP if the NOHP meets all the requirements of this section. While the governing board of an NOHP sponsored by a religious or a faith-based organization remains subject to all other requirements in this section, the religious or faith-based organization may retain control over appointments to the board. Subparagraphs (A) - (C) of this paragraph also apply:

(A) Housing developed must be made available exclusively for the residential use of Program beneficiaries, and must be made available to all persons regardless of religious affiliations or beliefs;

(B) Texas Bootstrap Loan Program funds may never be used to support any explicitly religious activities such as worship, religious instruction, or proselytizing; and

(C) Compliance with subparagraphs (A) and (B) of this paragraph must be evidenced by the Bylaws, charter or Certificate of Formation.

(6) A Colonia Self-Help Center as defined under Tex. Gov't Code, Chapter 2306, Subchapter Z is not required to complete the NOHP Certification process as long as it provides a letter from the unit of local government demonstrating performance is in good standing.

(c) Program Design. Must have policies for how the Owner-Builders participating in its program will meet the 65% sweat equity requirement.

(d) Must provide to the Department the number of houses they are proposing to build, type of proposed financing structure and construction timelines, to evidence its ability to carry out the Program.

(e) Must provide copies of Program guidelines and homebuyer course curriculum to evidence its experience in qualifying potential Owner-Builders and in providing education classes, counseling and training.

(f) Must be in compliance with 10 TAC §1.403, (relating to Single Audit Requirements), and 10 TAC §20.9, (relating to Fair Housing, Affirmative Marketing and Reasonable Accommodations), at the time of Application.

(g) Must be in compliance with any existing Contracts awarded by the Department and is subject to the Department's Previous Participation Review process provided for in 10 TAC §1.302 (relating to Previous Participation Reviews for Department Program Awards Not Covered by §1.301 of this Subchapter) and §1.303 (relating to Executive Award and Review Advisory Committee (EARAC)) of this title.

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 July 26, 2019.

TRD-201902398

David Cervantes

Acting Director

Texas Department of Housing and Community Affairs

Earliest possible date of adoption: September 8, 2019

For further information, please call: (512) 475-1762



CHAPTER 26. TEXAS HOUSING TRUST FUND RULE

The Texas Department of Housing and Community Affairs (the Department) proposes the repeal of 10 TAC, Chapter 26, Texas Housing Trust Fund Rule, Subchapter A, General Guidance, §§26.1 - 26.6, and Subchapter B, Amy Young Barrier Removal Program, §§26.20 - 26.28. The purpose of the repeal is to eliminate an outdated rule while adopting a new updated rule under separate action.

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

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

David Cervantes, Acting Director, has determined that, for the first five years the repeal will be in effect:

1. The repeal does not create or eliminate a government program, but relates to the repeal, and simultaneous adoption making changes to the Texas Housing Trust Fund Rule.
2. The repeal does not require a change in work that will require the creation of new employee positions, nor will the repeal reduce workload to a degree that any existing employee positions are eliminated.
3. The repeal does not require additional future legislative appropriations.
4. The repeal does not result in an increase in fees paid to the Department nor in a decrease in fees paid to the Department.
5. The repeal is not creating a new regulation, except that it is being replaced by a new rule simultaneously to provide for revisions.
6. The action will repeal an existing regulation, but is associated with a simultaneous re-adoption making changes to the existing Texas Housing Trust Fund Rule.
7. The repeal will not increase nor decrease the number of individuals subject to the rule's applicability.
8. The repeal will not negatively nor positively affect this state's economy.

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

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

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The repeal does not contemplate nor authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

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

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

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Cervantes has determined that, for each year of the first five years the repeal is in effect, the public benefit anticipated as a result of the repealed section would be an elimination of an outdated rule while adopting a new updated rule under separate action. There will be no economic costs to individuals required to comply with the repealed section.

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

REQUEST FOR PUBLIC COMMENT. The public comment period will be held August 9, 2019, to September 9, 2019, to receive input on the repealed rule. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Raul Gonzales, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941 or email hcf@tdhca.state.tx.us. ALL COMMENTS MUST BE RECEIVED BY 5:00 p.m., Austin local time, September 9, 2019.

SUBCHAPTER A. GENERAL GUIDANCE

10 TAC §§26.1 - 26.6

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

Except as described, herein the proposed repealed rule affects no other code, article, or statute.

- §26.1. *Purpose.*
- §26.2. *Definitions.*
- §26.3. *Allocation of Funds.*
- §26.4. *Use of Funds.*
- §26.5. *Prohibited Activities.*
- §26.6. *Administrator Eligibility and Requirements.*

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

Filed with the Office of the Secretary of State on July 26, 2019.

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David Cervantes

Acting Director

Texas Department of Housing and Community Affairs

Earliest possible date of adoption: September 8, 2019

For further information, please call: (512) 475-1762



SUBCHAPTER B. AMY YOUNG BARRIER REMOVAL PROGRAM

10 TAC §§26.20 - 26.28

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

Except as described, herein the proposed repealed rule affects no other code, article, or statute.

- §26.20. *Amy Young Barrier Removal Program Purpose.*
- §26.21. *Amy Young Barrier Removal Program Definitions.*
- §26.22. *Amy Young Barrier Removal Program Geographic Dispersion.*
- §26.23. *Amy Young Barrier Removal Program Administrative Requirements.*
- §26.24. *Amy Young Barrier Removal Program Reservation System Requirements.*
- §26.25. *Amy Young Barrier Removal Program Household Eligibility Requirements.*
- §26.26. *Amy Young Barrier Removal Program Property Eligibility Requirements.*
- §26.27. *Amy Young Barrier Removal Program Construction Requirements.*
- §26.28. *Amy Young Barrier Removal Program Project Completion Requirements.*

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

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David Cervantes

Acting Director

Texas Department of Housing and Community Affairs

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For further information, please call: (512) 475-1762



CHAPTER 26. TEXAS HOUSING TRUST FUND RULE

The Texas Department of Housing and Community Affairs (the Department) proposes new 10 TAC, Chapter 26, Texas Housing Trust Fund Rule, Subchapter A, General Guidance, §§26.1 - 26.6, and Subchapter B, Amy Young Barrier Removal Program, §§26.20 - 26.28. The purpose of the new rule is to make changes that bring the rule up to date, streamline language and simplify program guidelines for the Amy Young Barrier Removal Program with regards to purpose, geographic dispersion of funds, administrative requirements, reservation system requirements, household eligibility, property eligibility, construction requirements and project completion requirements.

Tex. Gov't Code §2001.0045(b) does apply to the rule being proposed because no exceptions apply, however, it should be noted that no costs are associated with this action that would have prompted a need to be offset.

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

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

David Cervantes, Acting Director, has determined that, for the first five years the proposed rule will be in effect:

1. The new rule does not create or eliminate a government program, but relates to the readoption of this rule making changes to the Texas Housing Trust Fund Rule.
2. The new rule does not require a change in work that will require the creation of new employee positions, nor will the new rule reduce workload to a degree that any existing employee positions are eliminated.
3. The new rule does not require additional future legislative appropriations.
4. The new rule does not result in an increase in fees paid to the Department nor in a decrease in fees paid to the Department.
5. The new rule repeal is not creating a new regulation, except that it is replacing a rule being repealed simultaneously to provide for revisions.
6. The new rule will not limit, expand or repeal an existing regulation but merely revises a rule.
7. The new rule will not increase nor decrease the number of individuals subject to the rule's applicability.
8. The new rule will not negatively nor positively affect the state's economy.

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

The Department has evaluated this new rule and determined that it will not create an economic effect on small or micro-businesses or rural communities.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The new rule does not contemplate nor authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

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

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

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Cervantes has determined that, for each year of the first five years the new rule is in effect, the public benefit anticipated as a result of the new rule would be to further clarify the purpose and use of the Texas Housing Trust Fund. There will be no economic costs to individuals required to comply with the new rule.

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

REQUEST FOR PUBLIC COMMENT. The public comment period will be held August 9, 2019, to September 9, 2019, to receive input on the new rule. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Raul Gonzales, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941 or email htf@tdhca.state.tx.us. ALL COMMENTS MUST BE RECEIVED BY 5:00 p.m., Austin local time, September 9, 2019.

SUBCHAPTER A. GENERAL GUIDANCE

10 TAC §§26.1 - 26.6

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

Except as described herein, the proposed new rule affects no other code, article, or statute.

§26.1. Purpose.

This chapter clarifies the administration of the Texas Housing Trust Fund Program (HTF or SHTF). The SHTF provides loans, grants or other comparable forms of assistance to income-eligible individuals, families and households. The SHTF is administered in accordance with Tex. Gov't Code, Chapter 2306, Chapter 20 of this title (relating to Single Family Programs Umbrella Rule), and Chapter 24 of this title (relating to Texas Bootstrap Loan Program Rule).

§26.2. Definitions.

Definitions may be found in Tex. Gov't Code, Chapter 2306; Chapter 1 of this title (relating to Administration), Chapter 2 of this title (relating

to Enforcement), Chapter 20 of this title (relating to Single Family Programs Umbrella Rule), Chapter 21 of this title (relating to Minimum Energy Efficiency Requirements for Single Family Construction Activities), and Chapter 24 of this title (relating to Texas Bootstrap Loan Program Rule), unless the context or the Notice of Funding Availability (NOFA) indicates otherwise.

§26.3. Allocation of Funds.

(a) The Department administers all SHTF funds provided to the Department in accordance with Tex. Gov't Code, Chapter 2306. The Department may solicit gifts and grants to endow the fund.

(b) Pursuant to Tex. Gov't Code §2306.202(b), use of the SHTF is limited to providing:

(1) Assistance for individuals and families of low and very low income;

(2) Technical assistance and capacity building to nonprofit organizations engaged in developing housing for individuals and families of low and very low income;

(3) Security for repayment of revenue bonds issued to finance housing for individuals and families of low and very low income; and

(4) Subject to the limitations in Tex. Gov't Code §2306.251, the Department may also use the fund to acquire property to endow the fund.

(c) Set-Asides. In accordance with Tex. Gov't Code §2306.202(a) and program guidelines:

(1) In each biennium, the first \$2.6 million available through the SHTF for loans, grants, or other comparable forms of assistance shall be set aside and made available exclusively for Local Units of Government, Public Housing Authorities, and Nonprofit Organizations;

(2) Any additional funds may also be made available to for-profit organizations provided that at least 45% of available funds, as determined on September 1 of each state fiscal year, in excess of the first \$2.6 million shall be made available to Nonprofit Organizations; and

(3) The remaining portion shall be distributed to Nonprofit Organizations, for-profit organizations, and other eligible entities, pursuant to Tex. Gov't Code §2306.202.

§26.4. Use of Funds.

(a) Use of additional or Deobligated Funds. In the event the Department receives additional funds, such as loan repayments, donations or interest earnings, the Department will redistribute the funds in accordance with the SHTF plan in effect at the time the additional funds become available.

(b) Reprogramming of Funds. If funding for a program is undersubscribed or funds not utilized, within a timeframe as determined by the Department, remaining funds may be reprogrammed at the discretion of the Department consistent with the HTF plan in effect at the time.

(c) Use of excess loan repayments and interest earnings. The SHTF may be used to respond to unanticipated challenges that may arise in the course of implementing approved single family Program Contracts, activities, or assets that are not readily addressed with federal funds. In the event that SHTF loan repayments and interest earnings exceed the requirements under the SHTF interest earnings and loan repayments Rider in the General Appropriations Act, up to \$250,000 per biennium of these excess SHTF loan repayments and interest earnings may be used for this purpose. If a balance exists from the previous

biennium, the Department shall transfer only the necessary amount to replenish this fund to a maximum balance of \$250,000 at the start of the biennium. These funds may be used as described in this subsection.

(1) Funds are to be used for internal disposition.

(2) Neither Households nor Program Administrators are eligible to apply for these funds.

(3) Any funds used under this subsection requires authorization of the Executive Director.

(4) Uses for the funds must meet at least one of the following criteria:

(A) For Households previously assisted by the Department with Department funds, for which the Department has confirmed that further work is still required, and for which the original source of funds is no longer able to be used; or

(B) Properties previously owned by Households assisted by the Department, having been foreclosed upon by the Department, and requiring additional carrying costs or improvements to sell the property or transfer the property for an affordable purpose.

§26.5. Prohibited Activities.

(a) Persons receiving or benefiting from SHTF funds, as determined by the Department, may not be currently delinquent or in default with child support, government loans, or any other debt owed to the State of Texas.

(b) The activities described in paragraphs (1) - (8) of this subsection are prohibited in relation to the origination of a SHTF loan, but may be charged as an allowable cost by a third party lender for the origination of all other loans originated in connection with an HTF loan:

(1) Payment of delinquent property taxes or related fees or charges on properties to be assisted with SHTF funds;

(2) Loan origination fees;

(3) Application fees;

(4) Discount fees;

(5) Underwriter fees;

(6) Loan processing fees;

(7) Loan servicing fees; and

(8) Other fees not approved by the Department in writing prior to expenditure.

§26.6. Administrator Eligibility and Requirements.

Administrator must enter into a written Agreement with the Department in order to be eligible to access the State Housing Trust Fund.

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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David Cervantes

Acting Director

Texas Department of Housing and Community Affairs

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For further information, please call: (512) 475-1762



SUBCHAPTER B. AMY YOUNG BARRIER REMOVAL PROGRAM

10 TAC §§26.20 - 26.28

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

Except as described herein, the proposed new rule affects no other code, article, or statute.

§26.20. Amy Young Barrier Removal Program Purpose.

The Amy Young Barrier Removal Program (the Program or AYBRP) provides one-time grants in combined Hard and Soft Costs to Persons with Disabilities in a Household qualified as Low-Income. Grant limits per household will be identified in the Notice of Funding Availability. Grants are for home modifications that increase accessibility, eliminate life-threatening hazards and correct unsafe conditions.

§26.21. Amy Young Barrier Removal Program Definitions.

The following words and terms used in this subchapter shall have the following meanings, unless the context clearly indicates otherwise. Other definitions are found in Tex. Gov't Code, Chapter 2306, Chapter 1 of this title (relating to Administration), Chapter 2 of this title (relating to Enforcement), Chapter 20 of this title (relating to Single Family Programs Umbrella Rule), Chapter 21 of this title (relating to Minimum Energy Efficiency Requirements for Single Family Construction Activities), and Chapter 26, Subchapter A of this title (relating to Texas Housing Trust Fund Rule).

(1) Administration Fee--Funds equal to 10% of the Project Costs (combined Hard and Soft Costs) paid to an Administrator upon completion of a project.

(2) Hard Costs--Site-specific costs incurred during construction, including but not limited to: general requirements, building permits, jobsite toilet rental, dumpster fees, site preparation, demolition, construction materials, labor, installation equipment expenses, etc.

(3) Low-Income--Household income does not exceed the greater of 80% of the Area Median Family Income or 80% of the Statewide Income Limits, adjusted for Household size, in accordance with the current HOME Investment Partnerships Program income limits, as defined by HUD.

(4) Project Costs--Program funds (combined Hard and Soft Costs) that directly assist a Household.

(5) Qualified Inspector--Certified by the Administrator that the individual has professional certifications, relevant education or a minimum of three years of experience in a field directly related to home inspection, which may include but is not limited to installing, servicing, repairing or maintaining the structural, mechanical, plumbing and electrical systems found in Single Family Housing Units, as evidenced by inspection logs, certifications, training courses or other documentation.

(6) Reservation Agreement--A written Agreement including all amendments thereto between the Department and Administrator that authorizes the Administrator to reserve funds under the AYBRP.

(7) Reservation Setups--The submission of all required documents to the online Reservation System in order to reserve Program funds for an eligible Household.

(8) Soft Costs--Costs related to and identified with a specific Single Family Housing Unit other than construction costs, per §20.3 of this title, (relating to Definitions).

§26.22. Amy Young Barrier Removal Program Geographic Dispersion.

(a) The process to promote geographic dispersion of program funds is as follows:

(1) For a published period not to exceed 90 calendar days, each state region will be allocated funding amounts for its rural and urban subregions. During this initial period, these funds may be reserved only for Households located in these rural and urban subregions;

(2) After the initial release of funds under paragraph (1) of this subsection, each state region will combine any remaining funds from its rural and urban subregions into one regional balance for a second published period not to exceed 90 calendar days. During this second period, these funds may be reserved only for Households located in that state region; and

(3) After no more than 180 calendar days following the initial release date, any funds remaining across all state regions will collapse into one state-wide pool. For as long as funds are available, these funds may be reserved for any Households anywhere in the state on a first-come, first-served basis.

(b) If any additional funds beyond the original program allocations that derive from HTF loan repayments, interest earnings, deobligations, and/or other SHTF funds in excess of those funds required under Rider 8 or the Department's appropriation made under the General Appropriations Act may be placed directly into a state-wide pool for reservation.

§26.23. Amy Young Barrier Removal Program Administrative Requirements.

(a) To participate in the Program, an eligible participant must first be approved as an Administrator by the Department through the submission of a Reservation System Access Application. Eligible participants include, but are not limited to: Colonia Self-Help Centers established under Tex. Gov't Code, Chapter 2306, Subchapter Z; Councils of Government; Units of Local Government; Nonprofit Organizations; Local Mental Health Authorities and Public Housing Authorities. An eligible participant may be further limited by NOFA.

(b) The Applicant must enter into a Reservation Agreement (Agreement) with the Department in order to be eligible to reserve funds for the Amy Young Barrier Removal Program.

(1) A Nonprofit Organization must submit a current letter of determination from the Internal Revenue Service (IRS) under §501(c)(3), a charitable, nonprofit corporation, of the Internal Revenue Code of 1986, as evidenced by a certificate from the IRS that is dated 1986 or later. The exemption ruling must be effective throughout the agreement period to access the Reservation System.

(2) A private Nonprofit Organization must be registered and in good standing with the Office of the Secretary of State and the State Comptroller's Office to do business in the State of Texas.

(3) The Applicant must demonstrate at least two years of capacity and experience in housing rehabilitation in Texas. The Applicant will be required to provide a summary of experience that must describe the capacity of key staff members and their skills and experience in client intake, records management, and managing housing rehabilitation. It must also describe organizational knowledge and experience in serving Persons with Disabilities.

(4) The Applicant must provide evidence of adherence to applicable financial accountability standards, demonstrated by an audited financial statement by a Certified Public Accountant for the most recent fiscal year. For a Nonprofit Organizations that does not yet

have audited financial statements, the Department may accept a resolution from the Board of Directors that is signed and dated within the six months preceding the Application and that certifies that the procedures used by the organization conform to the requirements in 10 TAC §1.402, (relating to Cost Principles and Administrative Requirements).

(5) An Applicant must submit a current roster of all Board Members, Council Members, Commissioners, or other Members of its legal governing body, including names and mailing addresses.

(6) The Applicant must submit a resolution from the Board of Directors, Council, Commissioners, or other legal governing body that is signed and dated within the six months preceding the date of application submission. The resolution must state that the legal governing body has approved the Applicant to access the Reservation System for TDHCA's Amy Young Barrier Removal Program; and must designate the name and title of the individual authorized to execute a written Reservation System Access Agreement.

(7) The Applicant's history will be evaluated in accordance with 10 TAC Chapter 1, Subchapter A, §1.302 and §1.303, (relating to Previous Participation Reviews for Department Program Awards Not Covered by §1.301 of this Subchapter, and Executive Award and Review Advisory Committee (EARAC), respectively). Access to funds may be subject to terms and conditions.

(8) If applicable, the Applicant must submit copies of executed contracts with consultants or other organizations that are assisting in the implementation of the applicant's AYBRP activities. The Applicant must provide a summary of the consultant or other organization's experience in housing rehabilitation and/or serving Persons with Disabilities.

(c) Administrators must follow the processes and procedures as required by the Department through its governing statute (Chapter 2306 of the Government Code), Administrative Rules (Texas Administrative Code, Title 10, Part 1), Reservation Agreement, Program Manual, forms, and NOFA.

§26.24. Amy Young Barrier Removal Program Reservation System Requirements.

(a) The Department will not process a Reservation Setup or draw for any Administrator with a past due Single Audit or pending Audit Certification Form.

(b) Reservation Setups will be processed in the order submitted on the Reservation System. Submission of a Reservation Setup consisting of support documentation on behalf of a Household does not guarantee funding.

(c) If an Administrator submits a Reservation Setup for a Household that is incomplete or missing any of the required forms as prescribed by the current setup instructions, the Reservation Setup will be set back to "pending" status and funds will be released for reservation.

(d) If support documentation for a Reservation Setup for a Household needs correction or additional information, the Department will notify the Administrator of the deficiencies. If any deficiencies remain uncured within 10 calendar days after notification has been sent to the Administrator, the Department may cancel the Household's Reservation.

(e) If a Household is determined to be eligible for assistance from the Department, the Department will reserve up to the maximum award amount permitted under the NOFA in Project Costs and an Administration Fee equal to 10% of the combined Hard and Soft costs in the Housing Contract System on behalf of the Household.

§26.25. Amy Young Barrier Removal Program Household Eligibility Requirements.

(a) At least one Household member shall meet the definition of Persons with Disabilities.

(b) The assisted Household shall not have Household income that exceeds 80% of Area Median Family Income.

(c) The assisted Household's liquid assets shall not exceed \$20,000. Liquid assets are considered to be cash deposited in checking or savings accounts, money markets, certificates of deposit, mutual funds or brokerage accounts; the net value of stocks or bonds that may be easily converted to cash; and the appraisal district's market value for any real property that is not a principal residence. Funds in tax-deferred accounts for retirement or education savings (e.g., Individual Retirement Accounts, 401Ks, 529 plans) are excluded from the liquid assets calculation.

(d) The Household may be ineligible for the program if there is debt owed to the State of Texas, including a tax delinquency; a child support delinquency; a student loan default; or any other delinquent debt owed to the State of Texas.

§26.26. Amy Young Barrier Removal Program Property Eligibility Requirements.

(a) Owner-occupied homes are eligible for Program assistance. In owner-occupied homes, the owner of record must reside in the home as their permanent residence unless otherwise approved by the Department. If the property is family-owned and the owner of record is deceased or not a Household member, the Department may deem the property renter-occupied unless satisfactory documentation is provided to the Department that confirms otherwise.

(b) Certain rental units are eligible for Program assistance and must meet the following requirements:

(1) In rental units, all Household occupants, including the Person with Disability, must be named on the Program intake application and Household Income Certification.

(2) The owner of record for the property shall provide a statement allowing accessibility modifications to be made to the property.

(c) The following rental properties are ineligible for Program assistance:

(1) Property that is or has been developed, owned, or managed by that Administrator or an Affiliate;

(2) Rental units in properties that are financed with any federal funds or that are subject to 10 TAC Chapter 1, Subchapter B, §1.206 (relating to Applicability of the Construction Standards for Compliance with §504 of the Rehabilitation Act of 1973);

(3) Rental units that have life-threatening hazards or unsafe conditions identified in the initial inspection. Program funds may not be used to correct hazardous or unsafe conditions in rental units, but may be used for accessibility modifications only after the life-threatening hazards and unsafe conditions have been corrected by the property owner at the property owner's expense; or

(4) Rental units owned by a property owner who is delinquent on property taxes associated with the property occupied by the Household.

§26.27. Amy Young Barrier Removal Program Construction Requirements.

(a) Inspections.

(1) Initial inspection arranged by the Administrator is required and must identify the accessibility modifications needed by the Person with Disability; assess and document the condition of the property; and identify all deficiencies that constitute life-threatening hazards and unsafe conditions.

(2) Final inspection arranged by the Administrator is required and must verify, assess and document that all construction activities have been repaired, replaced and/or installed in a professional manner consistent with all applicable building codes and Program requirements, and as required in the Work Write-Up as described in subsection (e) of this section.

(3) Initial and final inspections must be completed by a Qualified Inspector.

(4) All On-Site Sewage Facilities (OSSF or septic system) shall be inspected by a Texas Commission on Environmental Quality authorized agent to determine if the system is in substantial compliance with Health & Safety Code, Chapter 366, and the rules adopted under that chapter, unless waived by the Department on a case-by-case basis.

(b) A Manufactured Housing Unit may be eligible for Program assistance if it was constructed on or after January 1, 1995. The Department may allow Manufactured Housing Units older than January 1, 1995, to receive only exterior accessibility modifications (i.e., ramps, handrails, concrete flatwork) as long as the Administrator can verify that the unit itself will be free of hazardous and unsafe conditions.

(c) Construction standards.

(1) Administrators must follow all applicable sections of their local building codes and ordinances, pursuant to Section 214.212 of the Local Government Code. Where local codes do not exist, the 2015 International Residential Code (IRC), including Appendix J for Existing Buildings and Structures, is the applicable code for the Program.

(2) Accessibility modifications shall be made with consideration of the design standards established by the 2010 ADA Standards. Any variation from 2010 ADA Standards must be documented by the Administrator as necessary to meet the disability related needs of the Person with a Disability.

(3) Administrators must adhere to Chapter 21 of this title, (relating to Minimum Energy Efficiency Requirements for Single Family Construction Activities).

(4) Administrators and/or subcontractors must honor a twelve-month warranty on all completed items in their scope of work.

(d) Life-threatening hazards and unsafe conditions.

(1) Administrators may make repairs to eliminate life-threatening hazards and correct unsafe conditions in the housing unit as long as no more than 25% of the Project Hard Costs budget is utilized for this purpose, unless otherwise approved by the Department.

(2) Life-threatening hazards and unsafe conditions include, but are not limited to: faulty or damaged electrical systems; faulty or damaged gas-fueled systems; faulty, damaged or absent heating and cooling systems; faulty or damaged plumbing systems, including sanitary sewer systems; faulty, damaged or absent smoke, fire and carbon monoxide detection/alarm systems; structural systems on the verge of collapse or failure; environmental hazards such as mold, lead-based paint, asbestos or radon; serious pest infestation; absence of adequate emergency escape and rescue openings and fire egress; and the absence of ground fault circuit interrupters (GFCI) and arc fault circuit interrupters (AFCI) in applicable locations.

(3) If the work write-up addresses any of the following line items, the percentage of Project Hard Costs devoted to eliminating life-threatening hazards and correcting unsafe conditions may only exceed 25% by the amount of the following line item's cost: emergency escape, rescue openings and fire egress; ground fault circuit interrupters (GFCI); arc fault circuit interrupters (AFCI); and smoke, fire and carbon monoxide detection/alarm systems. The combination of these line items plus the correction of any other unsafe conditions cannot exceed 40% of Project Hard Costs budget.

(4) All areas and components of the housing must be free of life-threatening hazards and unsafe conditions at project completion.

(e) Work-Write Ups. The Department shall review work-write ups (also referred to as "scope of work") and cost estimates prior to the Administrator soliciting bids.

(f) Bids. The Department shall review all line item bids Administrator selects for award prior to the commencement of construction. Lump sum bids will not be accepted.

(g) Change orders. An Administrator seeking a change order must obtain written Department approval prior to the commencement of any work related to the proposed change. Failure to get prior Departmental approval may result in disallowed costs.

§26.28. Amy Young Barrier Removal Program Project Completion Requirements.

(a) The Administrator has 90 calendar days from the date the Department approves the line item contract bid the Administrator selected for award to complete all construction activities and submit the Project and Administrative draw request, with required supporting documentation, in the Housing Contract System for reimbursement by the Department. The Department may grant a one-time, 30-calendar day extension to the Project completion deadline. The Department may grant additional extensions due to extenuating circumstances that are beyond the Administrator's control.

(b) The Department will reimburse the Administrator in one, single payment after the Administrator's successful submission of the Project and Administrative draw request per Department instructions. Interim draws will not be permitted. The Department reserves the right to delay draw approval in the event that the Household expresses dissatisfaction with the work completed in order to resolve any outstanding conflicts between the Household, and the Administrator and its subcontractors.

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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David Cervantes

Acting Director

Texas Department of Housing and Community Affairs

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For further information, please call: (512) 475-1762



TITLE 19. EDUCATION

PART 1. TEXAS HIGHER EDUCATION COORDINATING BOARD

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
19 TAC §§4.83 - 4.85

The Texas Higher Education Coordinating Board (Coordinating Board) proposes 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, §4.83, concerning definitions; §4.84, concerning institutional agreements; and §4.85, concerning dual credit requirements. The proposed amendments to §4.84 add additional items to dual credit agreements between an institution of higher education and a school district to align the rule with amendments to Texas Education Code, §28.009 by HB 3650 and SB 1276, 86th Texas Legislature, Regular Session. The proposed amendments to §4.83 and §4.85 establish additional state funding provisions for dual credit courses to align the rule with amendments to Texas Education Code, §61.059 by SB 25, 86th Texas Legislature, Regular Session.

Dr. Rex C. Peebles, Assistant Commissioner for Academic Quality and Workforce, has determined that for each year of the first five years the section is in effect, there will be no fiscal implications to state or local government as a result of enforcing or administering the rules.

Dr. Rex C. Peebles has also determined that for each year of the first five years the section is in effect, the public benefit anticipated as a result of administering the sections of rule is to align the rule requirements for dual credit institutional agreements and state funding provisions for dual credit courses with amendments to Texas Education Code. There would be no impact on public institutions of higher education and local employment. There is no effect on small businesses. There are no anticipated economic costs to persons who are required to comply with the section as proposed. There is no impact on local employment.

Government Growth Impact Statement

- (1) the rules *will not* create or eliminate a government program;
- (2) implementation of the rules *will not* require the creation or elimination of employee positions;
- (3) implementation of the rules *will not* require an increase or decrease in future legislative appropriations to the agency;
- (4) the rules *will not* require an increase or decrease in fees paid to the agency;
- (5) the rules *will not* create a new rule;
- (6) the rules *will not* limit an existing rule; and
- (7) the rules *will not* change the number of individuals subject to the rule;
- (8) the rules *will* positively affect the state's economy.

Comments on the proposed amendments may be submitted to Rex C. Peebles, Assistant Commissioner, Texas Higher Education Coordinating Board, P.O. Box 12788, Austin, Texas 78711 or via email at AQWComments@THECB.state.tx.us. Comments

will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The amendments are proposed 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.

The amendments affect Texas Education Code, §28.009 and §61.059.

§4.83. *Definitions.*

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

(1) - (12) (No change.)

(13) Program of Study Curriculum (POSC)--The block of courses which progress in content specificity by beginning with all aspects of an industry or career cluster and incorporate rigorous college and career readiness standards, including career and technical education standards that address both academic and technical content which incorporate multiple entry and exit points with portable demonstrations of technical or career competency, which may include credit transfer agreements or industry-recognized certifications.

(14) [(13)] Public two-year associate degree-granting institution--A community college, a technical college, or a state college.

§4.84. *Institutional Agreements.*

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

(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 on or after September 1, 2019, 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 common advising strategies and terminology related to dual credit and college readiness;

(3) provide for the alignment of endorsements described by §28.025 (c)(1) offered by the district, and dual credit courses offered under the agreement that apply towards those endorsements, with post-secondary pathways and credentials at the institution and industry certifications;

(4) identify tools, including tools developed by the Texas Education Agency, Texas Higher Education Coordinating Board, or the Texas Workforce Commission, to assist counselors, students, and families in selecting endorsements offered by the district and dual credit courses offered under the agreement;

(5) [(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;

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

(7) [(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]

(8) state the sources of funding for courses offered under the program, including, at a minimum, the sources of funding for tuition, transportation, and any required fees or textbooks for students participating in the program;

(9) require the district and the institution to consider the use of free or low-cost open educational resources in courses offered under the program; and

(10) ~~[(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) - (2) (No change.)

(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, or POSC.

(4) (No change.)

(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 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) - (3) (No change.)

(4) - (8) (No change.)

(c) - (h) (No change.)

(i) Funding.

(1) (No change.)

(2) The college may only claim funding for students earning [getting] college credit in core curriculum, field of study curriculum, program of study curriculum, career and technical education, and foreign language dual credit courses.

(3) - (4) (No change.)

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

Filed with the Office of the Secretary of State on July 29, 2019.

TRD-201902414

Bill Franz

General Counsel

Texas Higher Education Coordinating Board

Earliest possible date of adoption: September 8, 2019

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



TITLE 28. INSURANCE

PART 1. TEXAS DEPARTMENT OF INSURANCE

CHAPTER 5. PROPERTY AND CASUALTY INSURANCE

SUBCHAPTER G. WORKERS' COMPENSATION INSURANCE

DIVISION 1. SALE OF SUBSTITUTES TO WORKERS' COMPENSATION INSURANCE

The Texas Department of Insurance (TDI) proposes to repeal 28 TAC §5.6302, relating to Sale of Substitutes to Workers' Compensation Insurance. Section 5.6302 implements Labor Code §406.052 and Insurance Code §§2301.001, 541.051, and 1701.055. TDI also proposes new 28 TAC §5.6302, relating to required disclosures for plans or coverages that are not workers' compensation insurance, to replace the repealed rule.

The repeal and new section are warranted because stakeholders are concerned that the rule, which was last amended in the early 1990s, is overly broad and applies to insurance coverages that are unlikely to be misinterpreted as workers' compensation coverage. Stakeholders are also concerned that the disclosure statements in the current section are outdated.

EXPLANATION. Repealing §5.6302 is warranted because insurers are currently required to include a disclosure statement in documents that are covered by the language of the rule, even though some of those documents are unlikely to be confused with workers' compensation coverage.

New §5.6302 more accurately identifies the coverages that must include the disclosure statements, which allows insurers to delete unneeded language from some documents.

The new rule requires that the disclosure to employers also be included on policy applications so that employers have early notice that the product is not workers' compensation.

The new rule also revises required disclosures so that they are more easily understood.

Labor Code §406.052 permits an employer that is not required to have workers' compensation insurance coverage and that has elected not to obtain workers' compensation insurance coverage to buy insurance coverage for certain employment-related risks if the insurance is not represented to any person as workers' compensation insurance coverage.

Insurance coverage permitted by Labor Code §406.052 is subject to regulation under Insurance Code §2301.001, which authorizes the Commissioner of Insurance to regulate certain property and casualty insurance forms to ensure that they are not unjust, unfair, inequitable, misleading, or deceptive.

Insurance coverage permitted by Labor Code §406.052 is also regulated by Insurance Code §541.051, which prohibits unfair methods of competition and unfair or deceptive practices in the advertisement or representation of terms, benefits, or advantages of an insurance policy; and §1701.055, which prohibits a life or health insurance policy form containing a provision, title, or heading that is unjust, encourages misrepresentation, or is deceptive.

The current §5.6302 was published in the *Texas Register* at (8 TexReg 3225) and became effective on September 19, 1983. This section requires that an unnecessarily broad range of insurance policies include prescribed language to inform an employer that the policy is not workers' compensation insurance coverage. The rule also prescribes language to be included in certificates of coverage distributed to employees to inform them that they are not covered by a workers' compensation insurance policy.

Proposed new §5.6302 limits the disclosure requirements to insurance products that can reasonably be mistaken for workers' compensation insurance coverage. Insurance products that specifically exclude coverage for occupational injuries, disease, or deaths, for instance, will not be required to include the disclosure. The new rule will:

- clarify that an employee benefit plan cannot be represented as workers' compensation insurance coverage;
- revise for clarity the required protective disclosures for advertisements, marketing, applications, and policies or evidences of coverage; and
- require the disclosure statement to employers to be printed on the first page of an application for coverage.

The proposal gives insurers two years to bring affected documents into compliance with the rule. After the rule's effective date, documents subject to the rule that are filed with TDI because of an insurer's business needs must comply with the rule. By April 1, 2022, all previously approved forms subject to the rule and not updated before that date must be refiled for approval in compliance with the rule.

The current rule remains applicable to existing documents until they are amended and filed with TDI or until April 1, 2022, whichever comes first. Otherwise, insurers are not required to update documents that have already been issued.

TDI received comments at a stakeholder meeting on May 11, 2018, and received comments on an informal draft posted on TDI's website on April 27, 2018. TDI considered those comments when drafting this proposal.

FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT. Doug Danzeiser, director, Life and Health Lines Office, Regulatory Policy Division, has determined that for each year of the first five years the proposed new rule is in effect, there will be no measurable fiscal impact on state and local governments as a result of enforcing or administering §5.6302, other than that imposed by the statute. This determination was made because the proposed amendments do not add to or decrease state revenues or expenditures, and because local governments are not

involved in enforcing or complying with the proposed amendments.

Mr. Danzeiser does not anticipate that the new rule will cause any measurable effect on local employment or the local economy.

PUBLIC BENEFIT AND COST NOTE. For each year of the first five years proposed new §5.6302 is in effect, Mr. Danzeiser expects that the enforcement and administration of this proposal will have the public benefit of:

- ensuring that TDI's rules conform to Labor Code §406.052 and Insurance Code §§2301.001, 541.051, and 1701.055;
- employers and employees getting disclosures in language that will more clearly tell them that this coverage is not workers' compensation;
- employers more likely understanding that they may be sued by an employee that suffers an occupational injury or disease; and
- employees more likely understanding that they may not be covered by workers' compensation insurance.

Mr. Danzeiser expects that proposed new §5.6302 may result in potential compliance costs for insurers as described below. But TDI has drafted this proposal to maximize public benefits consistent with the authorizing statutes while mitigating insurer costs.

Some insurers will realize a cost savings from the proposed new rule because they will no longer be required to include disclosures on policies or coverages that do not provide benefits to employees for occupational injuries, diseases, or deaths; do not provide employers' liability coverage; and do not indemnify employers without workers' compensation insurance coverage for all or part of the costs of occupational injuries, diseases, or deaths. Nor will they be required to include disclosures in advertisements or marketing materials for these products.

Mr. Danzeiser anticipates that because changes will be phased in over two years, the proposed new rule will impose only minimal costs on insurers required to comply with the rule. Insurers will be able to revise affected documents any time they are refiled with TDI after the rule's effective date, so long as they comply by April 1, 2022.

TDI cannot estimate with specificity the total costs to insurers to comply with the new rule because many of the factors involved are not quantifiable. TDI anticipates that affected insurers will incur some additional labor costs (either employee or independent contractor) to insert the revised disclosure into its documents and materials to comply with the proposed new rule. Insurers may use a variety of personnel to input the revised language as required by this proposal. TDI has identified the possible types of employee positions needed to update an insurer's forms and the median wages costs for these positions.

To calculate potential labor costs, TDI used the 2017 median monthly salaries from the Texas Wages and Employment Projections database developed and maintained by the Labor Market and Career Information Development Department of the Texas Workforce Commission at www.texaswages.com/WDAWages. Information on median wages in other states may be obtained directly from the federal Bureau of Labor Statistics website at www.bls.gov/oes/current/oes_nat.htm. The potential employee positions and their median hourly salaries in Texas are as follows:

- an administrative assistant: \$16.08;
- an advertising manager: \$45.33;
- a computer programmer: \$39.72;
- a compliance officer: \$35.85;
- a marketing specialist: \$33.76; and
- web developers: \$33.01.

TDI anticipates that it will take between one and 20 staff hours to add the revised disclosure into the insurers' applications, policies, and advertising and marketing materials and between one and 50 staff hours to revise electronic systems and web pages. Insurers may calculate the total cost of labor for each category by multiplying the number of estimated hours for each cost component by the median hourly wage for each category of labor.

Insurers may incur costs for printing, copying and mailing their form filings to TDI. Some insurers will incur filing fees. TDI expects approximately 330 accident and health-related filings and 427 property and casualty filings each year from insurers that would be required to comply with the proposed rule. TDI is unable to determine how many of these forms will not have revisions made before the compliance date. Individual major medical health insurance forms are generally refiled each year under the Affordable Care Act; the cost of each filing is \$100. Those forms will need to comply with the new rule when they are filed with TDI, but the cost to refile those forms is a result of the federal law, rather than of this rule. Of the remaining forms that may not have revisions made before the compliance date, accident and health insurers will incur a filing fee of \$100 for a form that is subject to review and approval, or a \$50 filing fee for a form that is exempt from review, as required by Insurance Code §1701.053. There are no filing fees for property and casualty forms. All insurers submitting their forms electronically through the SERFF system will incur \$13.50 per transaction or may buy a block of transactions and pay a lower fee per transaction. An insurer that mails a form filing to TDI will incur mailing costs.

TDI cannot provide specific printing costs since some insurers have in-house printing and others use outside printing companies. For example, some insurers may have their forms printed commercially and in bulk, which usually results in lower per-page costs. Printing costs will also vary depending on the type and weight of paper used, whether the print is black and white or if color is used, and whether the forms will be provided electronically. TDI estimates that the cost of printing or copying is between \$.08 and \$.12 per page. TDI anticipates that because the rule includes a delayed compliance date, most insurers will be able to use up in-stock forms.

TDI estimates the average price of a standard business-size envelope is between \$.07 and \$.17, and a catalog-size envelope is between \$.31 and \$.40. The United States Postal Service charges \$.55 to mail a one-ounce metered domestic first-class letter. The price of each additional ounce, up to three-and-a-half ounces, is \$.15. The price to mail a domestic first class large envelope is \$1.00 for the first ounce and \$.15 for each additional ounce. Insurers' mailing costs will vary depending on the number of forms they are mailing and on the size of the envelopes they use.

In the April 27, 2018, informal posting of this rule, and the May 11, 2018, informal stakeholder meeting, TDI sought input from industry on their estimated costs to comply with the informal draft. TDI did not get comments that provided specific costs, but

one stakeholder stated that considerable resources would be required to make changes to policy forms earlier than January 1, 2020. Another stakeholder stated that the changes will likely require every nonsubscriber industry insurer and service provider, and most employer injury-benefit programs, to incur substantial work hours and other internal and external costs. Another stakeholder asserted that the range of coverages subject to the rule is overly broad and is burdensome for industry to comply with.

Based on the comments received on the informal draft rule, and to help mitigate the costs associated with this proposal, TDI has revised the disclosures' language to allow companies to delay making the required changes until otherwise filing or refiling affected documents or materials, so long as they comply by April 1, 2022.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS. TDI has determined that the proposed new §5.6302 may have an adverse economic effect or a disproportionate economic impact on small or micro businesses. Rural communities will not be affected by the rule. The cost analysis in this proposal's Public Benefit and Cost Note also applies to these small and micro businesses. TDI estimates that the proposed new rule may affect approximately 53 small or micro businesses.

The proposed new §5.6302 applies more narrowly, which will reduce the burden on regulated persons that do not solicit or sell policies or create advertising or marketing materials for products subject to the rule. Insurance products are excluded if they do not provide benefits to employees for occupational injuries, diseases, or deaths; do not provide employers' liability coverage; and do not indemnify employers without workers' compensation insurance coverage for all or part of the costs of occupational injuries, diseases, or deaths. Some regulated persons will have fewer costs because they will not need to include the disclosures on specifically excluded coverages.

The revised disclosures will strengthen consumer protections meant to ensure that employers do not buy a plan that they believe is workers' compensation insurance coverage or that they believe is an acceptable substitute for workers' compensation insurance coverage.

TDI considered the following alternatives to minimize adverse impact on small and micro businesses while accomplishing the proposal's objectives:

- (1) not proposing repeal and replacement of §5.6302;
- (2) exempting small or micro businesses from the requirement to update the language in the required disclosures;
- (3) not requiring insurers to update documents that have already been issued; and
- (4) not requiring insurers to update documents until they are filed or refiled with TDI, so long as they comply by April 1, 2022.

TDI has determined that the first two alternatives listed above would not accomplish the objectives of §5.6302 and would not be consistent with protecting the health, safety, and environmental and economic welfare of the state. The proposed rule has incorporated the third and fourth alternatives.

(1) *Not proposing repealing and replacing §5.6302.* The proposed rule's language more precisely identifies the coverages affected to reduce the burden on regulated persons that do not solicit or sell policies or create advertising or marketing materials for certain products. Products are excluded if they do not pro-

vide benefits to employees for occupational injuries, diseases, or deaths; do not provide employers' liability coverage; and do not indemnify employers without workers' compensation insurance coverage for all or part of the costs of occupational injuries, diseases, or deaths.

The revised disclosures strengthen consumer protections by ensuring that Texas employers do not buy and enroll their employees in a plan that they believe is workers' compensation insurance coverage or that they believe is an acceptable substitute for workers' compensation insurance coverage without fully understanding the product they are buying.

The revised disclosures also let consumers know that an employee, or a person entitled to receive a death benefit, may sue an employer if the employee suffers an occupational injury, disease, or death.

The proposed rule applies more clearly to only those coverages that may be misrepresented as workers' compensation insurance. Without the proposed new rule, the existing rule would remain in place and the administrative burden it imposes on regulated persons would continue.

(2) Exempting small or micro businesses from the requirement to update the disclosures' language. TDI considered allowing small or micro businesses to continue using the current disclosures or otherwise exempting them from the requirements of the rule. TDI rejected this alternative because allowing unequal standards could harm Texas employers and employees if an unscrupulous person represented a substitute policy as workers' compensation insurance coverage or did not tell employers that they were not applying for a workers' compensation insurance policy.

The disclosures will let employers know that the policy they are considering buying is not workers' compensation insurance coverage. The disclosures will tell employers what can happen if they do not have workers' compensation insurance coverage, and will alert employers that they can be sued by an employee who suffers an occupational injury or disease, or by a person entitled to receive a death benefit.

The disclosures will also let employees know that they can ask whether their employer has bought workers' compensation insurance coverage. It lets them know that if their employer has not bought workers' compensation insurance coverage, they may have the right to sue the employer for an injury or illness resulting from a work-related event, or a person entitled to receive a death benefit might have a right to sue the employer if the employee's death. The disclosures will be written in plain language to make them easier to understand. Since the current language does not meet these standards, TDI also rejected the alternative of exempting small or micro businesses.

(3) Not requiring insurers to update documents that have already been issued. The proposed rule excuses insurers from replacing forms already issued. By doing this, TDI has reduced the potential cost impact of printing and mailing new documents. TDI has incorporated this alternative in the proposed rule.

(4) Delaying and phasing in implementation in coordination with the insurer's other document filing needs. The proposed rule allows insurers to incorporate the revised disclosures in filings submitted to TDI on or after January 1, 2020, so long as the affected documents and materials comply by April 1, 2022. Insurers will be able to incorporate the cost of printing, filing and mailing documents amended to comply with this rule in costs

they would already be incurring to amend or resubmit and refile those documents.

EXAMINATION OF COSTS UNDER GOVERNMENT CODE §2001.0045. TDI has determined that this proposal may impose a cost on regulated persons marketing or selling individual or group insurance policies or other evidences of insurance coverage that provide benefits to employees for occupational injuries, disease, or deaths; provide employers' liability coverage; or indemnify employers without workers' compensation insurance coverage for all or part of the costs of occupational injuries, disease, or deaths.

TDI has determined that no additional changes to the rule are required under Government Code §2001.0045 because the repeal and replacement of §5.6302 are proposed to reduce the burden imposed by the existing rule on regulated persons.

Regulated persons say the current rule is overly broad and burdensome and requires that protective disclosures be included for insurance product lines that in no way could be sold as a substitute for workers' compensations insurance. Insurers that sell policies no longer subject to the rule should experience cost savings over time.

While the proposed changes to the rule's disclosure language and inclusion of a disclosure in policy applications will impose a cost on regulated entities, the rule's implementation has been phased in to coordinate with other document changes and filings and has been delayed to reduce the cost to comply to a minimal amount.

The proposed rule also excuses insurers from replacing forms already issued.

GOVERNMENT GROWTH IMPACT STATEMENT. TDI has determined that for each year of the first five years that the proposed new rule is in effect it:

- will not create or eliminate a government program;
- will not require the creation of new employee positions or the elimination of existing employee positions;
- will not require an increase or decrease in future legislative appropriations to the agency;
- will result in a small increase in fees paid to the agency;
- will not create a new regulation;
- will reduce existing regulation by narrowing the required disclosure's application to individual or group insurance policies or other evidences of insurance coverage that provide benefits to employees for occupational injuries, disease or deaths; provide employers' liability coverage; or indemnify employers without workers' compensation insurance coverage for all or part of the costs of occupational injuries, disease or deaths;
- will decrease the number of regulated persons subject to the rule. Companies that do not sell regulated coverages will no longer need to comply with the rule's disclosure requirements; and
- will not positively or adversely affect the Texas economy.

TAKINGS IMPACT ASSESSMENT. TDI has determined that no private real property interests are affected by this proposal and that this proposal does not restrict or limit an owner's right to property that would otherwise exist in the absence of government action. As a result, this proposal does not constitute a taking or

require a takings impact assessment under Government Code §2007.043.

REQUEST FOR PUBLIC COMMENT. The Commissioner will consider all written comments on the proposal received by TDI no later than 5:00 p.m., central time, on September 9, 2019. Send your comments to ChiefClerk@tdi.texas.gov; or to the Office of the Chief Clerk, MC113-2A, Texas Department of Insurance, P.O. Box 149104, Austin, TX 78714-9104. To request a hearing on the proposal, submit a request by the end of the comment period, separate from any comments, to ChiefClerk@tdi.texas.gov or to the Office of the Chief Clerk, MC 113-2A, Texas Department of Insurance, P.O. Box 78714-9104. The request for hearing must be separate from any comments and received by TDI no later than 5:00 p.m., central time, on September 9, 2019. If TDI holds a public hearing TDI will consider written and oral comments presented at the hearing.

28 TAC §5.6302

STATUTORY AUTHORITY. The repeal of 28 TAC Chapter 5, Subchapter G, Division 1, §5.6302 is proposed under Insurance Code §§36.001, 2301.007, and 1701.055.

Insurance Code §36.001 provides that the Commissioner may adopt any rules necessary and appropriate to implement the powers and duties of TDI under the Insurance Code and other laws of this state.

Insurance Code §2301.007 provides that the Commissioner may disapprove or withdraw approval of a form if the form contains a provision or has a title or heading that is unjust or deceptive, encourages misrepresentation, or violates public policy.

Insurance Code §1701.055 provides that the Commissioner may disapprove or withdraw approval of a form if the form contains a provision, title, or heading that is unjust, encourages misrepresentation or is deceptive.

CROSS-REFERENCE TO STATUTE. The repeal of 28 TAC Chapter 5, Subchapter G, Division 1, §5.6302 implements Insurance Code §2301.007 and §1701.055.

§5.6302. Sale of Substitutes to Workers' Compensation Insurance.

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 July 29, 2019.

TRD-201902409

James Person

General Counsel

Texas Department of Insurance

Earliest possible date of adoption: September 8, 2019

For further information, please call: (512) 676-6584



28 TAC §5.6302

STATUTORY AUTHORITY. TDI proposes new §5.6302 under Insurance Code §§36.001, 541.401, 1701.051, and 2301.006.

Insurance Code §36.001 provides that the Commissioner may adopt any rules necessary and appropriate to implement TDI's powers and duties under the Insurance Code and other laws of this state.

Insurance Code §541.401 provides that the Commissioner may adopt rules necessary to accomplish the purposes of Chapter 541, which defines and prohibits unfair methods of competition and unfair or deceptive acts or practices.

Insurance Code §1701.051 requires insurers to file health insurance forms for approval by the Commissioner before use.

Insurance Code §2301.006 requires insurers to file property and casualty insurance forms with the commissioner before use.

CROSS-REFERENCE TO STATUTE. The proposed new §5.6302 implements Labor Code §406.052 and Insurance Code §541.401.

§5.6302. Required Disclosures for Plans or Coverages That Are Not Workers' Compensation Insurance.

(a) No misrepresentation of substitutes. A person, agent, or entity may not represent the following coverages as workers' compensation insurance:

- (1) an employee benefit plan;
- (2) an individual or group life insurance policy;
- (3) an individual or group accident or health insurance policy;
- (4) employer's property and casualty insurance policy; or
- (5) other individual or group evidence of insurance coverage.

(b) Prohibited misrepresentations. A person, agent, or entity may not represent that the coverages listed in subsection (a) of this section:

- (1) are a substitute for workers' compensation insurance coverage;
- (2) provide the same benefits for either employees or employers as are provided by workers' compensation insurance; or
- (3) limit an employee to a claim for benefits under the plan or policy as the employee's sole remedy against the employer in the event an employee suffers an occupational injury, disease, or fatality.

(c) Disclosure statement required for employers.

(1) The disclosure statement in paragraph (2) of this subsection is required in an individual or group insurance policy or other evidence of coverage that:

- (A) provides benefits to an employer's employees for occupational injuries, disease, or deaths;
- (B) provides employer's liability coverage; or
- (C) indemnifies employers without workers' compensation insurance coverage for all or part of the costs of occupational injuries, diseases, or deaths.

(2) The following statement must be included on the first page of the application and the policy, and on the first page of all materials used in advertising, marketing, and explaining the policy: "This policy does not provide workers' compensation insurance coverage. This policy does not protect you from lawsuits by an injured employee or a person who can get their benefits (the employee's dependent or legal beneficiary). You may be sued for damages from a job-related injury, illness, or death."

(3) The statement must:

- (A) be in a prominent place;

(B) have its first sentence in bold type;

(C) be in a font that is equivalent in size to 10 points in Times New Roman; and

(D) not be italicized or underlined.

(4) In advertising and marketing materials, the statement must not be minimized or obscured by the rest of the advertisement or materials.

(d) Disclosure statement required for employees.

(1) A group insurance policy described in subsection (c) of this section must include the following statement on the first page of any certificate, evidence of coverage, or other explanatory material issued to employees: "This policy does not provide workers' compensation insurance. You should ask your employer if it has workers' compensation insurance. If it does not, you might have the right to sue your employer if you have a job-related injury or illness. And if your death is job related, the person who could get your benefits (your dependent or legal beneficiary) might have the right to sue your employer."

(2) The statement must:

(A) be in a prominent place;

(B) have its first sentence in bold type;

(C) be in a font size not smaller than 10 points in Times New Roman; and

(D) not be italicized or underlined.

(e) Applicability dates.

(1) This section applies to an insurance application, policy, evidence of coverage, contract or explanatory material, or other document subject to this section that is filed or refiled with TDI on or after January 1, 2020.

(2) An insurance policy, evidence of coverage, contract, marketing or explanatory material, or other document is governed by this section as it existed immediately before January 1, 2020, until it is refiled.

(3) Notwithstanding paragraphs (1) and (2) of this subsection, an insurance policy, evidence of coverage, contract, or explanatory material, or other document issued to an employer or employee on or after April 1, 2022, must comply with the requirements of this section.

(4) Advertisements and marketing materials used with an insurance policy regulated under this section are subject to this section at the time the insurance policy must comply with the requirements of this section.

(5) An insurer is not required to update documents that have already been issued.

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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James Person

General Counsel

Texas Department of Insurance

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For further information, please call: (512) 676-6584

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TITLE 34. PUBLIC FINANCE

PART 9. TEXAS BOND REVIEW BOARD

CHAPTER 181. BOND REVIEW BOARD

SUBCHAPTER A. BOND REVIEW RULES

34 TAC §§181.1 - 181.5, 181.9, 181.10

The Texas Bond Review Board (BRB) proposes amendments to Texas Administrative Code (TAC) Title 34, Part 9, Chapter 181, Subchapter A, §181.1 Definitions; §181.2 Notice of Intention to Issue; §181.3 Application for Board Approval of State Securities Issuance; §181.4 Meetings; §181.5 Submission of Final Report; §181.9 State Exemptions; and §181.10 State Debt Issuer Reports.

The BRB proposes updates and clarifications to its administrative code rules in TAC Chapter 181, including revisions to the timeline for non-exempt state debt applications at regularly scheduled and additional Board meetings. Adopting these changes would increase the effectiveness of the BRB in apportioning its workload among staff. An overview of the amendments is as follows:

1) Specify that the BRB approval is valid for one year, unless expressly stated otherwise in the approval;

2) Require an earlier due date for non-exempt state debt applications to be considered at regularly scheduled Board meetings;

3) Increase the number of hard copies of non-exempt state debt applications received at the bond finance office;

4) Add a due date for non-exempt state debt applications to be considered at additional meetings of the Board (not regularly scheduled meetings);

5) Clarify that the BRB has broad discretion as to what it requires on applications and reports submitted to the bond finance office to be considered complete;

6) Eliminate confusing language related to the time needed for BRB staff's review of exempt transactions;

7) Define the term "business day" used in these rules; and

8) Require that a copy of the issuer's board resolution authorizing state security submitted as part of the BRB application be adopted within one year of the application date.

Robert Latsha, Executive Director for the BRB, has determined that for the first five-year period the amendments are in effect there will be no fiscal implications relating to costs or revenues of the state or local governments as a result of enforcing or administering the amendments of these rules. The anticipated economic cost to persons who are required to comply with the amendments, as proposed, is minimal to none. There will be no adverse effect on small businesses or rural communities, micro-businesses or local or state employment.

Mr. Latsha also has determined that for each year of the first five years the rule amendments are in effect the public benefit of the amendments will be to allow staff and the BRB more time to review state debt transactions prior to issuance to ensure that debt transactions meet the requirements applicable to public debt ap-

proval. Additionally, these amendments will add clarity and additional detail to the rules for state debt issuers to follow.

The BRB provides this Government Growth Impact Statement, pursuant to Texas Government Code §2001.0221, for the proposed amendments to 34 TAC Part 9, Chapter 181, Subchapter A. For each year of the first five years the proposed amendments are in effect, Mr. Latsha has determined:

- 1) The proposed rule amendments do not create or eliminate a government program.
- 2) Implementation of the proposed rule amendments does not require the creation of new employee positions or the elimination of existing employee positions.
- 3) Implementation of the proposed rule amendments does not require an increase or decrease in future legislative appropriations to the BRB.
- 4) The proposed rule amendments do not require an increase or decrease in fees paid to the BRB.
- 5) The proposed rule amendments do not create a new regulation.
- 6) The proposed rule amendments do not repeal an existing BRB rule for an administrative process.
- 7) The proposed rule amendments do not decrease the number of individuals subject to the rule's applicability.
- 8) The proposed rule amendments do not positively or adversely affect the state's economy.

The proposed amendments will have no adverse economic effect on micro-businesses, small businesses or rural communities because the amendments only affect the administration debt transaction submission and review. The proposed amendments do not affect operations of any small or micro-business and the proposed amendments should not have an impact on rural communities that differs from any other part of the state. The proposed amendments do not affect any local economy within the state.

The proposed amendments do not impose a cost on regulated persons, including other state agencies, special districts, or local governments because the proposed amendments merely adjust the processes for submission and review of proposed public debt transactions.

The proposed amendments do not restrict or limit an owner's right to his or her property that would otherwise exist in the absence of government action, and therefore they do not constitute a taking under Texas Government Code §2007.043.

Comments on the proposed rule amendments may be submitted in writing to Robert Latsha, Texas Bond Review Board, P.O. Box 13292, Austin, Texas 78711-3292. Comments may also be submitted electronically to rob.latsha@brb.texas.gov or faxed to (512) 475-4802. The deadline for providing comments is thirty days after publication in the *Texas Register*.

The amendments are proposed under Texas Government Code §1231.022(1) authorizing the BRB to adopt rules relating to applications for review, the review process, and reporting requirements.

No other statute, articles, or codes are affected by the proposed rule amendments.

§181.1. Definitions.

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

(1) - (4) (No change.)

(5) Business day means a day when the Bond Review Board office is open for business.

§181.2. Notice of Intention to Issue.

(a) Unless exempt pursuant to statute or pursuant to §181.9 of this title (relating to State Exemptions), an issuer intending to issue state securities shall submit an [a written or] electronic non-exempt notice of intention to issue to the bond finance office no later than twelve business days prior to the regularly scheduled planning session. [the last Wednesday of the month prior to the month requested for Board reconsideration.] Prospective issuers are encouraged to file the notice of intention as early in the issuance planning stage as possible. A notice of intention under this subsection is not required prior to each new issuance of commercial paper if the issuer's commercial paper is exempt pursuant to statute or if the issuer's commercial paper program has been approved by the Board or if it is exempt from approval pursuant to the provisions of §181.9 of this title. Except as required for Board approval pursuant to §181.3(f) of this title (relating to Application for Board Approval of State Securities [Security] Issuance), a notice of intention under this subsection is not required prior to each new issuance of commercial paper notes if the notes are issued in conformity with the terms of the commercial paper program that has been approved by the Board or is exempt from approval pursuant to the provisions of §181.9 of this title.

(b)

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

(4) an agreement to submit the required application described in §181.3 of this title no later than ten business days prior to the regularly scheduled planning session. [the first Tuesday of the month in which the applicant requests Board consideration.]

(c) - (d) (No change.)

(e) An issuer intending to issue state securities that are exempt from approval pursuant to §181.9 of this title shall submit during regular business hours an [a written or] electronic exempt issuer state debt notice of intent to the bond finance office as required by §181.9(c) of this title. [at least seven business days prior to the date the securities are to be issued.] Prospective issuers are encouraged to file the notice of intent as early in the issuance planning stage as possible considering the Board has six business days to review the complete application pursuant to §181.9(d) of this title. Submitting an exempt issuer state debt notice of intent under this subsection does not guarantee the Board will take action. An electronic exempt issuer state debt [A] notice of intent under this subsection is not required prior to each new issuance of commercial paper notes if the notes are issued in conformity with the terms of the commercial paper program for which an [a] electronic exempt issuer state debt notice of intent has been filed with the bond finance office or that has been approved by the Board pursuant to §181.9(d) of this title.

(1) To be considered at the next regularly scheduled planning session, if required by the Board pursuant to §181.9(d) of this title, the exempt issuer state debt notice of intent must be submitted to the bond finance office no later than ten business days prior to the regularly scheduled planning session [the last Tuesday of the month prior to a regularly scheduled Board meeting].

(2) Exempt issuers pursuant to §181.9 of this title are required to submit an [a] exempt issuer state debt notice of intent which must contain but is not limited to:

(A) a completed exempt issuer state debt notice of intent in the form required by the bond finance office. A notice of intent is not required under this subsection for an issuance of commercial paper notes if the notes are issued in conformity with the terms of the commercial paper program for which a notice of intent has been filed with the bond finance office or that has been approved by the Board;

- (B) proposed debt service schedule;
- (C) proposed cash flow schedule, if applicable;
- (D) proposed sources and uses statement;
- (E) timetable of the financing;

(F) derivatives program summary in the form required by the bond finance office, if applicable;

(G) documentation that all necessary approvals of the issuance of the state securities or the project to be financed with the proceeds of the state securities have been obtained from the appropriate state boards or state agencies except:

(i) the approval of the state securities by the Attorney General;

(ii) environmental approvals and permits;

(H) Board memorandum for the proposed transaction prepared for issuer's governing board₂; [if available];

(I) Issuer Board resolution(s) authorizing the issuance of bonds or other obligations, adopted no earlier than one year prior to the date the exempt issuer state debt notice of intent is submitted to the bond finance office.

§181.3. Application for Board Approval of State Securities Issuance.

(a) An officer or entity may not issue state securities unless the issuance has been approved by the Board or exempted under law, including by Board rule, from review by the Board. An officer or entity that has not been granted an exemption by statute or Board rule from review by the Board and that proposes to issue state securities shall apply for Board approval by filing one state debt application with original signatures and ~~eleven~~ ^{nine} copies with the Executive Director of the bond finance office. The Executive Director of the bond finance office shall forward ~~copies~~ ^{one copy} of the application to each member of the Board and [one copy] to the Office of the Attorney General.

(b) Applications must be filed with the bond finance office no later than ten business days prior to the regularly scheduled planning session [the first Tuesday of the month in which the applicant requests Board consideration]. Applications filed after that date will be considered at the regular meeting only with the approval of the Chair or two or more members of the Board.

(c) An application for approval of a lease-purchase agreement to be deemed complete must include but is not limited to:

(1) a completed lease purchase application form in the form required by the bond finance office;

(2) documentation that all necessary approvals of the issuance of the lease purchase have been obtained from the appropriate state boards or state agencies except:

(A) the approval of the state securities by the Attorney General;

(B) environmental approvals and permits;

(3) draw schedule, if applicable;

(4) proposed amortization schedule; [and]

(5) if the lease purchase is for the acquisition of energy conservation measures, which are subject to a guaranteed energy savings contract, a copy of the proposed contractual agreement, a copy of the third-party [~~third-party~~] review, and any other documentation related to the guarantee;

(6) Issuer Board resolution(s) authorizing the issuance of a lease purchase or other obligations adopted no earlier than one year prior to the date the lease-purchase application is submitted to the bond finance office.

(d) An application for all state securities other than lease-purchase agreements to be deemed complete must include but is not limited to:

(1) a completed state debt application in the form required by the bond finance office;

(2) documentation that all necessary approvals of the issuance of the state securities or the project to be financed with the proceeds of the state securities have been obtained from the appropriate state boards or state agencies except:

(A) the approval of the state securities by the Attorney General;

(B) environmental approvals and permits;

(3) if a blind pool financing, a copy of the demand survey or justification indicating reasonable expectation to lend proceeds;

(4) a substantially complete draft or summary of the proposed resolution, order, or ordinance providing for the issuance of the state security;

(5) copy of preliminary official statement₂; [if available];

(6) proposed cash flow;

(7) proposed draw schedule, if applicable;

(8) proposed sources and uses statement;

(9) timetable of the financing;

(10) derivatives program summary, in the form required by the bond finance office, if applicable; [and]

(11) Board memorandum for the proposed transaction prepared for issuer's governing board₂; [if available]

(12) Issuer Board resolution(s) authorizing the issuance of bonds or other obligations adopted no earlier than one year prior to the date the state debt application is submitted to the bond finance office.

(e) - (h) (No change.)

§181.4. Meetings.

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

(c) A planning session will be held regarding applications pending before the Board on or before the second Tuesday of alternate months beginning in January. Planning sessions regarding applications to be heard at additional meetings of the Board will be held as far in advance of the additional Board meeting as is practicable, and applications to be considered at additional meetings of the Board will need to be submitted to the bond finance office pursuant to §181.3(a) no later than ten business days in advance of the planning session scheduled for the additional Board meeting.

(1) At a planning session, Board members, their designated representatives, or their staff representatives may discuss pending applications.

(2) Applicants may be required to attend a planning session and may be asked to make a presentation and answer questions regarding their application. Applicants may be asked to submit written answers to questions regarding their application in lieu of, or in addition to, their attendance at a planning session.

(d) - (g) (No change.)

(h) The Executive Director shall notify applicants in writing of any action taken regarding their application. A letter of approval shall contain the terms and conditions of the issue as approved by the Board. Board approval for the issuance of bonds or other obligations shall be valid for one year from the date of approval, unless expressly stated otherwise in the approval. A copy of the approval letter shall be forwarded to the Office of the Attorney General. Issuers must inform the Executive Director of any material changes to their application. Such changes may prompt reconsideration of an application approval by the Bond Review Board and require the application to come before the Board prior to issuance.

(i) - (j) (No change.)

§181.5. Submission of Final Report.

(a) Within 60 days after the delivery of the state securities and receipt of the state security proceeds, the issuer shall submit one original of a final report in the form required by the bond finance office.

(1) For state securities issued in the form of lease purchases, the reporting requirements of subsection (b) of this section shall be applicable.

(2) For state securities issued in the form of commercial paper notes, the reporting requirements of subsection (c) of this section shall be applicable.

(3) A final report for state securities, other than lease-purchases and commercial paper, must include but is not limited to:

(A) all actual costs of issuance as well as the underwriting spread for competitive financings, the private placement fee for private placements, all closing costs, and any other costs incurred during the issuance process;

(B) a complete bond transcript, including the preliminary official statement and the final official statement, private placement memorandum, if applicable, or any other offering documents as well as all other executed documents pertaining to the issuance of the state security.

(4) Issuers of state securities that have entered into interest rate management agreements relating to the securities shall provide to the bond finance office in electronic form, as applicable, a copy of all schedules to the Master Agreement and/or the Credit Support Annex including transaction confirmations.

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

§181.9. State Exemptions.

(a) The Board may exempt certain state securities from formal approval by the Board. Exemptions include the following:

(1) Texas Department of Housing and Community Affairs multifamily conduit housing transactions are exempt unless seeking an ad valorem tax reduction or exemption.

(2) Texas State Affordable Housing Corporation multifamily conduit housing transactions are exempt unless seeking an ad valorem tax reduction or exemption.

(3) Texas Public Finance Authority Charter School Finance Corporation conduit transactions are exempt.

(4) State securities secured by the general revenues of the state issued by the Veterans Land Board, the Texas Water Development Board or the Higher Education Coordinating Board determined by the Executive Director to be self-supporting and state securities issued by the Texas Water Development Board pursuant to the [clean water] state revolving fund program under Chapter 15, Subchapter J, Water Code and Chapter 17, Subchapter I, Water Code.

(5) Self-supporting revenue state securities issued by the Texas Public Finance Authority, at the request of and on behalf of, the Texas Windstorm Insurance Association.

(6) State securities that are advance refunding or refinancing transactions that have a net present value savings of at least 3%; current refunding or refinancing transactions that have a net present value savings of at least 2%; refunding or refinancing transactions that are removing restrictive bond covenant requirements; or self-supporting revenue security issues that have no general revenue impact to the state.

(b) - (d) (No change.)

§181.10. State Debt Issuer Reports.

(a) (No change.)

(b) The semi-annual reports shall include but are not limited to:

(1) an explanation of any change during the fiscal year previous to the deadline for this report, in the debt-retirement schedule for any outstanding state security issue (e.g. exercise of redemption provision, conversion from short-term to long-term securities, etc.);

(2) a description of any state security issues expected during the fiscal year, including type of issue, estimated amount, and expected month of sale;

(3) a list of all state security issues outstanding and corresponding debt service schedules for all securities outstanding in a digital and hard copy format; and

(4) a list of all interest rate management agreements, including the associated issue name, effective and termination dates, original and current notional amounts, terms of the agreement (fixed rate paid/variable rate received, variable rate paid/variable rate received), and mark-to-market value.

(c) - (f) (No change.)

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

Filed with the Office of the Secretary of State on July 29, 2019.

TRD-201902411

Rob Latsha

Executive Director

Texas Bond Review Board

Earliest possible date of adoption: September 8, 2019

For further information, please call: (512) 463-1741



CHAPTER 190. ALLOCATION OF STATE'S
LIMIT ON CERTAIN PRIVATE ACTIVITY
BONDS
SUBCHAPTER A. PROGRAM RULES

34 TAC §§190.1 - 190.7

The Texas Bond Review Board (BRB) proposes amendments to Texas Administrative Code (TAC) Title 34, Part 9, Chapter 190, Subchapter A §190.1, General Provisions; §190.2, Allocation and Reservation System; §190.3, Filing Requirements for Applications for Reservation; §190.4, Filing Requirements for Applications for Carryforward; §190.5, Consideration of Qualified Applications by the Board; §190.6, Expiration Provisions; and §190.7, Cancellation Withdrawal and Penalty Provisions.

The BRB proposes updates and clarifications to its administrative code rules in TAC Chapter 190, including revisions to project limits and closing deadlines. Adopting these changes would better align the administrative code with the changes made during the 86th Legislature to Texas Government Code Chapter 1372. An overview of the amendments is as follows:

- 1) Update the maximum application fee amount applicable to issuers of residential rental projects in certain counties;
- 2) Clarify when state volume cap is available for Carryforward applications;
- 3) Specify that the BRB approval is valid for one year, unless expressly stated otherwise in the approval;
- 4) Correct grammatical and capitalization errors;
- 5) Remove outdated definition of Qualified water development bond;
- 6) Adjust the sub-ceiling numbers as referenced in code to reflect changes made during the 86th Legislature;
- 7) Remove the qualified census tract requirements in code to reflect changes made during the 86th Legislature;
- 8) Clarify an issuer's option regarding refusal to accept reservations pursuant to Texas Government Code §1372.041;
- 9) Update the closing deadlines in code to reflect changes made during the 86th Legislature;
- 10) Clarify the last day a carryforward application may be submitted;
- 11) Remove student loan language pursuant to HB 2911, 82nd Legislature and SB 1474, 86th Legislature;
- 12) Add issues created to act on behalf of the state could apply for unencumbered carryforward;
- 13) Reduce the number of applications copies required to be submitted;
- 14) Require that a copy of the issuer's board resolution authorizing the PAB applications be adopted within one year of the application date;
- 15) Remove references of the Texas Agricultural Finance Authority (TAFA) and add the Texas State Affordable Housing Corporation (TSAHC) to align with Texas Government Code §1372.028;
- 16) Correct references to §53B.47 of the Education Code;
- 17) Clarify an active earnest money contract is required at the time of application;
- 18) Clarify staff's practice of time stamping applications;
- 19) Clarify the cancellation process pursuant to 1372.039;
- 20) Define the term Unencumbered Carryforward;

21) Create reassignment of carryforward designation to align with Texas Government Code §1372.074; and

22) Create Unutilized carryforward designation to align with Texas Government Code §1372.074.

Robert Latsha, Executive Director for the BRB, has determined that for the first five-year period the amendments are in effect there will be no fiscal implications relating to costs or revenues of the state or local governments as a result of enforcing or administering the amendments of these rules. The anticipated economic cost to persons who are required to comply with the amendments, as proposed, is minimal to none. There will be no adverse effect on small businesses or rural communities, micro-businesses or local or state employment.

Mr. Latsha also has determined that for each year of the first five years the rule amendments are in effect the anticipated public benefit will be the modernization of the Private Activity Bond (PAB) program by allowing issuers more freedom in their closing deadlines, encouraging larger project reservations, granting earlier access to program funds, allowing additional issuers to use the program, and giving issuers more freedom with project specific carryforward funds. Additionally, these amendments will add clarity and align to the changes made to Texas Government Code §1372 during previous legislative sessions.

The BRB provides this Government Growth Impact Statement, pursuant to Texas Government Code §2001.0221, for the proposed amendments to 34 TAC Part 9, Chapter 190, Subchapter A. For each year of the first five years the proposed amendments are in effect, Mr. Latsha has determined:

- 1) The proposed rule amendments do not create or eliminate a government program; instead the proposed amendments streamline and modernize the current PAB program to meet current statutory requirements.
- 2) Implementation of the proposed rule amendments does not require the creation of new employee positions or the elimination of existing employee positions.
- 3) Implementation of the proposed rule amendments does not require an increase or decrease in future legislative appropriations to the BRB.
- 4) The proposed rule amendments do not require an increase or decrease in fees paid to the BRB.
- 5) The proposed rule amendments do not create a new regulation.
- 6) The proposed rule amendments do not repeal an existing BRB rule for an administrative process.
- 7) The proposed rule amendments do not decrease the number of individuals subject to the rule's applicability.
- 8) The proposed repeal does not positively or adversely affect the state's economy.

The proposed amendments will have no adverse economic effect on micro-businesses, small businesses or rural communities because the amendments only affect the administration of the PAB program. The proposed amendments do not affect operations of any small or micro-business and the proposed amendments should not have an impact on rural communities that differs from any other part of the state. The proposed amendments do not affect any local economy within the state.

The proposed amendments do not impose a cost on regulated persons, including other state agencies, special districts, or local governments because the proposed amendments merely streamline administration of the PAB program.

The proposed amendments do not restrict or limit an owner's right to his or her property that would otherwise exist in the absence of government action, and therefore they do not constitute a taking under Texas Government Code §2007.043.

Comments on the proposal may be submitted in writing to Robert Latsha, Texas Bond Review Board, P.O. Box 13292, Austin, Texas 78711-3292. Comments may also be submitted electronically to rob.latsha@brb.texas.gov or faxed to (512) 475-4802. The deadline for providing comments is thirty days after publication in the *Texas Register*.

The amendments are proposed under Texas Government Code §1231.022(1), authorizing the BRB to adopt rules relating to applications for review, the review process, and reporting requirements. The amendments are also authorized by direction provided in SB 1474 from the 86th Legislative Session, which becomes effective September 1, 2019.

No other statute, articles, or codes are affected by the proposed rule amendments.

§190.1. *General Provisions.*

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

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

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

(3) Application fee--Application fees are to be paid as required by §1372.006 and must be submitted by overnight delivery or messenger as described in §190.8(c) and (d) of this title (relating to Notices, Filings, and Submissions). [Excluding residential rental projects and excluding sewage facilities, solid waste disposal facilities, and qualified hazardous waste facilities with multiple facilities on a single application, the \$500 nonrefundable fee submitted to the board simultaneously with an application for reservation or an application for carryforward as defined in paragraph (4)(A) or (B) of this subsection. For residential rental projects, the \$5,000 nonrefundable fee submitted to the board simultaneously with an application for reservation. For sewage facilities, solid waste disposal facilities, and qualified hazardous waste facilities with multiple facilities on a single application, a \$500 nonrefundable fee per facility submitted to the board simultaneously with an application for reservation.]

(4) - (10) (No change.)

(11) Borrower--Any person or persons whose private business use, within the meaning of the Code [eode], would cause any bonds to constitute private activity bonds within the meaning of the Code [eode]. If there is more than one such person with respect to any issue of bonds, then the term shall mean and include each and every such person known at the time that the issuer files an application for reservation or an application for carryforward, except that any one of such persons may execute any such application, letter, or other writing which the Act and this chapter requires to be executed by the borrower.

(12) (No change.)

(13) Carryforward--

(A) Traditional Carryforward--The amount of the state ceiling not reserved before November 16 [~~December 15~~] and any

amount previously reserved that becomes available on or after that date because of a reservation cancellation.

(B) Non-Traditional Carryforward--The amount of state ceiling reserved by an issuer and granted by the Board for a specific purpose and the closing date extends beyond the year in which the reservation was granted.

~~[(C) Unencumbered Carryforward--Amount of state ceiling available after the last business day of the year which may be assigned as carryforward to a state agency or to an issuer that was created to act on the behalf of this state at the request of the issuer.]~~

(14) - (17) (No change.)

(18) Close or closing--The issuance and delivery of bonds by an issuer in exchange for the required payment therefore, or in the case of mortgage credit certificates, the date when an issuer elects not to issue qualified mortgage bonds and establishes a mortgage credit certificate program under the Code [eode]. The term does not include a delivery of bonds if the expenditure of the proceeds of the bonds is conditioned on obtaining credit enhancement in support of the bonds.

(19) - (22) (No change.)

(23) Election--An election by an issuer of qualified mortgage bonds to convert its bond authority to mortgage credit certificates under applicable sections of the Code [eode].

(24) - (37) (No change.)

(38) Private activity bond--A private activity bond within the meaning given that term under the Code [eode].

(39) - (46) (No change.)

~~[(47) Qualified water development bond--A bond within the meaning given that term under §1372.001(18).]~~

(47) [(48)] Related person--Related person within the meaning given that term under the Code.

(48) [(49)] Reservation--A reservation of a portion of the state ceiling for a specific bond issue.

(49) [(50)] Reservation date--The earliest date on which a qualified application for reservation is accepted for filing with the board pursuant to the Act and a portion of the state ceiling is or becomes available to the issuer.

(50) [(51)] Rules--Any statement of general applicability that implements, interprets, or prescribes law or policy, or describes the board's procedures and practice.

(51) [(52)] Significant expenditures--Expenditures greater than the lesser of \$1 million or 10% of the reasonably anticipated cost of the project.

(52) [(53)] Staff--The staff of the board.

(53) [(54)] State--The State of Texas.

(54) [(55)] State ceiling--The amount of the authority in the state to issue tax exempt private activity bonds during the calendar year, as determined under the Code.

(55) [(56)] State-voted issue--An issue of bonds authorized pursuant to a statewide referendum approved by the voters of the state.

(56) [(57)] Tax-exempt enterprise zone facility bonds--An issue of bonds for an enterprise zone facility, as that term is defined under the Code, §1394.

(57) [(58)] Unexpended proceeds--Proceeds remaining from a prior issue of bonds, including, in the case of qualified mortgage bonds, any unused portion of mortgage credit certificates.

(d) - (f) (No change.)

§190.2. Allocation and Reservation System.

(a) (No change.)

(b) On or after October 5 of the year preceding the applicable program year, the board will accept applications for reservation from issuers authorized to issue private activity bonds. The board shall not grant a reservation to any issuer prior to January 2 of the program year. If two or more issuers file an application for reservation of the state ceiling in any of the categories described in §1372.022, the board shall conduct a lottery establishing the priority order of each such application for reservation. Once the priority order for all applications for reservation filed on or before October 20 of the year preceding the applicable program year is established, except as provided by §1372.031(b) and subject to §1372.0321 and §1372.0231 reservations for each issuer within the categories described in §1372.022(a)(2), (3), (4), and (5) [(6)], shall be granted in the order of priority established by such lottery. If determined by staff as necessary an additional lottery may be held immediately to stagger reservation dates for such issuers; otherwise, reservations shall be staggered by priority and then lot number. Each issuer of state voted issues granted a reservation initially may participate in the additional lottery or shall be granted a reservation date which is the first business day of the program year.

(c) (No change.)

(d) The order of priority for reservations in the category described in §1372.022(a)(4) shall further be determined as provided in §1372.0321 and §1372.0231.

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

(4) Within each category of priority, reservations shall be granted in the order established by the lottery subject to §1372.0231. [In applying §1372.0231, the board shall grant a reservation to a project located outside a Qualified Census Tract if granting the said reservation to a project, with a lower lot number, located within a Qualified Census Tract would exceed the 50 percent limitation. In such event the proposed project with the lower lot number located within a Qualified Census Tract remains in line on the waiting list.]

(5) - (6) (No change.)

(e) (No change.)

(f) If state ceiling becomes available on August 15, it shall be available for all applications for reservations in the order determined by the board by lot. If all applications have been offered a portion of the available state ceiling then the board shall grant reservations in the order in which the applications are received

(g) - (h) (No change.)

(i) An issuer may refuse to accept a reservation if the amount of state ceiling available is less than the amount for which the issuer applied or for any amount if the reservation is granted after September 23 of the program year.

(j) The amount of the state's ceiling that has not been reserved prior to November 16 [December 15] of the program year and any amount previously reserved that becomes available on or after that date because of the cancellation of a reservation or any other reason, may be designated, by the board, as traditional carryforward for the carryforward purposes outlined in the Code through submission of the application for carryforward and any other required documentation. If the 150-day, 180-day, or 210-day [120-day, 150-day, or 180-day] period,

as applicable, expires on or after December 24th of a program year in which a reservation was issued, an issuer is required to close on its bonds before December 24th. However, if an issuer's applicable period expires after December 31st, the issuer must notify the board in writing before December 24th of their intent to request non-traditional carryforward designation of the reservation and with their expected bond closing date. The granting by the board of a non-traditional carryforward designation through this described process, will allow an issuer the remaining balance of their 150-day, 180-day, or 210-day [120-day, 150-day, or 180-day] period, as applicable, to close on their bond by the expected closing date. If any issuer makes this election and does not close the bonds on or before the expected closing date, the amount of non-traditional carryforward designation will be administered by the board in compliance with the requirements of the Code [eode].

(k) An issuer may submit an application for carryforward to the board at any time during the year before December 24th [through the last business day in December].

(l) (No change.)

(m) With respect to the amount of the state ceiling set aside under §1372.0231(a)(1) and (3), applications are subject to review and approval by board staff prior to receiving a certificate [reservation] of allocation.

(n) (No change.)

[(o) For applications for reservations in the category described in §1372.022(a)(5):]

[(1) Applications for reservations in the category described in §1372.022(a)(5) must be filed in the preceding year during the time period established by the board for applications qualifying for the lottery.]

[(2) A Texas eligible loan may be used in determining annual need only if]

[(A) the qualified non-profit corporation purchased the Texas loan directly from an originating lender that made the loan, or]

[(B) the qualified non-profit corporation purchased the Texas loan directly from a non-profit corporation described in §53.47(g), Education Code that purchased the Texas loan directly from the originating lender that made the loan.]

[(3) A qualified non-profit corporation shall include a Texas eligible loan in its annual need only one time, and may not include any loan authorized under Section 428C of the Higher Education Act of 1965.]

[(4) The report of an independent auditor shall include a report stating that the audit was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants. Accordingly the audit shall include examining, on a test basis, evidence supporting the statement of annual need and performing an attributes sampling designed to achieve a minimum 90% confidence level with +/-5% precision. Any errors in the sample shall be projected to the population from which the sample was selected, and the annual need of the issuer shall be adjusted accordingly.]

[(5) No issuer in the category described in §1372.022(a)(5) shall be granted a reservation that exceeds "annual need" as defined by §1372.033(2).]

(o) [(p)] Until August 1 of the program year, within the category described by §1372.022(a)(5) [(6)], priority shall be granted to the Texas Economic Development Bank for projects that the Texas Economic Development and Tourism Office determines meet the gover-

nor's criteria for funding from the Texas Enterprise Fund, pursuant to the requirements of §1372.031(b).

(p) ~~[(q)]~~ On the last business day of a program year the Board may assign as carryforward unencumbered state ceiling to a ~~[any]~~ state agency or to an issuer that was created to act on behalf of the state at their request and in the order received without a formal application process. Unencumbered means any state ceiling that is not reserved or designated as carryforward and for which no application for carryforward is pending.

§190.3. *Filing Requirements for Applications for Reservation.*

(a) (No change.)

(b) Application Filing. The issuer shall submit one original ~~[and one copy of the]~~ application for reservation. Each application must be accompanied by the following:

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

(3) a copy of the inducement resolution or other similar official action taken by the issuer with respect to the bonds and the project which are the subject of the application, certified by an officer of the issuer; or a copy of the certified resolution of the issuer authorizing the filing of the application for reservation, in either case certified with an original signature by an officer of the issuer ~~and unless the resolution authorizes the issuer to seek an allocation in multiple program years, adopted within one year of the application date;~~

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

(7) a statement by the issuer, other than an issuer of a state-voted issue or the Texas Department of Housing and Community Affairs (TDHCA) or the Texas State Affordable Housing Corporation (TSAHC) ~~[Texas Agricultural Finance Authority (TAFA)],~~ that the bonds are not being issued for the same stated purpose for which the issuer has received sufficient carryforward during a prior year or for which there exists unexpended proceeds from a prior issue or issues of bonds issued by the same issuer, or based on the issuer's population;

(8) if unexpended proceeds exist, including transferred proceeds representing unexpended proceeds, from a prior issue or issues of bonds, other than a state-voted issue or an issue by the TDHCA or TSAHC ~~[TAFA]~~, issued by the issuer or on behalf of the issuer, or based on the issuer's population, for the same stated purpose for which the bonds are the subject of this application, a statement by the trustee as to the current amount of unexpended proceeds that exists for each such issue. The issuer of the prior issue of bonds shall certify to the current amount of unexpended proceeds that exists for each issue should a trustee not administer the bond issues;

(9) if unexpended proceeds, including transferred proceeds representing unexpended proceeds, other than prepayments exist from a prior issue or issues of bonds, other than a state-voted issue or an issue by TDHCA or TSAHC ~~[TAFA]~~, issued by the issuer or on behalf of the issuer, or based on the issuer's population, for the same stated purpose for which the bonds are the subject of this application, a definite and binding financial commitment agreement must accompany the application in such form as the board finds acceptable, to expend the unexpended proceeds by the later of 12 months after the date of receipt by the board of an application for reservation or December 31 of the program year for which the application is being filed. For purposes of this paragraph, the commitment by lenders to originate and close loans within a certain period of time shall be deemed a definite and binding agreement to expend bond proceeds within such period of time and any additional period of time during which such origination period may be extended under the terms of such agreement; provided that any extension provision may be amended, prior to the date on which the bond authorization requirements described in subsection (c) of this section

must be satisfied, to provide that such period shall not be extended beyond the later of 12 months after the date of receipt by the board of an application for reservation or December 31 of the program year for which the application is being filed. For purposes of this paragraph, issuers of qualified student loan bonds authorized by §53B.47, Education Code, may satisfy the requirements of §1372.028(c)(3)(F) by, in lieu of a definite and binding agreement, providing with the application evidence as certified by the issuer that the issuer has purchased, in each of the last three calendar years, qualified student loans in amounts greater than or equal to the amount of the unexpended proceeds;

(10) if unexpended proceeds exist from a prior issue or issues of bonds, other than a state-voted issue or an issue by the TDHCA or TSAHC ~~[TAFA]~~, issued by the issuer or on behalf of the issuer, or based on the issuer's population, for the same stated purpose for which the bonds are the subject of the pending application, a written opinion of legal counsel, addressed to the board, to the effect, that the board may rely on the representation contained in the application to fulfill the requirements of the Act and that the agreement referred to in paragraph (9) of this subsection constitutes a legal and binding obligation of the issuer, if applicable, and the other party or parties to the agreement;

(11) - (12) (No change.)

(13) For a qualified residential rental project issue, an issuer shall provide a copy of an active executed earnest money contract between the borrower and the seller of the project. The ~~[This]~~ earnest money contract ~~for Tax-Exempt Bond Lottery Applications~~ must be in effect at the time of submission of the application to the board and expire no earlier than December 1 of the year preceding the applicable program year. The earnest money contract must stipulate and provide for the borrower's option to extend the contract expiration date through March 1 of the program year, subject only to the seller's receipt of additional earnest money or extension fees, so that the borrower will have site control at the time a reservation is granted. If the borrower owns the property, evidence of ownership must be provided. For subsequent reservations granted ~~[after March 1 and]~~ throughout the remainder of the program year, the borrower must provide within the close of three business days following the notification of pending reservation:

(A) if applicable, proof of application for Low Income Housing Tax Credits with TDHCA, and

(B) a copy of an earnest money contract that is in full force and effect or the reservation will automatically expire;

(14) - (15) (No change.)

(16) Each issuer of qualified student loan bonds authorized by §53B.47, Education Code, shall submit with the application for reservation ~~the information as required in 1372.0281.[:]~~

~~[(A) a statement, certified with a notarized signature by an officer of the applicant, that includes the information required by §1372.033(c) and the number of loans purchased. The most recent June 30th preceding the application date shall be the "fiscal year ending date" for the purpose of determining the principal amount of Texas eligible loans the applicant purchased in the two most recently completed fiscal years; and]~~

~~[(B) for the issuers two most recent preceding fiscal year ends:]~~

~~[(i) financial statements;]~~

~~[(ii) portfolio amounts;]~~

~~[(iii) default rates; and]~~

~~[(iv) a detail of how student loans are being used or spent.]~~

(c) - (d) (No change.)

(e) Closing documents. Not later than the fifth business day after the day on which the bonds are closed the issuer shall file with the board:

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

(4) a certified copy of the bond resolution authorizing the issuance of bonds, and setting forth the specific principal amount of the bond issue and unless the resolution authorizes the issuer to seek an allocation in multiple program years, adopted within one year of the application date.

(5) - (10) (No change.)

(f) (No change.)

(g) Application restrictions.

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

(4) No [Except as provided by §1372.037(b) for any one project, no] issuer prior to August 15 of the program year may apply for an amount that exceeds the maximum application limits as described in §1372.037(a).

(5) - (8) (No change.)

§190.4. Filing Requirements for Applications for Carryforward.

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

(e) Closing documents. Not later than the fifth business day after the day on which the bonds are closed the issuer shall file with the board:

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

(3) a certified copy of the bond resolution authorizing the issuance of bonds, and setting forth the specific principal amount of the bond issue and unless the resolution authorizes the issuer to seek an allocation in multiple program years, adopted within one year of the application date;

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

(f) Reassignment of carryforward designation--Traditional carryforward can be reassigned by the issuer as described in §1372.074(a).

(g) Unutilized carryforward designation available after a project closes can be reassigned as described in §1372.074(c) and subject to the time period allowed by the Code and described in §1372.061(b).

§190.5. Consideration of Qualified Applications by the Board.

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

(c) The board shall stamp or otherwise designate the date and time on which it receives each qualified application. The application shall not be considered complete~~;~~ and shall not be stamped and accepted for filing; unless and until each of the items required under this section has been received by the board.

(d) - (i) (No change.)

§190.6. Expiration Provisions.

(a) A certificate of reservation for an application within the category described by §1372.022(a)(1) and (2) shall expire at the close of business on the 210th [180th] calendar day after the date on which the reservation is given. A certificate of reservation for an application within the categories described by §1372.022(a)(4) shall expire at the

close of business on the 180th [150th] calendar day after the date on which the reservation is given. A certificate of reservation for an application within the category described by §1372.022(a)(3) and[;] (5)[and (6)] shall expire at the close of business on the 150th [120th] calendar day after the date on which the reservation is given. A certificate of reservation for an application for a qualified nonprofit corporation issuer of qualified student loan bonds shall expire at the close of business on the 210th calendar day after the date on which the reservation is given.

(b) (No change.)

(c) If an issuer described by §1372.022(a)(4) fails to close on the bonds on or before the 180th [150th] calendar day after which the reservation was granted and fails to withdraw the application on or before the 150th [120th] calendar day after which the reservation was granted, the issuer must pay the full closing fee provided by §1372.006(b) not later than the 185th [155th] calendar day after which the reservation was granted. The issuer will not receive a subsequent reservation of allocation or be permitted to file an application for reservation until the fee has been paid to the board.

§190.7. Cancellation, Withdrawal and Penalty Provisions.

(a) If the issuer does not timely submit the bond authorization requirements described in §190.3(c) of this title (relating to Filing Requirements for Applications for Reservation), the issuer's reservation is cancelled. If the reservation is cancelled, then the issuer must follow the requirements outlined in §1372.039. [and during the 90-calendar-day period beginning on the reservation date of the cancelled reservation:]

~~{(1) the issuer may not submit an application for a reservation for the same project; and}~~

~~{(2) the issuer is eligible for a carryforward designation for the project only as provided by the Act.}~~

(b) If the closing documents are not received within five business days after the closing as described in §190.3(e) of this title, the issuer's reservation is cancelled and during the 150-day [120-day] period beginning on the reservation date of the cancelled reservation for applications within the categories described by §1372.022(a)(3) and[;] (5) [and (6)], the 180-day [150-day] period for an application within the category described by §1372.022(a)(4) and the 210-day [180-day] period for an application within the category described by §1372.022(a)(1) and (2) as well as applications for qualified student loan bonds:[;]

(1) the issuer or any other issuer may not submit an application for a reservation for the same project; and

(2) the issuer is eligible for a carryforward designation for the project only as provided by the Act.

(c) - (d) (No change.)

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

Filed with the Office of the Secretary of State on July 29, 2019.

TRD-201902412

Rob Latsha

Executive Director

Texas Bond Review Board

Earliest possible date of adoption: September 8, 2019

For further information, please call: (512) 463-1741

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TITLE 43. TRANSPORTATION

PART 1. TEXAS DEPARTMENT OF TRANSPORTATION

CHAPTER 9. CONTRACT AND GRANT MANAGEMENT

SUBCHAPTER F. CONTRACTS FOR SCIENTIFIC, REAL ESTATE APPRAISAL, RIGHT OF WAY ACQUISITION, AND LANDSCAPE ARCHITECTURAL SERVICES

43 TAC §9.87

The Texas Department of Transportation (department) proposes the amendments to §9.87 concerning indefinite delivery contract selection for scientific, appraisal, right of way acquisition, and landscape architectural services.

EXPLANATION OF PROPOSED AMENDMENTS

Government Code, Chapter 2254 (Professional Services Procurement Act), Subchapter A, establishes authority for the department to procure and award professional services contracts and does not cite language nor establish contract limits specific to indefinite delivery contracts. The current contract limits in §9.87 unnecessarily limit the ability to deliver transportation projects in a timely and business-driven manner.

Amendments to §9.87, Selection, make changes related to indefinite delivery contracts to closely align with statewide requirements to meet project letting demands. The amendments in subparagraph (B) remove contract amount thresholds and specify the contract amount, contract period, and work authorization issuance periods are included in the contract. Subparagraph (C) is amended to provide that work authorizations under an indefinite delivery contract are required to be issued within four years of the effective date of the contract rather than two years. These changes provide more flexibility for and help streamline the procurement process.

FISCAL NOTE

Brian Ragland, Chief Financial Officer, has determined, in accordance with Government Code, §2001.024(a)(4), that for each of the first five years in which the proposed rules are in effect, there will be no fiscal implications for state or local governments as a result of enforcing or administering the rules.

LOCAL EMPLOYMENT IMPACT STATEMENT

Kyle Madsen, Right of Way Division Director, has determined that there will be no significant impact on local economies or overall employment as a result of enforcing or administering the proposed rules and, therefore, a local employment impact statement is not required under Government Code, §2001.022.

PUBLIC BENEFIT

Kyle Madsen, Right of Way Division Director, has determined, as required by Government Code, §2001.024(a)(5), that for each year of the first five years in which the proposed rules are in effect, the public benefit anticipated as a result of enforcing or administering the rules will be streamlined procurement benefitting delivery of transportation projects to citizens.

COSTS ON REGULATED PERSONS

Kyle Madsen, Right of Way Division Director, has also determined, as required by Government Code, §2001.024(a)(5), that for each year of that period there are no anticipated economic costs for persons, including a state agency, special district, or local government, required to comply with the proposed rules and, therefore, Government Code, §2001.0045, does not apply to this rulemaking.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS

There will be no adverse economic effect on small businesses, micro-businesses, or rural communities, as defined by Government Code, §2006.001, and, therefore, an economic impact statement and regulatory flexibility analysis are not required under Government Code, §2006.002.

GOVERNMENT GROWTH IMPACT STATEMENT

Kyle Madsen, Right of Way Division Director, has considered the requirements of Government Code, §2001.0221 and has determined that for the first five years in which the proposed rules are in effect there is no impact on the growth of state government.

TAKINGS IMPACT ASSESSMENT

Kyle Madsen, Right of Way Division Director, has determined that a written takings impact assessment is not required under Government Code, §2007.043.

SUBMITTAL OF COMMENTS

Written comments on the proposed amendments to §9.87 may be submitted to Rule Comments, General Counsel Division, Texas Department of Transportation, 125 East 11th Street, Austin, Texas 78701-2483 or to RuleComments@txdot.gov with the subject line "Right of way acquisition provider services." The deadline for receipt of comments is 5:00 p.m. on September 9, 2019. In accordance with Transportation Code, §201.811(a)(5), a person who submits comments must disclose, in writing with the comments, whether the person does business with the department, may benefit monetarily from the proposed amendments, or is an employee of the department.

STATUTORY AUTHORITY

The amendments are proposed under Transportation Code, §201.101, which provides the Texas Transportation Commission with the authority to establish rules for the conduct of the work of the department.

CROSS REFERENCE TO STATUTES IMPLEMENTED BY THIS RULEMAKING

Government Code, Chapter 2254, Subchapter A.

§9.87. Selection.

The department will perform three types of contract selections.

- (1) Individual contract selection. One contract will result from the contract notice.
- (2) Multiple contract selection. More than one contract, of similar work types and estimated amounts will result from the contract notice. The notice will indicate the number and type of contracts to result from the advertisement, and specify a range of scores for providers that will be considered qualified to perform the work.
- (3) Indefinite delivery contract selection.

(A) This contract selection may be for award of contracts to single or multiple providers to perform work under a general scope of services.

(B) The [typical] type of work will be described in the contract. Specific services shall be authorized by individual work authorizations on an as-needed basis. The maximum contract amount, contract period, and work authorization issuance period shall be specified in the contract. [~~The total contract amount shall not exceed \$4 million for a contract issued to provide services in a single district of the department. The total of the contract work authorizations shall not exceed \$5 million in a contract issued to provide services in two or more districts of the department.~~]

(C) All work authorizations under an indefinite delivery contract shall be issued within four [two] years of the effective date of the contract[, except for scientific services]. [~~For scientific services, the initial work authorization for any specific project must be issued~~

~~within two years. The work authorization for tasks or subtasks, within the specific project, may be issued after the initial two years provided that the task or subtask does not initiate a new project.~~]

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 July 25, 2019.

TRD-201902378

Becky Blewett

Deputy General Counsel

Texas Department of Transportation

Earliest possible date of adoption: September 8, 2019

For further information, please call: (512) 463-8630



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 9. TEXAS MEDICAL BOARD

CHAPTER 193. STANDING DELEGATION ORDERS

22 TAC §193.5, §193.21

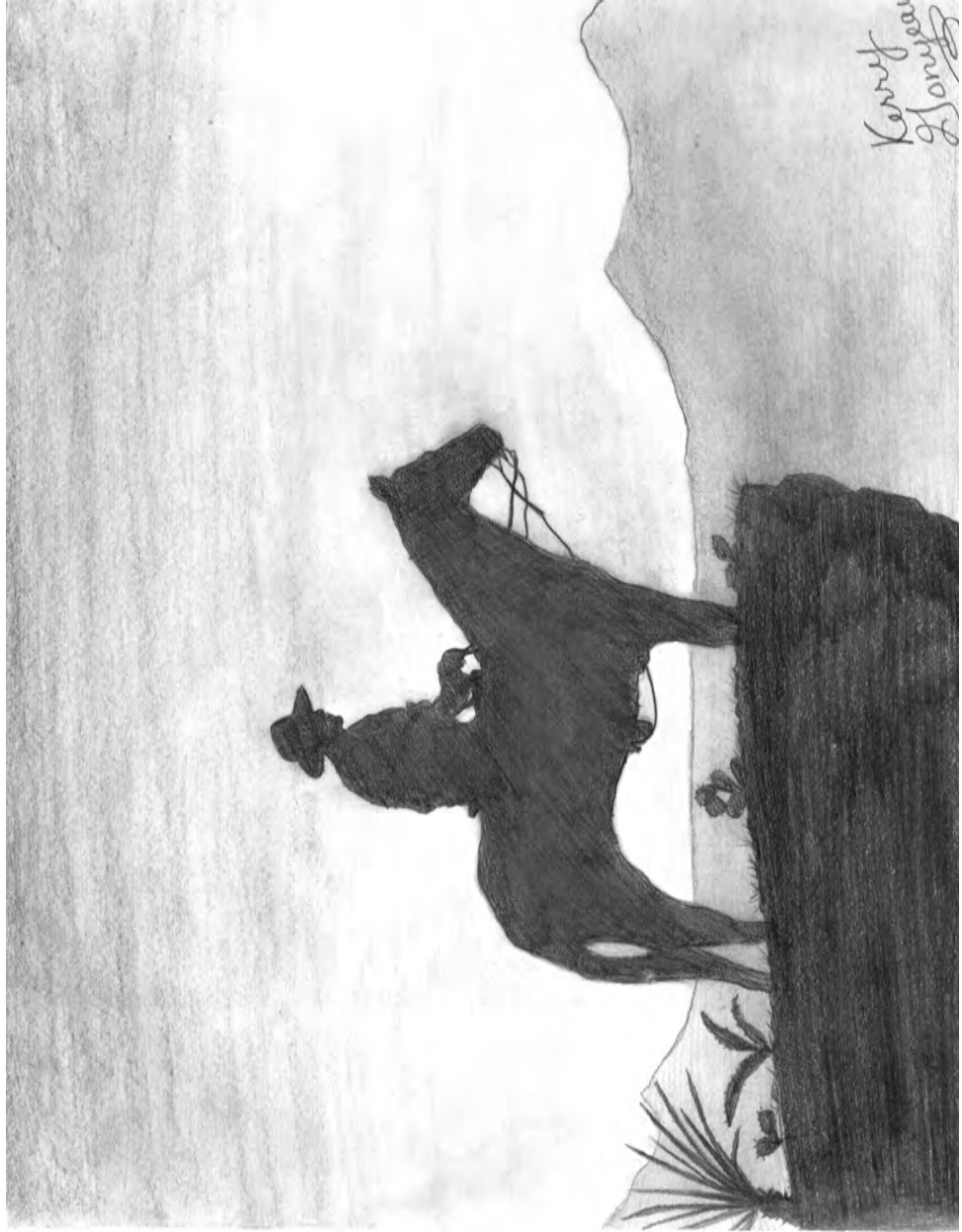
Proposed amended §193.5 and proposed new §193.21, published in the January 25, 2019, issue of the *Texas Register* (44

TexReg 402), are withdrawn. The agency failed to adopt the proposal within six months of publication. (See Government Code, §2001.027, and 1 TAC §91.38(d).)

Published by the Office of the Secretary of State on July 26, 2019.

TRD-201902383





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 2. TEXAS EDUCATION AGENCY

CHAPTER 97. PLANNING AND ACCOUNTABILITY

SUBCHAPTER AA. ACCOUNTABILITY AND PERFORMANCE MONITORING

19 TAC §97.1002

The Texas Education Agency (TEA) adopts the repeal of §97.1002, concerning accountability rating system provisions related to Hurricane Harvey. The repeal is adopted without changes to the proposed text as published in the May 24, 2019 issue of the *Texas Register* (44 TexReg 2565) and will not be republished. The adopted repeal is necessary because the Hurricane Harvey Provision applied only to excerpts of the *2018 Accountability Manual*, which will be replaced by the *2019 Accountability Manual* in August 2019.

REASONED JUSTIFICATION. The TEA has adopted its academic accountability manual in rule since 2000. The accountability system evolves from year to year, so the criteria and standards for rating and acknowledging schools in the most current year differ to some degree over those applied in the prior year.

Effective August 14, 2018, §97.1002 adopted an excerpt of the *2018 Accountability Manual* into rule as a figure. The excerpt, Chapter 10 of the *2018 Accountability Manual*, described the Hurricane Harvey Provision used to evaluate school districts, open-enrollment charter schools, and campuses affected by Hurricane Harvey. The provision specified the criteria that school districts, open-enrollment charter schools, and campuses must have met in order to receive a *Not Rated* label due to the effects of Hurricane Harvey.

Because the provision applied only to 2018 accountability, §97.1002 is outdated and should be removed from rule.

SUMMARY OF COMMENTS AND AGENCY RESPONSES. The public comment period on the proposal began May 24, 2019, and ended June 24, 2019. No public comments were received.

STATUTORY AUTHORITY. The repeal is adopted under Texas Education Code (TEC), §39.052(a) and (b)(1)(A), which require the commissioner to evaluate and consider the performance on achievement indicators, including those described in TEC, §39.053(c), when determining the accreditation status of each school district and open-enrollment charter school; TEC, §39.053, which requires the commissioner to adopt a set of performance indicators related to the quality of learning and achievement in order to measure and evaluate school districts and campuses; TEC, §39.054, which requires the commissioner

to adopt rules to evaluate school district and campus performance and to assign a performance rating; TEC, §39.0541, which allows the commissioner to adopt indicators and standards under TEC, Subchapter C, at any time during a school year before the evaluation of a school district or campus; TEC, §39.0548, which requires the commissioner to designate campuses that meet specific criteria as dropout recovery schools and to use specific indicators to evaluate them; TEC, §39.055, which prohibits the use of assessment results and other performance indicators of students in a residential facility in state accountability; TEC, §39.151, which provides a process for a school district or an open-enrollment charter school to challenge an academic or financial accountability rating; TEC, §39.201, which requires the commissioner to award distinction designations to a campus or district for outstanding performance; TEC, §39.2011, which makes open-enrollment charter schools and campuses that earn an acceptable rating eligible for distinction designations; TEC, §39.202 and §39.203, which authorize the commissioner to establish criteria for distinction designations for campuses and districts; TEC, §29.081(e), (e-1), and (e-2), which define criteria for alternative education programs for students at risk of dropping out of school and subjects those campuses to the performance indicators and accountability standards adopted for alternative education programs; and TEC, §12.104(b)(2)(L), which subjects open-enrollment charter schools to the rules adopted under public school accountability in TEC, Chapter 39.

CROSS REFERENCE TO STATUTE. The repeal implements Texas Education Code, §§39.052(a) and (b)(1)(A); 39.053; 39.054; 39.0541; 39.0548; 39.055; 39.151; 39.201; 39.2011; 39.202; 39.203; 29.081(e), (e-1), and (e-2); and 12.104(b)(2)(L).

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 July 26, 2019.

TRD-201902407

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Effective date: August 15, 2019

Proposal publication date: May 24, 2019

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

19 TAC §97.1004

The Texas Education Agency (TEA) adopts the repeal of §97.1004, concerning adequate yearly progress (AYP). The repeal is adopted without changes to the proposed text as published in the May 31, 2019 issue of the *Texas Register* (44

TexReg 2653) and will not be republished. The adopted repeal is necessary because the rule is concerned with requirements from the No Child Left Behind Act of 2001 (NCLB), which is no longer in effect.

REASONED JUSTIFICATION. Under the federal accountability provisions in NCLB, all campuses, school districts, and the state were evaluated for AYP. Districts, campuses, and the state were required to meet AYP criteria on three measures: reading/English language arts, mathematics, and either graduation rate (for high schools and districts) or attendance rate (for elementary and middle/junior high schools). If a campus, district, or state receiving Title I, Part A, funds failed to meet AYP for two consecutive years, that campus, district, or state was subject to certain requirements such as offering supplemental educational services, offering school choice, or taking corrective actions. To implement these requirements, TEA developed the AYP guide effective July 14, 2005. In 2015, NCLB was replaced by the Every Student Succeeds Act, which did not continue AYP.

The adopted repeal of 19 TAC §97.1004 repeals applicable excerpts, *Sections II-V*, of the *2012 Adequate Yearly Progress Guide*. These excerpted sections describe specific features of the system, AYP measures and standards, and appeals, which are no longer applicable since NCLB has been replaced.

SUMMARY OF COMMENTS AND AGENCY RESPONSES. The public comment period on the proposal began May 31, 2019, and ended July 1, 2019. No public comments were received.

STATUTORY AUTHORITY. The repeal is adopted under Texas Education Code (TEC), §7.055(b)(32), which requires the commissioner to perform duties in connection with accreditation status and the public school accountability system as prescribed by TEC, Chapter 39; TEC, §39.073, as that section existed before amendment by House Bill (HB) 3, 81st Texas Legislature, 2009, which required the commissioner to perform duties in connection with accreditation status and the public school accountability system as prescribed by TEC, Chapter 39; and TEC, §39.075(a)(4), as that section existed before amendment by HB 3, 81st Texas Legislature, 2009, which required the commissioner to authorize special accreditation investigations to be conducted in response to established compliance reviews of the district's financial accounting practices and state and federal program requirements.

CROSS REFERENCE TO STATUTE. The repeal implements Texas Education Code, §7.055(b)(32); and §39.073 and §39.075(a)(4), as those sections existed before amendment by House Bill 3, 81st Texas Legislature, 2009.

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 July 26, 2019.

TRD-201902408

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Effective date: August 15, 2019

Proposal publication date: May 31, 2019

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



TITLE 22. EXAMINING BOARDS

PART 16. TEXAS BOARD OF PHYSICAL THERAPY EXAMINERS

CHAPTER 322. PRACTICE

22 TAC §322.4

The Texas Board of Physical Therapy Examiners adopts an amendment to §322.4, concerning Practicing in a Manner Detrimental to the Public Health and Welfare, pursuant to the amendment of the PT Practice Act, Occupations Code, Chapter 453, pertaining to the repeal of physical therapy facility registration and annual renewal in SB 317 during the 85th Legislative Session. The amendment is adopted without changes to the proposed text as published in the June 14, 2019, issue of the *Texas Register* (44 TexReg 2910) and will not be republished.

The amendment is adopted in order to eliminate failure to register or renew a facility registration and practicing in an unregistered facility from the list of practices considered detrimental to the public health and welfare.

No comments were received regarding the proposed amendment.

The amended rules are adopted under the Physical Therapy Practice Act, Title 3, Subtitle H, Chapter 453, Occupations Code, which provides the Texas Board of Physical 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 July 23, 2019.

TRD-201902346

John P. Maline

Executive Director

Texas Board of Physical Therapy Examiners

Effective date: September 1, 2019

Proposal publication date: June 14, 2019

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



CHAPTER 344. ADMINISTRATIVE FINES AND PENALTIES

22 TAC §344.1

The Texas Board of Physical Therapy Examiners adopts an amendment to §344.1, concerning Administrative Fines and Penalties, pursuant to the amendment of the PT Practice Act, Occupations Code, Chapter 453, pertaining to the repeal of physical therapy facility registration and annual renewal in SB 317 during the 85th Legislative Session. The amendment is adopted without changes to the proposed text as published in the June 14, 2019, issue of the *Texas Register* (44 TexReg 2911) and will not be republished.

The amendment is adopted in order to establish a process for expungement of facility-related administrative violations from a licensee's record.

No comments were received regarding the proposed amendment.

The amended rules are adopted under the Physical Therapy Practice Act, Title 3, Subtitle H, Chapter 453, Occupations Code, which provides the Texas Board of Physical 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 July 23, 2019.

TRD-201902345

John P. Maline

Executive Director

Texas Board of Physical Therapy Examiners

Effective date: September 1, 2019

Proposal publication date: June 14, 2019

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



CHAPTER 347. REGISTRATION OF PHYSICAL THERAPY FACILITIES

22 TAC §§347.1, 347.2, 347.4 - 347.6, 347.8, 347.9, 347.11 - 347.13, 347.15

The Texas Board of Physical Therapy Examiners adopts the repeal of Chapter 347, Registration of Physical Therapy Facilities pursuant to the amendment of the PT Practice Act, Occupations Code Chapter 453 pertaining to the repeal of physical therapy facility registration and annual renewal in SB 317 during the 85th Legislative Session. The sections repealed include §§347.1, 347.2, 347.4 - 347.6, 347.8, 347.9, 347.11 - 347.13, and 347.15. The repeal is adopted without changes to the proposed repeal as published in the June 14, 2019, issue of the *Texas Register* (44 TexReg 2912). The rules will not be republished.

The repeal is adopted in order to eliminate all rules pertaining to the registration and renewal of physical therapy facilities.

No comments were received regarding the proposed amendment.

The repeal is adopted under the Physical Therapy Practice Act, Title 3, Subtitle H, Chapter 453, Occupations Code, which provides the Texas Board of Physical 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.

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John P. Maline

Executive Director

Texas Board of Physical Therapy Examiners

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



TITLE 34. PUBLIC FINANCE

PART 3. TEACHER RETIREMENT SYSTEM OF TEXAS

CHAPTER 25. MEMBERSHIP CREDIT

The Teacher Retirement System of Texas (TRS) adopts amendments to §25.162 relating to State Personal or Sick Leave Credit of Chapter 25, Subchapter L, in Title 34, Part 3, of the Texas Administrative Code (TAC) and §25.303 relating to Calculation of Actuarial Costs for Purchase of Compensation Credit, of Chapter 25, Subchapter P, in Title 34, Part 3, of the TAC without changes to the proposed text as published in the June 14, 2019, issue of the *Texas Register* (44 TexReg 2914). These rules will not be republished. In addition, TRS adopts amendments to §25.302 relating to Calculation of Actuarial Cost of Service Credit of Chapter 25, Subchapter P, in Title 34, Part 3, of the TAC with changes to the proposed text as published in the same issue of the *Texas Register*. The rule is republished below.

REASONED JUSTIFICATION

The adopted amendments update one or more actuarial table used to calculate the cost of a service credit or compensation credit purchase. The adopted amendments incorporate new actuarial tables into each rule that have been updated based on the most recently-approved mortality assumptions and new investment return assumption adopted by the TRS Board of Trustees (Board). The new actuarial tables were prepared by the TRS actuary of record, Gabriel, Roeder, Smith & Company.

The adopted amendments to §25.162 update the actuarial table for the purchase of one year of service credit based on accumulated state personal or sick leave. The adopted amendments to §25.302 update several actuarial tables relating to the purchase of service credit that must be purchased based on the actuarial present value of the credit, such as service credit for unreported service or out-of-state service. Lastly, adopted amendments to §25.303 update several actuarial tables relating to the purchase of compensation credit that statute must be purchased based on the actuarial present value of the compensation. Minor, conforming changes have also been made to the text of adopted amendments to §25.302 and §25.303 to incorporate these tables, and a clarifying change has been made to §25.303 that provides that the cost factor for purchasing compensation credit shall be applied to the difference between a participant's final average salary before and after the purchase, not the additional compensation being purchased. Lastly, an additional clarifying change has been made to the proposed text of §25.302 that provides that the 103.5% multiplier shall be applied to all service credit purchases for grandfathered members regardless of whether the cost factor is found in the upper or lower region of the applicable table. This change ensures the tables are consistent with instructions of the TRS Actuary of Record regarding implementation of the new tables.

The adopted amendments and updated tables will be effective on September 1, 2019, and will be used to calculate the cost of any relevant service or compensation credit purchases initiated beginning in the 2019-2020 school year and going forward.

COMMENTS

No comments on the proposed adoption of the amendments were received.

SUBCHAPTER L. OTHER SPECIAL SERVICE CREDIT

34 TAC §25.162

STATUTORY AUTHORITY

The adopted amendments were proposed under the authority of Government Code §825.102 which authorizes the TRS Board of Trustees to adopt rules for the eligibility for membership, the administration of the funds of the retirement system, and the transaction of business of the board and Government Code §823.403, which provides that an eligible member is entitled to receive service credit based on the member's accumulated sick and personal leave if the member pays to TRS at the time service credit is granted the actuarial present value of the additional standard retirement annuity benefits under the option selected by the member that would be attributable to the conversion of the unused state personal or sick leave into the service credit based on rates and tables recommended by the TRS actuary of record and adopted by the Board.

CROSS-REFERENCE TO STATUTE

The adopted amendments implement Chapter 823, Subchapter E, Texas Government Code, concerning establishment of equivalent membership service.

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

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Don Green

Chief Financial Officer

Teacher Retirement System of Texas

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For further information, please call: (512) 542-6201



SUBCHAPTER P. CALCULATION OF FEES AND COSTS

34 TAC §25.302, §25.303

(Editor's note: In accordance with Texas Government Code, §2002.014, which permits the omission of material which is "cumbersome, expensive, or otherwise inexpedient," the figures in 34 TAC §25.302 are not included in the print version of the Texas Register. The figures are available in the on-line version of the August 9, 2019, issue of the Texas Register.)

STATUTORY AUTHORITY

The amendments are adopted under the authority of Government Code §825.102 which authorizes the TRS Board of Trustees to adopt rules for the eligibility for membership, the administration of the funds of the retirement system, and the transaction of business of the board; Government Code §823.401, which provides that eligible members may establish equivalent member service credit based on certain types of out-of-state service by depositing with TRS the actuarial present value, at the time of deposit, of the additional standard retirement annuity benefits that would be attributable to the purchase of the service credit based on rates and tables recommended by the TRS actuary of record and adopted by the Board; Government Code §823.402, which provides that eligible members may establish equivalent membership service credit for certain

developmental leave by depositing with TRS the actuarial present value, at the time of deposit, of the additional standard retirement annuity benefits that would be attributable to the purchase of the service credit based on rates and tables recommended by the TRS actuary of record and adopted by the Board; Government Code §823.404, which provides that an eligible member may establish equivalent membership service credit for work experience for which the member is entitled to a salary step under Education Code §21.403(b) if the member deposits with TRS, for each year of service, the actuarial present value, at the time of deposit, of the additional standard retirement annuity benefits that would be attributable to the conversion of the work experience into service credit based on rates and tables recommended by the TRS actuary of record and adopted by the Board; Government Code §823.406, which provides that a member may establish membership service credit for service performed during a 90-day waiting period to become a member by depositing with TRS, for each month of service credit, the actuarial present value, at the time of deposit, of the additional standard retirement annuity benefits that would be attributable to the purchase of the service credit under this section, based on rates and tables recommended by the TRS actuary of record and adopted by the Board; and Government Code §825.403, which provides that to establish service or compensation credit for unreported service or compensation, a person must deposit with TRS the actuarial present value, at the time of deposit, of the additional standard retirement annuity benefits that would be attributable to the purchase of the service or compensation credit based on rates and tables recommended by the TRS actuary of record and adopted by the Board.

CROSS-REFERENCE TO STATUTE

The proposed amendments implement Chapter 823, Subchapter E, Texas Government Code, concerning establishment of equivalent membership service and Government Code §825.403, concerning the collection of member's contributions.

§25.302. Calculation of Actuarial Costs of Service Credit.

(a) When a member is purchasing TRS service credit for which the law requires that the actuarial cost or actuarial present value be deposited and for which the method in this section is referenced by another section of this title, TRS will calculate the cost using the cost factors obtained from the Actuarial Cost Tables adopted and method described in this section. Effective September 1, 2015, for purposes of this section, TRS will use the age of the member and the service credit established by the member on September 1 of the school year in which the cost of the purchase is established.

(b) The factors for individuals whose membership was established before September 1, 2007 and who have five years of service credit on August 31, 2014, and maintain membership in TRS until the time of purchase, are shown in the tables adopted as part of this subsection, which shall be used when the service credit cost is paid on or after September 1, 2019, or an installment agreement is entered into on or after September 1, 2019. Within each set of tables, the number of years of service credit to be purchased will determine which specific table will be used. Each of the tables cross-references the member's age in rows with years of credited service (before purchase) in columns. The intersection of the participant's age and service is the cost per \$1,000 of salary. The cost factor for a participant with more years of service credit than shown on the table is the same as the factor shown for the highest number of years of service credit on the table for the participant. TRS will calculate the cost to purchase service credit under this section by dividing the participant's salary by 1000 and multiplying the resulting quotient by the appropriate cost factor obtained from the table. The

tables set forth the cost, per \$1,000 of salary, to purchase from one year to fifteen years of service credit. The number of years of service credit available for purchase is determined by the laws and rules applicable to the type of service credit to be purchased. For the purpose of calculating the required amount for a member who is not grandfathered to use a three-year salary average under §51.12 of this title (relating to Applicability of Certain Laws in Effect Before September 1, 2005), the term "salary" is defined as follows:

(1) For the upper region of the table (where the factors appear above the line), salary is the greater of the annual salary for the last year of credited service or the average of the member's highest years of compensation calculated on September 1 of the school year in which the cost of the service credit is established. The fewer of five years of compensation or all of the member's years of compensation shall be used for the average; or

(2) For the lower region of the table (where the factors appear below the line), salary is the average of the member's highest five years of compensation calculated on September 1 of the school year in which the cost of the service credit is established. A member's highest five years of compensation shall be calculated as if the member were retiring at the time the service credit is purchased. The lower region of the table (where the factors appear below the line) reflects those age and service combinations where the purchase of service credit results in immediate eligibility of the member for unreduced retirement benefits.

Figure: 34 TAC §25.302(b)(2)

(c) For the purpose of calculation of actuarial cost for service credit for a member described in subsection (b) of this section who is grandfathered to use a three-year salary average, the term "salary" shall have the same meaning as in subsection (b) of this section except that a three-year salary average shall be used instead of a five-year salary average. Additionally, the cost shall be 103.5 percent of the cost as calculated under subsection (b) of this section.

(d) For individuals whose membership was established on or after September 1, 2007 and who have five years of service credit on August 31, 2014, and maintain membership in TRS until the time of purchase, the methodology described in subsection (b) of this section shall be used to determine cost of additional service credit, but TRS shall use the factors in the tables adopted as part of this subsection, which shall be used when the service credit cost is paid on or after September 1, 2019, or an installment agreement is entered into on or after September 1, 2019. If the member is not grandfathered to use a three-year salary average, the term "salary" shall have the same meaning as in subsection (b) of this section.

Figure: 34 TAC §25.302(d)

(e) If an individual established membership on or after September 1, 2007 and has five years of service credit on August 31, 2014, and maintains membership in TRS until the time of purchase, but is grandfathered to use a three-year salary average, the term "salary" shall have the same meaning as in subsection (b) of this section except that a three-year salary average shall be used instead of a five-year salary average. The cost of establishing additional service credit for a grandfathered member described in this subsection, shall be 1.035 times the cost as calculated under subsection (d) of this section.

(f) An individual who first was a member of TRS before September 1, 2007, but who terminated membership through withdrawal of accumulated contributions and then again joined TRS on or after September 1, 2007, and has five years of service credit on August 31, 2014 and maintains membership in TRS until the time of purchase, is subject to the calculation of cost for additional service credit under subsections (d) and (e) of this section.

(g) For members who do not have five years of service credit on August 31, 2014 or whose current membership began after August 31, 2014, the methodology described in subsections (b) and (c) of this section shall be used to determine the cost of additional service credit, but TRS shall use the factors in the tables adopted as a part of this subsection.

Figure: 34 TAC §25.302(g)

(h) For the purpose of calculation of actuarial cost for service credit for a member described in subsection (g) of this section who is not grandfathered to use a three-year salary average, the term "salary" shall have the same meaning as in subsection (b) of this section.

(i) If the individual did not have five years of service credit on August 31, 2014 or whose current membership began after August 31, 2014, but is grandfathered to use a three-year salary average, the term "salary" shall have the same meaning as in subsection (b) of this section except that a three-year salary average shall be used instead of a five-year salary average. The cost of establishing additional service credit for a grandfathered member described in this subsection shall be 1.035 times the cost as calculated under subsection (g) of this section.

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

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Don Green

Chief Financial Officer

Teacher Retirement System of Texas

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For further information, please call: (512) 542-6201



CHAPTER 29. BENEFITS

(Editor's note: In accordance with Texas Government Code, §2002.014, which permits the omission of material which is "cumbersome, expensive, or otherwise inexpedient," the figures in 34 TAC §29.11 are not included in the print version of the Texas Register. The figures are available in the on-line version of the August 9, 2019, issue of the Texas Register.)

The Teacher Retirement System of Texas (TRS) adopts amendments to §29.21 relating to Beneficiary Tables, Subchapter A, in Title 34, Part 3, of the Texas Administrative Code and §29.71 relating to Tables, Subchapter F, in Title 34, Part 3, of the Texas Administrative Code without changes to the text as proposed in the June 14, 2019, issue of the *Texas Register* (44 TexReg 2917). These rules will not be republished. In addition, TRS adopts amendments to §29.11 relating to Actuarial Tables, Subchapter A, in Title 34, Part 3, of the Texas Administrative Code with changes to the text as proposed in the same issue of the *Texas Register*. This rule is republished below.

REASONED JUSTIFICATION

Each rule TRS adopts to amend currently incorporates one or more actuarial table used to calculate the retirement benefits of TRS retirees based on various retirement selections, such as electing for early-age retirement or a partial lump-sum option payment. The adopted amendments incorporate new actuarial tables into each rule that have been updated based on the TRS Board of Trustees (Board) most recently approved mortality

assumptions and new investment return assumption. The new actuarial tables were prepared by the TRS actuary of record, Gabriel, Roeder, Smith & Company.

Adopted amended §29.11 updates several actuarial tables relating to early-age retirement reduction factors, reduction factors for service and disability retirement options, and reserve transfer factors. TRS has also made a minor clarifying change to both Graphic 34 TAC §29.11(c) and Graphic 34 TAC §29.11(d) as originally proposed. The reduction factor tables for Option 3 and Option 4 annuities under each graphic both now include a footnote clarifying that for members younger than 40 years of age the age 40 reduction factor shall apply. In addition, TRS has made nonsubstantive changes to each graphic as proposed to correct typographical errors. Adopted amended §29.21 updates the tables for unisex joint beneficiary life expectancy that are used when calculating life expectancy for the purposes of option beneficiary changes made under §824.1013, Government Code. Lastly, adopted amended §29.71 updates the actuarial table relating to the reduction factors to be applied to the annuity payments of retirees that elect to receive a partial lump-sum payment at the time of retirement. Minor, conforming changes have also been made to the text of adopted amended §29.11 to incorporate the updated tables.

The adopted amended rules and updated tables are effective on September 1, 2019 and will generally be used to calculate the benefits for all service or disability retirements or option beneficiary changes that will be effective in the 2019-2020 school year and going forward. If an update to one of the tables would have an adverse impact to the benefits of a retiree or member who is eligible for normal-age service retirement at the time of the proposed change becomes effective, the retiree or member's benefit will continue to be calculated under the tables as they existed prior to the update.

COMMENTS

No comments on the proposed adoption of the amendments were received.

SUBCHAPTER A. RETIREMENT

34 TAC §29.11, §29.21

STATUTORY AUTHORITY

The adopted amendments were proposed under the authority of Government Code §825.102 which authorizes the TRS Board of Trustees to adopt rules for the eligibility for membership, the administration of the funds of the retirement system, and the transaction of business of the board; Government Code §824.1013, which limits the monthly payments a new option beneficiary may receive after a beneficiary change under that section to the life expectancy of the beneficiary designated at retirement; Government Code §824.202, which provides the early-age retirement reduction factors and authorizes the Board to adopt tables that interpolate the application of each reduction factor by each month of age of retiree between two years of age; Government Code §824.204, which requires that an optional annuity payment be actuarially reduced from the standard annuity payment to its actuarially equivalent based on the service retirement option selected; Government Code §824.308, which requires that an optional annuity payment be actuarially reduced from the standard annuity payment to its actuarially equivalent based on the disability retirement option selected; and Government Code §825.309, which describes that if TRS transfers funds to a retired reserve account the amount transferred from the state con-

tribution account must be an amount determined under actuarial tables adopted by the Board sufficient for the payments of benefits as they become due.

CROSS-REFERENCE TO STATUTE

The adopted amendments implement Chapter 824, Subchapter B (concerning Beneficiaries), Subchapter C (concerning Service Retirement Benefits), and Subchapter D (concerning Disability Retirement Benefits), Texas Government Code and Chapter 825, Subchapter D (concerning Management of Assets), Texas Government Code.

§29.11. Actuarial Tables.

(a) Actuarial tables furnished by the TRS actuary of record will be used for computation of benefits. Factors for ages or types of annuities not included in the tables will be computed from the same data by the same general formulas.

(b) The Teacher Retirement System adopts the actuary's early age reduction factors. The factor tables are as follows:
Figure: 34 TAC §29.11(b)

(c) The Teacher Retirement System adopts the actuary's factors for service retirement options. The factor tables are as follows:
Figure: 34 TAC §29.11(c)

(d) The Teacher Retirement System adopts the actuary's factors for disabled member retirement options. The factor tables are as follows:
Figure: 34 TAC §29.11(d)

(e) The Teacher Retirement System adopts the actuary's reserve transfer factors. The reserve transfer factor tables are as follows:
Figure: 34 TAC §29.11(e)

(f) The board of trustees may change the tables or adopt new tables from time to time by amending this section; provided, however, that any such change does not result in any retiree or member eligible for service retirement with an unreduced annuity as of the date of the change receiving a smaller benefit than the benefit computed immediately before the change. If such a change would result in a smaller benefit, then TRS will use the tables in effect immediately prior to the change to calculate the benefits for any retiree or member eligible for service retirement with an unreduced annuity as of the date of the change.

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

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Don Green

Chief Financial Officer

Teacher Retirement System of Texas

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For further information, please call: (512) 542-6201



SUBCHAPTER F. PARTIAL LUMP-SUM PAYMENT

34 TAC §29.71

STATUTORY AUTHORITY

The adopted amendment was proposed under the authority of Government Code §825.102 which authorizes the TRS Board of Trustees to adopt rules for the eligibility for membership, the administration of the funds of the retirement system, and the transaction of business of the board, and Government Code §824.2045, which requires the service retirement annuity selected by a retiree to be actuarially reduced to reflect the lump-sum option selected by the member and shall be actuarially equivalent to a standard or optional service retirement annuity, as applicable, reduced for early age without the partial lump-sum distribution.

CROSS-REFERENCE TO STATUTE

The adopted amendments implement Chapter 825, Subchapter C (concerning Service Retirement Benefits), Texas Government Code.

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

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Don Green

Chief Financial Officer

Teacher Retirement System of Texas

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For further information, please call: (512) 542-6201



CHAPTER 41. HEALTH CARE AND INSURANCE PROGRAMS

The Teacher Retirement System of Texas (TRS) adopts amendments to rules §41.1, relating to Initial Enrollment Periods for the Health Benefit Program under the Texas Public School Retired Employees Group Benefits Act (TRS-Care); §41.2, relating to Additional Enrollment Opportunities; §41.3, relating to Retirees Advisory Committee; §41.4, relating to Employer Health Benefit Surcharge; §41.7, relating to Effective Date of Coverage; §41.8, relating to Eligible Bidders; §41.9, relating to Bid Procedure; §41.11, relating to Years of Service Credit Used to Determine Premiums; §41.15, relating to Requirements to Bid on Insurance for School District Employees and Retirees Under Chapter 1576 of the Insurance Code; §41.31, relating to Eligible Bidders; §41.32, relating to Bid Procedure; §41.34, relating to Eligibility for Coverage under the Texas School Employees Uniform Group Health Coverage Program; §41.39, relating to Coverage for Individuals Changing Employers; §41.41, relating to Premium Payments; and §41.50, relating to Appeals Relating to Claims or Other Benefits, of Chapter 41, Subchapter A, Subchapter B and Subchapter C, in Title 34, Part 3, of the Texas Administrative Code. The amendments are adopted without changes to the proposed text as published in the June 14, 2019, issue of the *Texas Register* (44 TexReg 2920) and therefore will not be republished.

REASONED JUSTIFICATION

Subchapter A, Retiree Health Care Benefits (TRS-CARE): This subchapter contains 14 rules addressing the health coverage that can be offered pursuant to Chapter 1575 of the Insurance

Code. Changes are adopted for eight rules in this subchapter: §§41.1 - 41.4, 41.7 - 9, and 41.11.

TRS-Care Program Rule 41.1 Initial Enrollment Periods for the Health Benefit Program under the Texas Public School Retired Employees Group Benefits Act (TRS-Care). In addition to non-substantive adopted amendments to streamline the wording of this rule, amendments are also adopted in subsection (e) to eliminate specific references to initial enrollment opportunities for new spouses and new dependent children. Those have been replaced by references to broader enrollment opportunities under Rule §41.2 and under applicable law, which themselves include initial enrollment opportunities for new spouses and new dependent children. Therefore, these adopted amendments in subsection (e) do not make any substantive changes to the initial enrollment periods available to potential enrollees.

TRS-Care Program Rule 41.2 Additional Enrollment Opportunities. Subsection (a) of this rule expired on December 31, 2017, as evidenced by subsection (a)(9). Accordingly, this subsection is deleted, along with the re-lettering of the remainder of the subsections of this rule. In addition, subsection (b)(3) is deleted because it is no longer needed.

TRS-Care Program Rule 41.3 Retirees Advisory Committee. Along with the correction of a typographical reference to the "Committees" in subsection (g), the adopted amendment concerning subsection (b) more closely aligns its language with the language found in Section 1.7(t) of the TRS Board Bylaws.

TRS-Care Program Rule 41.4 Employer Health Benefit Surcharge. With the passage of time, the introductory phrase in subsection (c), along with existing subsections (b), (j) and (k), are no longer needed. All of the other amendments adopted in this rule simply re-letter references to the remaining subsections of this rule.

TRS-Care Program Rule 41.7 Effective Date of Coverage. The adopted amendments in subsection (g) and subsection (h) are responsive to the above noted re-lettering of the remaining subsections of Rule 41.2. Further, a new subsection (n) has been added as a means of providing notice to enrollees in a Medicare plan under TRS-Care that their effective date of coverage is determined by the federal laws, regulations, policies and procedures that control the Medicare program.

TRS-Care Program Rules 41.8 Eligible Bidders and Rule 41.9 Bid Procedure. These rules deal with bidding issues related to the TRS-Care Program. The adopted revisions to these rules, as well as the similar rules for the other two programs addressed under Chapter 41, have two objectives in mind: (1) where appropriate, to create greater consistency between and among these rules, given that all of them address bidding issues; and (2) to eliminate specific bidding terms. Specific bidding terms are now included in the minimum qualification standards outlined in each solicitation, when appropriate; accordingly, the adopted revisions to the rules for each program include more general and more flexible requirements that each bidder "must comply with the minimum qualification standards contained in the applicable solicitation from TRS" and each bid must be "submitted in compliance with the bid requirements provided by TRS."

TRS-Care Program Rule 41.11 Years of Service Credit Used to Determine Premiums. Subsection (a) provides that TRS may use years of service credit to determine applicable premium rates. The adopted amendments add an introductory phrase to subsections (b) and (c) in order to clarify that subsections (b) and (c), with their mandatory "will use the retiree's years

of service credit" language, are subject first and foremost to an election by TRS under subsection (a) to use such years of service credit in determining premiums.

Subchapter B, Long-Term Care, Disability, and Life Insurance Rule 41.15 Requirements to Bid on Insurance for School District Employees and Retirees Under Chapter 1576 of the Insurance Code. This subchapter contains six rules addressing the long-term care coverage that can be offered pursuant to Chapter 1576 of the Insurance Code. Changes are adopted for one rule in this subchapter, §41.15. The adopted amendments to this rule provide consistency with the changes adopted to the other rules that address bidding for contracts (i.e., Rules 41.8, 41.9, 41.31, and 41.32); also, existing subsections (c) and (d) of Rule 41.15 are deleted because the possible offering of permanent life insurance and disability insurance are not a part of the Long-Term Care Program and, therefore, should not be included in this rule.

Subchapter C, Texas School Employees Group Health (TRS-ActiveCare). This subchapter contains sixteen rules addressing the administration and operation of the TRS-ActiveCare Program. Changes are adopted for six rules in the subchapter: §§41.31, 41.32, 41.34, 41.39, 41.41, and 41.50.

TRS-ActiveCare Program Rule 41.31 Eligible Bidders and Rule 41.32 Bid Procedures. These rules relate to bidding issues associated with the TRS ActiveCare Program. The adopted revisions to these rules, as well as the similar rules for the other two programs addressed under Chapter 41, have two objectives in mind: (1) where appropriate, to create greater consistency between and among these rules, given that all of them address bidding issues; and (2) to eliminate specific bidding terms. Specific bidding terms are now included in the minimum qualification standards outlined in each solicitation, when appropriate; accordingly, the adopted revisions include for each program more general and more flexible requirements that each bidder "must comply with the minimum qualification standards contained in the applicable solicitation from TRS" and each bid must be "submitted in compliance with the bid requirements provided by TRS."

TRS-ActiveCare Program Rule 41.34 Eligibility for Coverage under the Texas School Employees Uniform Group Health Coverage Program. As marked in subsections (1), (2), (3), (5) and (6), the adopted substitution of the word "title" for "chapter" align these references with similar such references found in other rules under Chapter 41. With the passage of time, the introductory phrase in subsection (8), along with existing subsection (9), are no longer needed. These above-noted adopted amendments make no substantive changes to this rule.

TRS-ActiveCare Program Rule 41.39 Coverage for Individuals Changing Employers. The only adopted amendment to this rule is found in subsection (d). Subsection (d) provides that an eligible employee who has previously waived coverage may enroll during any subsequent open enrollment period. However, a change in employment that takes place during the same plan year in which the employee waived coverage, but outside of an open-enrollment period, will not allow the employee to enroll in TRS-ActiveCare. Yet, Rule 41.36(b) provides that if an eligible part-time employee waives coverage during an enrollment opportunity and later, during that same plan year, becomes an eligible full-time employee, then that employee has a 31-day enrollment opportunity to enter into TRS-ActiveCare; this change in status to a full-time employee could take place when the employee changes employment during the same plan year in which the employee previously waived coverage.

This adopted amendment provides notice to enrollees of this exception to the general prohibition found in subsection (d) of Rule 41.39.

TRS-ActiveCare Program Rule 41.41 Premium Payments. With the passage of time, existing subsection (a), along with the introductory phrase in subsection (b), are no longer needed. All of the other amendments adopted in this rule simply re-letter references to the remaining subsections of this rule.

TRS-ActiveCare Program Rule 41.50 Appeals, relating to Claims or Other Benefits. With the passage of time, the phrase in subsection (a) that references "September 1, 2011," along with existing subsection (b), are no longer needed.

COMMENTS

No comments on the proposed adoption of the amendments were received.

SUBCHAPTER A. RETIREE HEALTH CARE BENEFITS (TRS-CARE)

34 TAC §§41.1 - 41.4, 41.7 - 41.9, 41.11

STATUTORY AUTHORITY

The adopted amendments were proposed under the authority of Texas Insurance Code §1575.051 and 1575.052(a), relating to the adoption of rules to implement TRS-Care; Texas Insurance Code §1576.006, relating to the adoption of rules for group long-term care insurance for public school employees; and Texas Insurance Code §1579.051 and §1579.052 (a), (b) and (e), relating to the adoption of rules for TRS-ActiveCare.

CROSS-REFERENCE TO STATUTE

The adopted amended rules implement the Texas Public School Retired Employees Group Benefits Act (Chapter 1575 of the Texas Insurance Code); Chapter 1576 of the Texas Insurance Code, relating to group long-term care insurance for public school employees; and the Texas School Employees Group Health Coverage Act (Chapter 1579 of the Texas Insurance Code).

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

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For further information, please call: (512) 542-6201



SUBCHAPTER B. LONG-TERM CARE, DISABILITY AND LIFE INSURANCE

34 TAC §41.15

STATUTORY AUTHORITY

The adopted amendments were proposed under the authority of Texas Insurance Code §1575.051 and 1575.052(a), relating to

the adoption of rules to implement TRS-Care; Texas Insurance Code §1576.006, relating to the adoption of rules for group long-term care insurance for public school employees; and Texas Insurance Code §1579.051 and §1579.052 (a), (b) and (e), relating to the adoption of rules for TRS-ActiveCare.

CROSS-REFERENCE TO STATUTE

The adopted amended rules implement the Texas Public School Retired Employees Group Benefits Act (Chapter 1575 of the Texas Insurance Code); Chapter 1576 of the Texas Insurance Code, relating to group long-term care insurance for public school employees; and the Texas School Employees Group Health Coverage Act (Chapter 1579 of the Texas Insurance Code).

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

Filed with the Office of the Secretary of State on July 26, 2019.

TRD-201902386

Don Green

Chief Financial Officer

Teacher Retirement System of Texas

Effective date: August 15, 2019

Proposal publication date: June 14, 2019

For further information, please call: (512) 542-6201



SUBCHAPTER C. TEXAS SCHOOL EMPLOYEES GROUP HEALTH (TRS-ACTIVECARE)

34 TAC §§41.31, 41.32, 41.34, 41.39, 41.41, 41.50

STATUTORY AUTHORITY

The adopted amendments were proposed under the authority of Texas Insurance Code §1575.051 and 1575.052(a), relating to the adoption of rules to implement TRS-Care; Texas Insurance Code §1576.006, relating to the adoption of rules for group long-term care insurance for public school employees; and Texas Insurance Code §1579.051 and §1579.052 (a), (b) and (e), relating to the adoption of rules for TRS-ActiveCare.

CROSS-REFERENCE TO STATUTE

The adopted amended rules implement the Texas Public School Retired Employees Group Benefits Act (Chapter 1575 of the Texas Insurance Code); Chapter 1576 of the Texas Insurance Code, relating to group long-term care insurance for public school employees; and the Texas School Employees Group Health Coverage Act (Chapter 1579 of the Texas Insurance Code).

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

Filed with the Office of the Secretary of State on July 26, 2019.

TRD-201902387

Don Green

Chief Financial Officer

Teacher Retirement System of Texas

Effective date: August 15, 2019

Proposal publication date: June 14, 2019

For further information, please call: (512) 542-6201



CHAPTER 47. QUALIFIED DOMESTIC RELATIONS ORDERS

34 TAC §47.17

The Teacher Retirement System of Texas (TRS) adopts an amendment to rule §47.17, relating to Calculation for Alternate Payee Benefits Before a Member's Benefit Begins, of Chapter 47, in Title 34, Part 3, of the Texas Administrative Code. The amended rule is adopted without changes to the proposed text as published in the June 14, 2019, issue of the *Texas Register* (44 TexReg 2930). The rule will not be republished.

REASONED JUSTIFICATION

The adopted amendment to §47.17 incorporates three actuarial tables used to calculate distributions made to an alternate payee under Government Code §804.005. The adopted amendment incorporates new actuarial tables into the rule that have been updated based on the TRS Board of Trustees most recently approved mortality assumptions and new investment return assumption. The new actuarial tables were prepared by the TRS actuary of record, Gabriel, Roeder, Smith & Company.

The adopted amended rule and updated tables are adopted to become effective on September 1, 2019, and will generally be used to calculate the benefits for all distributions made to an alternate payee under Government Code §804.005 and will be effective in the 2019-2020 school year and going forward.

COMMENTS

No comments on the proposed adoption of the amendment were received.

STATUTORY AUTHORITY

The amended rule §47.17 is adopted under the authority of Government Code §825.102, which authorizes the TRS Board of Trustees to adopt rules for the eligibility for membership, the administration of the funds of the retirement system, and the transaction of business of the board and Government Code §804.005, which requires that a distribution made pursuant to that section be the actuarial equivalent of the accrued retirement benefit of the member of the retirement system, determined as if the member retired on the date of the alternate payee's election.

CROSS-REFERENCE TO STATUTE

The adopted amendment to rule §47.11 implements Chapter 804, Subchapter A, Texas Government Code, concerning Qualified Domestic Relations Orders.

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 July 26, 2019.

TRD-201902389



TITLE 37. PUBLIC SAFETY AND CORRECTIONS

PART 1. TEXAS DEPARTMENT OF PUBLIC SAFETY

CHAPTER 4. COMMERCIAL VEHICLE REGULATIONS AND ENFORCEMENT PROCEDURE

SUBCHAPTER B. REGULATIONS GOVERNING TRANSPORTATION SAFETY

37 TAC §4.11

The Texas Department of Public Safety (the department) adopts amendments to §4.11, concerning General Applicability and Definitions. This rule is adopted with changes to the proposed text as published in the June 21, 2019, issue of the *Texas Register* (44 TexReg 3087) and will be republished. Typographical errors have been corrected.

The adopted amendments are necessary to harmonize updates to 49 CFR with those laws adopted by Texas. These amendments also remove §4.11(c)(1)(E) which is the requirement that household goods movers that are not subject to the Federal Motor Carrier Safety Regulations keep records of duty status. These drivers are not required to comply with 49 CFR Part 395, this requirement is not necessary, and has no practical enforcement mechanism. Removing this requirement will reduce business administrative burdens.

No comments were received regarding the adoption of this rule.

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

§4.11. *General Applicability and Definitions.*

(a) The director of the Texas Department of Public Safety incorporates, by reference, the Federal Motor Carrier Safety Regulations, Title 49, Code of Federal Regulations, Parts 40, 380, 382, 385 - 387, 390 - 393, and 395 - 397 including all interpretations thereto, as amended through July 1, 2019. All other references in this subchapter to the Code of Federal Regulations also refer to amendments and interpretations issued through July 1, 2019. The rules detailed in this section ensure:

- (1) a commercial motor vehicle is safely maintained, equipped, loaded, and operated;
- (2) the responsibilities imposed on a commercial motor vehicle's operator do not impair the operator's ability to operate the vehicle safely;

(3) the physical condition of a commercial motor vehicle's operator enables the operator to operate the vehicle safely;

(4) commercial motor vehicle operators are qualified, by reason of training and experience, to operate the vehicle safely; and

(5) the minimum levels of financial responsibility for motor carriers of property or passengers operating commercial motor vehicles in interstate, foreign, or intrastate commerce is maintained as required.

(b) Certain terms, when used in the federal motor carrier safety regulations as adopted in subsection (a) of this section, have the following meanings, unless the context clearly indicates otherwise.

(1) Motor carrier--Has the meaning assigned by Texas Transportation Code, §643.001(6) when vehicles operated by the motor carrier meet the applicability requirements of subsection (c) of this section.

(2) Hazardous material shipper--A consignor, consignee, or beneficial owner of a shipment of hazardous materials.

(3) Interstate or foreign commerce--All movements by motor vehicle, both interstate and intrastate, over the streets and highways of this state.

(4) Department--The Texas Department of Public Safety.

(5) Director--The director of the Texas Department of Public Safety or the designee of the director.

(6) Federal Motor Carrier Safety Administration (FMCSA)--The director of the Texas Department of Public Safety for vehicles operating in intrastate commerce.

(7) Farm vehicle--Any vehicle or combination of vehicles controlled and/or operated by a farmer or rancher being used to transport agriculture commodities, farm machinery, and farm supplies to or from a farm or ranch.

(8) Commercial motor vehicle--Has the meaning assigned by Texas Transportation Code, §548.001(1) if operated intrastate; commercial motor vehicle has the meaning assigned by Title 49, Code of Federal Regulations, §390.5 if operated interstate.

(9) Foreign commercial motor vehicle--Has the meaning assigned by Texas Transportation Code, §648.001.

(10) Agricultural commodity--Has the meaning as defined in Title 49, Code of Federal Regulations, §395.2 and includes wood chips.

(11) Planting and harvesting seasons--Are January 1 to December 31.

(12) Producer--A person engaged in the business of producing or causing to be produced for commercial purposes an agricultural commodity. The term includes the owner of a farm on which the commodity is produced and the owner's tenant or sharecropper.

(13) Off-road motorized construction equipment--Includes but is not limited to, motor scrapers, backhoes, motor graders, compactors, excavators, tractors, trenchers, bulldozers, and other similar equipment routinely found at construction sites and that is occasionally moved to or from construction sites by operating the equipment short distances on public highways. Off-road motorized construction equipment is not designed to operate in traffic and such appearance on a public highway is only incidental to its primary functions. Off-road motorized construction equipment is not considered to be a commercial motor vehicle as that term is defined in Texas Transportation Code, §644.001.

(14) The phrase "The commercial driver's license requirements of part 383 of this subchapter" as used in Title 49, Code of Federal Regulations, §382.103(a)(1) shall mean the commercial driver's license requirements of Texas Transportation Code, Chapter 522.

(15) For purposes of removal from safety-sensitive functions for prohibited conduct as described in Title 49, Code of Federal Regulations, §382.501(c), commercial motor vehicle means a vehicle subject to the requirements of Texas Transportation Code, Chapter 522 and a vehicle subject to §4.22 of this title (relating to Contract Carriers of Certain Passengers), in addition to those vehicles enumerated in Title 49, Code of Federal Regulations, §382.501(c).

(c) Applicability.

(1) The FMCSA regulations are applicable to the vehicles detailed in subparagraph (A) - (F) of this paragraph:

(A) a vehicle or combination of vehicles with an actual gross weight or a gross weight rating in excess of 26,000 pounds when operating intrastate;

(B) a farm vehicle or combination of farm vehicles with an actual gross weight or a gross weight rating of 48,000 pounds or more when operating intrastate;

(C) a vehicle designed or used to transport more than 15 passengers, including the driver;

(D) a vehicle transporting hazardous material requiring a placard;

(E) a foreign commercial motor vehicle that is owned or controlled by a person or entity that is domiciled in or a citizen of a country other than the United States; and

(F) a contract carrier transporting the operating employees of a railroad on a road or highway of this state in a vehicle designed to carry 15 or fewer passengers.

(2) The regulations contained in Title 49, Code of Federal Regulations, §392.9a, and all interpretations thereto, are applicable to motor carriers operating exclusively in intrastate commerce and to the intrastate operations of interstate motor carriers that have not been federally preempted by the United Carrier Registration Act of 2005. The term "operating authority" as used in Title 49, Code of Federal Regulations, §392.9a, for the motor carriers described in this paragraph, shall mean compliance with the registration requirements found in Texas Transportation Code, Chapter 643. For purposes of enforcement of this paragraph, peace officers certified to enforce this chapter, shall verify that a motor carrier is not registered, as required in Texas Transportation Code, Chapter 643, before placing a motor carrier out-of-service. Motor carriers placed out-of-service under Title 49, Code of Federal Regulations, §392.9a may request a review under §4.18 of this title (relating to Intrastate Operating Authority Out-of-Service Review). All costs associated with the towing and storage of a vehicle and load declared out-of-service under this paragraph shall be the responsibility of the motor carrier and not the department or the State of Texas.

(3) All regulations contained in Title 49, Code of Federal Regulations, Parts 40, 380, 382, 385 - 387, 390 - 393 and 395 - 397, and all interpretations thereto pertaining to interstate drivers and vehicles are also adopted except as otherwise excluded.

(4) A medical examination certificate, issued in accordance with Title 49, Code of Federal Regulations, §§391.14, 391.41, 391.43, and 391.45, shall expire on the date indicated by the medical examiner; however, no such medical examination certificate shall be valid for more than two years from the date of issuance.

(5) Nothing in this section shall be construed to prohibit an employer from requiring and enforcing more stringent requirements relating to safety of operation and employee health and safety.

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 July 26, 2019.

TRD-201902406

D. Phillip Adkins

General Counsel

Texas Department of Public Safety

Effective date: August 15, 2019

Proposal publication date: June 21, 2019

For further information, please call: (512) 424-5848



PART 13. TEXAS COMMISSION ON FIRE PROTECTION

CHAPTER 429. FIRE INSPECTOR AND PLAN EXAMINER

SUBCHAPTER B. MINIMUM STANDARDS FOR PLAN EXAMINER

37 TAC §429.201

The Texas Commission on Fire Protection (the commission) adopts amendments to Chapter 429, Fire Inspector and Plan Examiner, Subchapter B, Minimum Standards For Plan Examiner, §429.201, Minimum Standards for Plan Examiner Personnel. The amendments are adopted with changes to the proposed text as published in the May 24, 2019, *Texas Register* (44 TexReg 2587). The changes are adding language to clarify who is responsible for submitting a letter of verification that the individual seeking the certification has been assigned to the duties of that discipline. The rule will be republished.

The adoption adds language that would provide a temporary "grandfathering" provision for Plan Examiner I, allowing additional individuals meeting one of the listed requirements to also qualify for the certification; and clarifies who is responsible for submitting proper documentation as required.

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

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.

§429.201. *Minimum Standards for Plan Examiner Personnel.*

(a) Plan examiner duties are defined as the review of building or other structure plans for the purpose of determining compliance with adopted fire codes and standards.

(b) Special temporary provision. Individuals are eligible to apply for Plan Examiner certification if they hold an active Fire Inspector certification and any of the following criteria is met:

(1) the individual passed the Plan Examiner section of a Fire Inspector exam at any time; or

(2) the individual is or has been assigned to plan review duties with a local jurisdiction. Verification of plan review duties must be in the form of a letter from the head of the department for the jurisdiction; or

(3) the individual is or has served as an instructor for a Fire Inspector training program approved by the commission for Fire Inspector certification. Verification of instructor duties must be in the form of a letter from the head of the department if the training program is part of a suppression or prevention department, or the chief training officer if the program is not a part of a suppression or prevention department.

(4) This subsection will expire on September 1, 2020.

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 July 25, 2019.

TRD-201902374

Tim Rutland

Executive Director

Texas Commission on Fire Protection

Effective date: August 14, 2019

Proposal publication date: May 24, 2019

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



CHAPTER 439. EXAMINATIONS FOR CERTIFICATION

SUBCHAPTER A. EXAMINATIONS FOR ON-SITE DELIVERY TRAINING

37 TAC §439.19

The Texas Commission on Fire Protection (the commission) adopts amendments to Chapter 439, Examinations for Certification, Subchapter A, Examinations for On-Site Delivery Training, concerning §439.19, Number of Test Questions. The amendments are adopted without changes to the proposed text as published in the May 24, 2019, *Texas Register* (44 TexReg 2588) and will not be republished.

The amendments are adopted to establish more consistent guidelines regarding the maximum number of pilot questions that may be included on a certification examination.

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

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 adopted amendments implement Texas Government Code, Chapter 419, §419.008 and §419.032.

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 July 25, 2019.

TRD-201902375

Tim Rutland

Executive Director

Texas Commission on Fire Protection

Effective date: August 14, 2019

Proposal publication date: May 24, 2019

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



CHAPTER 459. FIRE AND LIFE SAFETY EDUCATOR

The Texas Commission on Fire Protection (commission) adopts amendments to Chapter 459, Fire and Life Safety Educator, Subchapter A, Minimum Standards for Fire and Life Safety Educator I, concerning §459.1, Fire and Life Safety Educator I Certification, and new §459.7, International Fire Service Accreditation Congress (IFSAC) Seal; and Subchapter B, Minimum Standards for Fire and Life Safety Educator II, concerning new §459.207, International Fire Service Accreditation Congress (IFSAC) Seal. The amendments are adopted without changes to the proposed text as published in the May 24, 2019, *Texas Register*, (44 TexReg 2589) and will not be republished.

The amendments and new sections are adopted to remove obsolete language regarding a temporary provision that has expired, and to add language allowing individuals to gain IFSAC credentials for Fire and Life Safety Educator I and II.

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

SUBCHAPTER A. MINIMUM STANDARDS FOR FIRE AND LIFE SAFETY EDUCATOR I

37 TAC §459.1, §459.7

The amendments and new section 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 the appointment of 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 July 25, 2019.

TRD-201902376

Tim Rutland

Executive Director

Texas Commission on Fire Protection

Effective date: August 14, 2019

Proposal publication date: May 24, 2019

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



SUBCHAPTER B. MINIMUM STANDARDS FOR FIRE AND LIFE SAFETY EDUCATOR II

37 TAC §459.207

The new section is 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 allows the commission the authority to adopt rules regarding the appointment of 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 July 25, 2019.

TRD-201902377

Tim Rutland

Executive Director

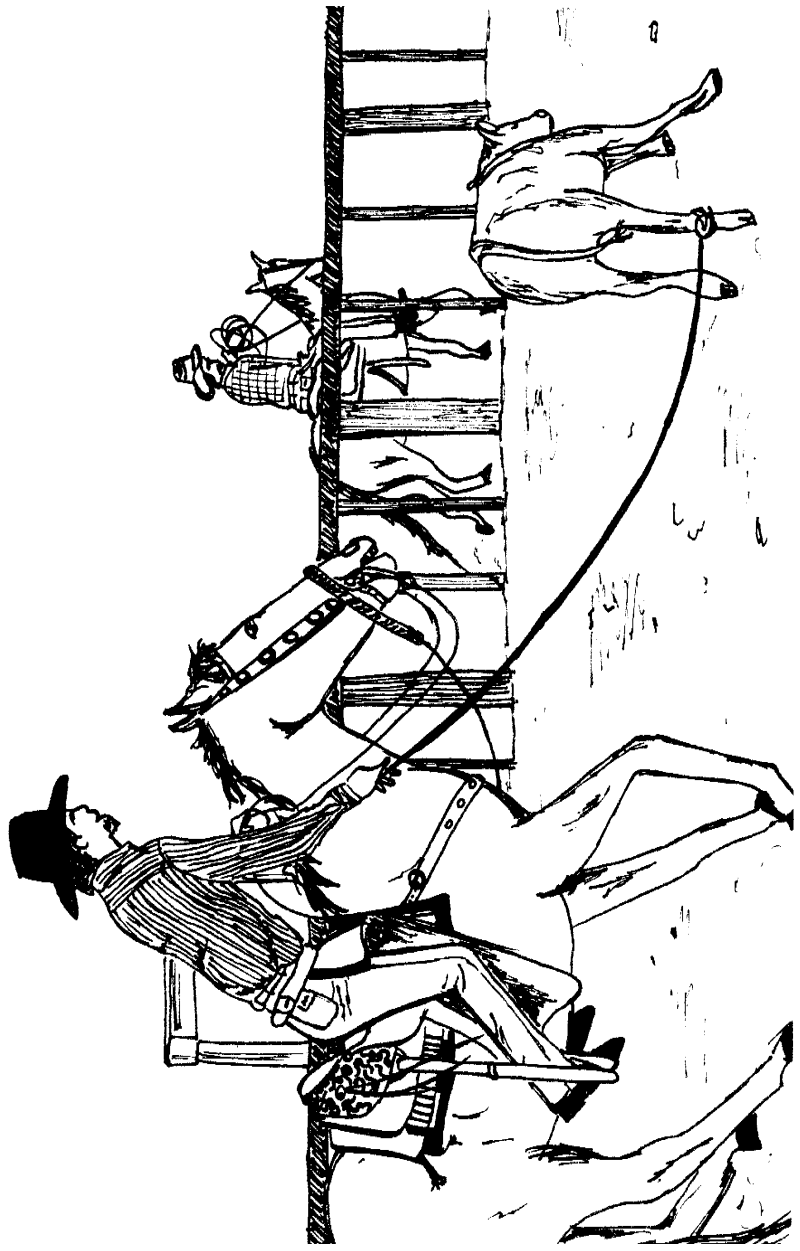
Texas Commission on Fire Protection

Effective date: August 14, 2019

Proposal publication date: May 24, 2019

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





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.

Adopted Rule Reviews

Commission on State Emergency Communications

Title 1, Part 12

The Commission on State Emergency Communications (CSEC) has concluded the statutory review of its Chapter 254 rules regarding Regional Poison Control Centers. Based on its review, CSEC readopts without amendment each of the rules in the chapter; specifically rules §§254.1 - 254.4.

CSEC's notice of intent to review its Chapter 254 rules was published in the June 7, 2019, issue of the *Texas Register* (44 TexReg 2853). The review assessed whether the reasons for originally adopting the rules continue to exist. CSEC reviewed each rule in Chapter 254 and determined that the original reasoned justification for the rules continues to exist and is within the agency's legal authority as certified by legal counsel.

No comments were received regarding CSEC's notice of review. This notice concludes CSEC's review of its Chapter 254 rules.

TRD-201902371

Patrick Tyler

General Counsel

Commission on State Emergency Communications

Filed: July 24, 2019



Texas Education Agency

Title 19, Part 2

The Texas Education Agency (TEA) adopts the review of 19 TAC Chapter 62, Commissioner's Rules Concerning the Equalized Wealth Level, pursuant to Texas Government Code, §2001.039. The TEA proposed the review of 19 TAC Chapter 62 in the October 12, 2018 issue of the *Texas Register* (43 TexReg 6851).

Relating to the review of 19 TAC Chapter 62, the TEA finds that the reasons for adopting the rules continue to exist and readopts the rules. The TEA received one comment related to the review. Following is a summary of the comment received and the response.

Comment: The Equity Center commented that 19 TAC Chapter 62 serves as an outline for school districts impacted by wealth equalization and details the actions those districts must take and how the various elements of school funding must be calculated under current law.

Response: The agency agrees.

At a later date, the TEA plans to propose changes to 19 TAC Chapter 62 to implement House Bill 3, 86th Texas Legislature, 2019.

This concludes the review of 19 TAC Chapter 62.

TRD-201902439

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Filed: July 31, 2019



The Texas Education Agency (TEA) adopts the review of 19 TAC Chapter 153, School District Personnel, Subchapter AA, Commissioner's Rules Concerning School District Personnel Duties and Benefits; Subchapter BB, Commissioner's Rules Concerning Professional Development; Subchapter CC, Commissioner's Rules on Creditable Years of Service; and Subchapter DD, Criminal History Record Information Review, pursuant to the Texas Government Code, §2001.039. The TEA proposed the review of 19 TAC Chapter 153, Subchapters AA-DD, in the November 23, 2018 issue of the *Texas Register* (43 TexReg 7685).

Relating to the review of 19 TAC Chapter 153, Subchapter AA, the TEA finds that the reasons for adopting Subchapter AA continue to exist and readopts the rule. No changes are necessary as a result of the review.

Relating to the review of 19 TAC Chapter 153, Subchapter BB, the TEA finds that the reasons for adopting Subchapter BB continue to exist and readopts the rules. At a later date, the TEA anticipates proposing an amendment to §153.1013, Suicide Prevention Training, to update dates in the rule and align with legislation passed by the 86th Texas Legislature, 2019.

Relating to the review of 19 TAC Chapter 153, Subchapter CC, the TEA finds that the reasons for adopting Subchapter CC continue to exist and readopts the rules. At a later date, TEA anticipates proposing amendments to update the list of accrediting agencies in §153.1021, Recognition of Creditable Years of Service, and to update cross-references to statute in §153.1022, Minimum Salary Schedule for Certain Professional Staff.

Relating to the review of 19 TAC Chapter 153, Subchapter DD, the TEA finds that the reasons for adopting Subchapter DD continue to exist and readopts the rules. No changes are necessary as a result of the review.

The TEA received one public comment on the rule review of 19 TAC Chapter 153. Following is a summary of the comment and the response.

Comment: Texas Classroom Teachers Association commented that the reasons for adopting 19 TAC Chapter 153, Subchapters AA-DD, continue to exist and that the chapter should be continued.

Response: The agency agrees.

This concludes the review of 19 TAC Chapter 153.

TRD-201902438

Cristina De La Fuente-Valadez
Director, Rulemaking
Texas Education Agency
Filed: July 31, 2019



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.

Office of the Attorney General

2019 Revised Tax Charts

Effective September 1, 2019

Pursuant to §154.061(b) of the Texas Family Code, the Office of the Attorney General of Texas, as the Title IV-D agency, has promulgated the following tax charts to assist courts in establishing the amount of a child support order. These tax charts are applicable to employed and self-employed persons in computing net monthly income.

INSTRUCTIONS FOR USE

To use these tables, first compute the obligor's annual gross income. Then recompute to determine the obligor's average monthly gross income. These tables provide a method for calculating "monthly net income" for child support purposes, subtracting from monthly gross income the social security taxes and the federal income tax withholding for a single person claiming one personal exemption and the standard deduction.

Thereafter, in many cases the guidelines call for a number of additional steps to complete the necessary calculations. For example, §§154.061 - 154.070 provide for appropriate additions to "income" as that term is defined for federal income tax purposes, and for certain subtractions from monthly net income, in order to arrive at the net resources of the obligor available for child support purposes. If necessary, one may compute an obligee's net resources using similar steps.

LIMITATIONS ON USE

These charts are intended to assist courts in common situations, and do not account for all deductions and adjustments allowable under the Internal Revenue Code. For instance, these charts do not take into

account the qualified business income deduction which might be taken by some owners of sole proprietorships, S corporations, partnerships, or stand-alone rental properties (pass-thru entities). In some situations, section 199A of the Internal Revenue Code allows owners of pass-thru entities to take a deduction against their income resulting in a reduction of the effective tax rate. These charts should not be used to estimate the net income of owners of pass-thru entities. The computation of net income for parties with complex tax situations may require consultation with an income tax professional.

REASONS FOR REVISION

2019 Tax Charts published in the *Texas Register* on December 28, 2018, were prepared and submitted for publication pursuant to §154.061(b) of the Texas Family Code. The child support guidelines provided in the Texas Family Code are intended to guide the court in determining an equitable amount of child support. Pursuant to §154.125 of the Texas Family Code, the guidelines are specifically designed to apply to situations in which the obligor's monthly net resources are not greater than a specific dollar amount or the adjusted amount determined under the guidelines, whichever is greater. The dollar amount prescribed pursuant to §154.125 of the Texas Family Code is adjusted every six years as necessary to reflect inflation. The Title IV-D agency is required to compute the adjusted dollar amount, to take effect beginning September 1 of the year of adjustment. The Title IV-D agency publishes the adjusted amount in the *Texas Register* before September 1 of the year in which the adjustment takes effect. On July 19, 2013, the Title IV-D agency adjusted the dollar amount from \$7,500 to \$8,550. On July 12, 2019, the Title IV-D agency adjusted the dollar amount from \$8,550 to \$9,200.

Figure 1

**EMPLOYED PERSONS
2019 REVISED TAX CHART**

Monthly Gross Wages	Federal Insurance Contributions Act Taxes			Federal Income Tax***	Net Monthly Income
	Old-Age, Survivors and Disability Insurance Program (Social Security) Tax (6.2%)*	Medicare's Hospital Insurance Program (Medicare) Tax (1.45%)*			
\$1,200.00	\$74.40	\$17.40	\$18.33	\$1,089.87	
\$1,256.67****	\$77.91	\$18.22	\$24.00	\$1,136.54	
\$1,300.00	\$80.60	\$18.85	\$28.33	\$1,172.22	
\$1,400.00	\$86.80	\$20.30	\$38.33	\$1,254.57	
\$1,500.00	\$93.00	\$21.75	\$48.33	\$1,336.92	
\$1,600.00	\$99.20	\$23.20	\$58.33	\$1,419.27	
\$1,700.00	\$105.40	\$24.65	\$68.33	\$1,501.62	
\$1,800.00	\$111.60	\$26.10	\$78.33	\$1,583.97	
\$1,900.00	\$117.80	\$27.55	\$89.83	\$1,664.82	
\$2,000.00	\$124.00	\$29.00	\$101.83	\$1,745.17	
\$2,100.00	\$130.20	\$30.45	\$113.83	\$1,825.52	
\$2,200.00	\$136.40	\$31.90	\$125.83	\$1,905.87	
\$2,300.00	\$142.60	\$33.35	\$137.83	\$1,986.22	
\$2,400.00	\$148.80	\$34.80	\$149.83	\$2,066.57	
\$2,500.00	\$155.00	\$36.25	\$161.83	\$2,146.92	
\$2,600.00	\$161.20	\$37.70	\$173.83	\$2,227.27	
\$2,700.00	\$167.40	\$39.15	\$185.83	\$2,307.62	
\$2,800.00	\$173.60	\$40.60	\$197.83	\$2,387.97	
\$2,900.00	\$179.80	\$42.05	\$209.83	\$2,468.32	
\$3,000.00	\$186.00	\$43.50	\$221.83	\$2,548.67	
\$3,100.00	\$192.20	\$44.95	\$233.83	\$2,629.02	
\$3,200.00	\$198.40	\$46.40	\$245.83	\$2,709.37	
\$3,300.00	\$204.60	\$47.85	\$257.83	\$2,789.72	
\$3,400.00	\$210.80	\$49.30	\$269.83	\$2,870.07	
\$3,500.00	\$217.00	\$50.75	\$281.83	\$2,950.42	
\$3,600.00	\$223.20	\$52.20	\$293.83	\$3,030.77	
\$3,700.00	\$229.40	\$53.65	\$305.83	\$3,111.12	
\$3,800.00	\$235.60	\$55.10	\$317.83	\$3,191.47	
\$3,900.00	\$241.80	\$56.55	\$329.83	\$3,271.82	
\$4,000.00	\$248.00	\$58.00	\$341.83	\$3,352.17	
\$4,100.00	\$254.20	\$59.45	\$353.83	\$3,432.52	
\$4,200.00	\$260.40	\$60.90	\$365.83	\$3,512.87	
\$4,300.00	\$266.60	\$62.35	\$377.83	\$3,593.22	
\$4,400.00	\$272.80	\$63.80	\$389.83	\$3,664.19	
\$4,500.00	\$279.00	\$65.25	\$421.21	\$3,734.54	
\$4,600.00	\$285.20	\$66.70	\$443.21	\$3,804.89	
\$4,700.00	\$291.40	\$68.15	\$465.21	\$3,875.24	
\$4,800.00	\$297.60	\$69.60	\$487.21	\$3,945.59	
\$4,900.00	\$303.80	\$71.05	\$509.21	\$4,015.94	
\$5,000.00	\$310.00	\$72.50	\$531.21	\$4,086.29	
\$5,100.00	\$316.20	\$73.95	\$553.21	\$4,156.64	
\$5,200.00	\$322.40	\$75.40	\$575.21	\$4,226.99	
\$5,300.00	\$328.60	\$76.85	\$597.21	\$4,297.34	
\$5,400.00	\$334.80	\$78.30	\$619.21	\$4,367.69	
\$5,500.00	\$341.00	\$79.75	\$641.21	\$4,438.04	
\$5,600.00	\$347.20	\$81.20	\$663.21	\$4,508.39	
\$5,700.00	\$353.40	\$82.65	\$685.21	\$4,578.74	
\$5,800.00	\$359.60	\$84.10	\$707.21	\$4,649.09	
\$5,900.00	\$365.80	\$85.55	\$729.21	\$4,719.44	
\$6,000.00	\$372.00	\$87.00	\$751.21	\$4,789.79	
\$6,250.00	\$387.50	\$90.63	\$806.21	\$4,965.66	
\$6,500.00	\$403.00	\$94.25	\$861.21	\$5,141.54	
\$6,750.00	\$418.50	\$97.88	\$916.21	\$5,317.41	
\$7,000.00	\$434.00	\$101.50	\$971.21	\$5,493.29	
\$7,500.00	\$465.00	\$108.75	\$1,081.21	\$5,845.04	
\$8,000.00	\$496.00	\$116.00	\$1,191.21	\$6,196.79	
\$8,500.00	\$527.00	\$123.25	\$1,310.54	\$6,539.21	
\$9,000.00	\$558.00	\$130.50	\$1,430.54	\$6,880.96	
\$9,500.00	\$589.00	\$137.75	\$1,550.54	\$7,222.71	
\$10,000.00	\$620.00	\$145.00	\$1,670.54	\$7,564.46	
\$10,500.00	\$651.00	\$152.25	\$1,790.54	\$7,906.21	
\$11,000.00	\$682.00	\$159.50	\$1,910.54	\$8,247.96	
\$11,075.00	\$686.65**	\$160.59	\$1,928.54	\$8,299.22	
\$11,500.00	\$686.65	\$166.75	\$2,030.54	\$8,616.06	
\$12,000.00	\$686.65	\$174.00	\$2,150.54	\$8,988.81	
\$12,283.29****	\$686.65	\$178.11	\$2,218.53	\$9,200.00	

Footnotes to Employed Persons 2019 Revised Tax Chart:

References to “the Code” refer to the Internal Revenue Code of 1986, as amended (26 U.S.C.)

* An employed person not subject to the Social Security Tax and the Medicare Tax will be allowed the reductions reflected in these columns, unless it is shown that such person has no similar contributory plan such as teacher retirement, federal railroad retirement, federal civil service retirement, etc.

** This amount represents the maximum monthly average of the Social Security tax based on the maximum OASDI Contribution and Benefit Base amount of \$132,900 for 2019. In 2019 the maximum level of Monthly Gross Wages for an employed person subject to the 6.2% Social Security tax is \$132,900 per year.

Monthly Gross Wages	\$132,900 for the year, or \$11,075 monthly average
Social Security tax rate = 6.2%	\$132,900 is equal to the 2019 OASDI contribution and benefit base, so \$132,900 is taxed at this rate. \$132,900 x .062 = \$8,239.80 for the year, or \$686.65 monthly average

*** These amounts represent one-twelfth (1/12) of the annual federal income tax calculated for a single taxpayer claiming one personal exemption (in the case of a taxable year beginning after December 31, 2017, and before January 1, 2026 the exemption amount is zero), and taking the standard deduction (\$12,000).

Examples:

Monthly Gross Wages	\$72,000 for the year, or \$6,000 monthly average	\$132,000 for the year, or \$11,000 monthly average
Personal Exemption Section 151(d) of the Code	\$0 for tax years 2018 through 2025	\$0 for tax years 2018 through 2025
Standard Deduction Section 63(c) of the Code	\$12,200	\$12,200
Income amount to be used in the income tax computation	\$72,000 - \$0 - \$12,200 = \$59,800	\$132,000 - \$0 - \$12,200 = \$119,800
Income tax computation for 2019	<i>If taxable income is over \$39,475 but not over \$84,200, the tax is \$4,543 plus 22% of the excess over \$39,475 (Section 1(j) of the Code)</i> \$4,543.00 + ((\$59,800 - \$39,475) x .22) = \$9,014.50 for the year, or \$751.21 monthly average	<i>If taxable income is over \$84,200 but not over \$160,725, the tax is \$14,382.50 plus 24% of the excess over \$84,200 (Section 1(j) of the Code)</i> \$14,382.50 + ((\$119,800 - \$84,200) x .24) = \$22,926.50 for the year, or \$1,910.54 monthly average

**** This amount represents one-twelfth (1/12) of the gross income of an individual earning the federal minimum wage (\$7.25 per hour) for a 40-hour week for a full year.

Federal Minimum Wage = \$7.25 per hour	\$7.25 x 40 hours per week x 52 weeks per year = \$15,080 per year
Monthly average	\$15,080 / 12 = \$1,256.67 monthly average

***** This amount represents the point where the monthly gross wages of an employed individual would result in \$9,200.00 of net resources. Texas Family Code section 154.125 provides “The guidelines for the support of a child in this section are specifically designed to apply to situations in which the obligor’s monthly net resources are not greater than \$7,500 or the adjusted amount determined under Subsection (a-1), whichever is greater.” Effective September 1, 2019 the adjusted amount determined under Subsection (a-1) is \$9,200.00. Texas Family Code section 154.126(a) provides, “If the obligor’s net resources exceed the amount provided by Section 154.125(a), the court shall presumptively apply the percentage guidelines to the portion of the obligor’s net resources that does not exceed that amount. Without further reference to the percentage recommendation by these guidelines, the court may order additional amounts of child support as appropriate, depending on the income of the parties and the proven needs of the child.” The tax charts promulgated by the Office of the Attorney General include net monthly income amounts up to the amount specified in Texas Family Code section 154.125.

* * * * *

Citations Relating to Employed Persons 2019 Revised Tax Chart:

1. Old-Age, Survivors and Disability Insurance Tax

(a) Contribution Base

- (1) Social Security Administration’s notice appearing in 83 Fed. Reg. 53702 (October 24, 2018)
- (2) Section 3121(a) of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 3121(a))
- (3) Section 230 of the Social Security Act, as amended (42 U.S.C. § 430)

(b) Tax Rate

- (1) Section 3101(a) of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 3101(a))

2. Hospital (Medicare) Insurance Tax

(a) Contribution Base

- (1) Section 3121(a) of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 3121(a))
- (2) Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66, § 13207, 107 Stat. 312, 467-69 (1993)

(b) Tax Rate

- (1) Section 3101(b) of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 3101(b))

3. Federal Income Tax

(a) Tax Rate Schedule for 2019 for Single Taxpayers

- (1) Revenue Procedure 2018-57, Section 3.01, Table 3 which appears in Internal Revenue Bulletin 2018-49, dated December 3, 2018,
 - (2) Section 1(j) of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 1(j))
- (b) Standard Deduction
- (1) Revenue Procedure 2018-57, Section 3.16, which appears in Internal Revenue Bulletin 2018-49, dated December 3, 2018
 - (2) Section 63(c) of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 63(c))
- (c) Personal Exemption
- (1) An Act to provide for reconciliation pursuant to titles II and V of the concurrent resolution on the budget for fiscal year 2018, Pub. L. No. 115-97, 131 Stat. 2054 (codified as amended in scattered sections of 26 U.S.C.) amended the Internal Revenue Code of 1986, by adding a new paragraph to Section 151(d), which dictates that the personal exemption amount is zero for the taxable years 2018 through 2025.
 - (2) Section 151(d) of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 151(d))
4. Adjusted amount determined under Subsection (a-1) of Texas Family Code section 154.125

Office of the Attorney General “Announcement of Adjustment Required by Texas Family Code section 154.125” appearing in 44 TexReg 3559 (July 12, 2019)

Figure 2

**SELF-EMPLOYED PERSONS
2019 REVISED TAX CHART**

Monthly Self-Employment Income TFC 154.065*	Old-Age, Survivors and Disability Insurance Program (Social Security) Tax (12.4%)**	Medicare's Hospital Insurance Program (Medicare) Tax (2.9%)**	Federal Income Tax****	Net Monthly Income
\$1,200.00	\$137.42	\$32.14	\$9.86	\$1,020.58
\$1,300.00	\$148.87	\$34.82	\$19.15	\$1,097.16
\$1,400.00	\$160.32	\$37.49	\$28.44	\$1,173.75
\$1,500.00	\$171.77	\$40.17	\$37.74	\$1,250.32
\$1,600.00	\$183.22	\$42.85	\$47.03	\$1,326.90
\$1,700.00	\$194.67	\$45.53	\$56.32	\$1,403.48
\$1,800.00	\$206.13	\$48.21	\$65.62	\$1,480.04
\$1,900.00	\$217.58	\$50.88	\$74.91	\$1,556.63
\$2,000.00	\$229.03	\$53.56	\$84.88	\$1,632.53
\$2,100.00	\$240.48	\$56.24	\$96.03	\$1,707.25
\$2,200.00	\$251.93	\$58.92	\$107.18	\$1,781.97
\$2,300.00	\$263.38	\$61.60	\$118.33	\$1,856.69
\$2,400.00	\$274.83	\$64.28	\$129.49	\$1,931.40
\$2,500.00	\$286.29	\$66.95	\$140.64	\$2,006.12
\$2,600.00	\$297.74	\$69.63	\$151.79	\$2,080.84
\$2,700.00	\$309.19	\$72.31	\$162.94	\$2,155.56
\$2,800.00	\$320.64	\$74.99	\$174.10	\$2,230.27
\$2,900.00	\$332.09	\$77.67	\$185.25	\$2,304.99
\$3,000.00	\$343.54	\$80.34	\$196.40	\$2,379.72
\$3,100.00	\$354.99	\$83.02	\$207.55	\$2,454.44
\$3,200.00	\$366.44	\$85.70	\$218.70	\$2,529.16
\$3,300.00	\$377.90	\$88.38	\$229.86	\$2,603.86
\$3,400.00	\$389.35	\$91.06	\$241.01	\$2,678.58
\$3,500.00	\$400.80	\$93.74	\$252.16	\$2,753.30
\$3,600.00	\$412.25	\$96.41	\$263.31	\$2,828.03
\$3,700.00	\$423.70	\$99.09	\$274.47	\$2,902.74
\$3,800.00	\$435.15	\$101.77	\$285.62	\$2,977.46
\$3,900.00	\$446.60	\$104.45	\$296.77	\$3,052.18
\$4,000.00	\$458.06	\$107.13	\$307.92	\$3,126.89
\$4,100.00	\$469.51	\$109.80	\$319.07	\$3,201.62
\$4,200.00	\$480.96	\$112.48	\$330.23	\$3,276.33
\$4,300.00	\$492.41	\$115.16	\$341.38	\$3,351.05
\$4,400.00	\$503.86	\$117.84	\$352.53	\$3,425.77
\$4,500.00	\$515.31	\$120.52	\$363.68	\$3,500.49
\$4,600.00	\$526.76	\$123.19	\$374.84	\$3,575.21
\$4,700.00	\$538.22	\$125.87	\$392.18	\$3,643.75
\$4,800.00	\$549.67	\$128.55	\$412.60	\$3,709.18
\$4,900.00	\$561.12	\$131.23	\$433.05	\$3,774.60
\$5,000.00	\$572.57	\$133.91	\$453.50	\$3,840.02
\$5,100.00	\$584.02	\$136.59	\$473.94	\$3,905.45
\$5,200.00	\$595.47	\$139.26	\$494.39	\$3,970.88
\$5,300.00	\$606.92	\$141.94	\$514.83	\$4,036.31
\$5,400.00	\$618.38	\$144.62	\$535.28	\$4,101.72
\$5,500.00	\$629.83	\$147.30	\$555.72	\$4,167.15
\$5,600.00	\$641.28	\$149.98	\$576.17	\$4,232.57
\$5,700.00	\$652.73	\$152.66	\$596.62	\$4,298.00
\$5,800.00	\$664.18	\$155.33	\$617.06	\$4,363.43
\$5,900.00	\$675.63	\$158.01	\$637.51	\$4,428.85
\$6,000.00	\$687.08	\$160.69	\$657.95	\$4,494.28
\$6,250.00	\$715.71	\$167.38	\$709.07	\$4,657.84
\$6,500.00	\$744.34	\$174.08	\$760.18	\$4,821.40
\$6,750.00	\$772.97	\$180.78	\$811.30	\$4,984.95
\$7,000.00	\$801.60	\$187.47	\$862.41	\$5,148.52
\$7,500.00	\$858.86	\$200.86	\$964.64	\$5,475.64
\$8,000.00	\$916.11	\$214.25	\$1,066.87	\$5,802.77
\$8,500.00	\$973.37	\$227.64	\$1,169.10	\$6,129.89
\$9,000.00	\$1,030.63	\$241.03	\$1,277.94	\$6,450.40
\$9,500.00	\$1,087.88	\$254.42	\$1,389.47	\$6,768.23
\$10,000.00	\$1,145.14	\$267.82	\$1,500.99	\$7,086.05
\$10,500.00	\$1,202.40	\$281.21	\$1,612.51	\$7,403.88
\$11,000.00	\$1,259.65	\$294.60	\$1,724.03	\$7,721.72
\$11,500.00	\$1,316.91	\$307.99	\$1,835.55	\$8,039.55
\$12,000.00	\$1,373.30****	\$321.38	\$1,947.18	\$8,358.14
\$12,500.00	\$1,373.30	\$334.77	\$2,065.57	\$8,726.36
\$13,000.00	\$1,373.30	\$348.16	\$2,183.97	\$9,094.57
\$13,143.15*****	\$1,373.30	\$351.99	\$2,217.86	\$9,200.00

Footnotes to Self-Employed Persons 2019 Revised Tax Chart:

References to “the Code” refer to the Internal Revenue Code of 1986, as amended (26 U.S.C.)

* Texas Family Code Section 154.065 defines what is included in, and what may be excluded from, self-employment income for Texas child support guideline computation purposes. The values displayed in the first column of this chart are the full amount of net earnings from self-employment income (determined before the deduction required by Section 1402(a)(12) of the Code explained in the next footnote, **).

** The tax rates for self-employment taxes are 12.4% for the Social Security tax and 2.9% for the Medicare tax, however, only a portion of the net earnings from self-employment are subject to these taxes. Section 1402(a)(12) of the Code permits a self-employed person a deduction in net earnings from self-employment (as defined in sections 1401 and 1402 of the Code) equal to one-half of the combined rates. The purpose is to adjust net income downward by the amount that would have been paid by an employer, had the individual been classified as an employee. The sum of these rates is 15.3% (12.4% + 2.9% = 15.3%). One-half (1/2) of the combined rate is 7.65% (15.3% x 1/2 = 7.65%). Self-employed taxpayers compute this deduction by multiplying net earnings from self-employment by .9235 (100% - 7.65% = 92.35%) to determine the portion of self-employment income subject to self-employment taxes.

Social Security tax is owed on the portion of self-employment income subject to self-employment taxes that do not exceed the maximum OASDI Contribution and Benefit Base amount of \$132,900 (for tax year 2019). Medicare’s Hospital Insurance Program (Medicare) tax is owed on the full amount of self-employment income subject to self-employment taxes. Section 1401 of the Code.

Examples:

Monthly Self-Employment Income, TFC 154.065	\$72,000 for the year, or \$6,000 monthly average	\$144,000 for the year, or \$12,000 monthly average
92.35% of self-employment income is subject to self-employment taxes	$\$72,000 \times .9235 = \$66,492$ for the year	$\$144,000 \times .9235 = \$132,984$ for the year
Social Security tax rate = 12.4%	\$66,492 does not exceed the OASDI contribution and benefit base, so \$66,492 is taxed at this rate. $\$66,492 \times .124 = \$8,245$ for the year, or \$687.08 monthly average	\$132,984 exceeds the OASDI contribution and benefit base, so only the first \$132,900 is taxed at this rate. $\$132,900 \times .124 = \$16,479.60$ for the year, or \$1,373.30 monthly average
Medicare tax rate = 2.9%	$\$66,492 \times .029 = \$1,928.27$ for the year, or \$160.69 monthly average	$\$132,984 \times .029 = \$3,856.54$ for the year, or \$321.38 monthly average

*** This amount represents the maximum monthly average of the Social Security tax based on the maximum OASDI Contribution and Benefit Base amount of \$132,900 for 2019. In 2019 the maximum level of Monthly Self-Employment Income subject to the 12.4% Social Security tax is \$143,909.04 per year (the amount before the deduction required by Section 1402(a)(12) of the Code).

Monthly Self-Employment Income, TFC 154.065	\$143,909.04 for the year, or \$11,992.42 monthly average
92.35% of self-employment income is subject to self-employment taxes	$\$143,909.04 \times .9235 = \$132,900$ for the year

Social Security tax rate = 12.4%	\$132,900 is equal to the 2019 OASDI contribution and benefit base, so \$132,900 is taxed at this rate. \$132,900 x .124 = \$16,479.60 for the year, or \$1,373.30 monthly average
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**** These amounts represent one-twelfth (1/12) of the annual federal income tax calculated for a single taxpayer claiming one personal exemption (in the case of a taxable year beginning after December 31, 2017, and before January 1, 2026 the exemption amount is zero), and taking the standard deduction (\$12,200).

The calculation of federal income taxes on self-employment income requires the determination of the total self-employment taxes imposed, as described above. The calculation of federal income taxes permits the taxpayer to reduce net income from self-employment by one half of the actual taxes imposed thereby approximating the employment taxes (Social Security and Medicare) that are paid by an employed person. Section 164(f) of the Code.

Examples:

Monthly Self-Employment Income, TFC 154.065	\$72,000 for the year, or \$6,000 monthly average	\$144,000 for the year, or \$12,000 monthly average
Social security tax	\$8,245 for the year, or \$687.08 monthly average	\$16,479.60 for the year, or \$1,373.30 monthly average
Medicare tax	\$1,928.27 for the year, or \$160.69 monthly average	\$3,856.54 for the year, or \$321.38 monthly average
Total self-employment taxes imposed	\$8,245 + \$1,928.27 = \$10,173.27 for the year	\$16,479.60 + \$3,856.54 = \$20,336.14 for the year
Tax deductible portion of self-employment taxes. Section 164(f) of the Code	\$10,173.27 x 1/2 = \$5,086.64 for the year	\$20,336.14 x 1/2 = \$10,168.07 for the year
Personal Exemption Section 151(d) of the Code	\$0 for tax years 2018 through 2025	\$0 for tax years 2018 through 2025
Standard Deduction Section 63(c) of the Code	\$12,200	\$12,200
Income amount to be used in the income tax computation	\$72,000 - \$5,086.64 - \$0 - \$12,200 = \$54,713.36	\$144,000 - \$10,168.07 - \$0 - \$12,200 = \$121,631.93
Income tax computation for 2019	<i>If taxable income is over \$39,475 but not over \$84,200, the tax is \$4,543 plus 22% of the excess over \$39,475 (Section 1(j) of the Code)</i> \$4,543.00 + ((\$54,713.36 - \$39,475) x .22) = \$7,895.44 for the year, or \$657.95 monthly average	<i>If taxable income is over \$84,200 but not over \$160,725, the tax is \$14,382.50 plus 24% of the excess over \$84,200 (Section 1(j) of the Code)</i> \$14,382.50 + ((\$121,631.93 - \$84,200) x .24) = \$23,366.16 for the year, or \$1,947.18 monthly average

Note: For tax years 2018 through 2025, the personal exemption amount is zero. Section 63(c) of the Code. For 2019, the computations do not include the subtraction of any personal exemptions.

***** This amount represents the point where the monthly gross wages of an employed individual would result in \$9,200.00 of net resources. Texas Family Code section 154.125 provides, "The guidelines for the

support of a child in this section are specifically designed to apply to situations in which the obligor's monthly net resources are not greater than \$7,500 or the adjusted amount determined under Subsection (a-1), whichever is greater." Effective September 1, 2019 the adjusted amount determined under Subsection (a-1) is \$9,200.00. Texas Family Code section 154.126(a) provides, "If the obligor's net resources exceed the amount provided by Section 154.125(a), the court shall presumptively apply the percentage guidelines to the portion of the obligor's net resources that does not exceed that amount. Without further reference to the percentage recommendation by these guidelines, the court may order additional amounts of child support as appropriate, depending on the income of the parties and the proven needs of the child." The tax charts promulgated by the Office of the Attorney General include net monthly income amounts up to the amount specified in Texas Family Code section 154.125.

* * * * *

Citations Relating to Self-Employed Persons 2019 Revised Tax Chart:

1. Old-Age, Survivors and Disability Insurance Tax
 - (a) Contribution Base
 - (1) Social Security Administration's notice appearing in 83 Fed. Reg. 53702 (October 24, 2018)
 - (2) Section 1402(b) of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 1402(b))
 - (3) Section 230 of the Social Security Act, as amended (42 U.S.C. § 430)
 - (b) Tax Rate
 - (1) Section 1401(a) of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 1401(a))
 - (c) Deduction Under Section 1402(a)(12)
 - (1) Section 1402(a)(12) of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 1402(a)(12))

2. Hospital (Medicare) Insurance Tax
 - (a) Contribution Base
 - (1) Section 1402(b) of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 1402(b))
 - (2) Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66, § 13207, 107 Stat. 312, 467-69 (1993)
 - (b) Tax Rate
 - (1) Section 1401(b) of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 1401(b))
 - (c) Deduction Under Section 1402(a)(12)

- (1) Section 1402(a)(12) of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 1402(a)(12))

3. Federal Income Tax

(a) Tax Rate Schedule for 2019 for Single Taxpayers

- (1) Revenue Procedure 2018-57, Section 3.01, Table 3 which appears in Internal Revenue Bulletin 2018-49, dated December 3, 2018,
- (2) Section 1(j), of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 1(j))

(b) Standard Deduction

- (1) Revenue Procedure 2018-57, Section 3.16, which appears in Internal Revenue Bulletin 2018-49, dated December 3, 2018
- (2) Section 63(c) of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 63(c))

(c) Personal Exemption

- (1) An Act to provide for reconciliation pursuant to titles II and V of the concurrent resolution on the budget for fiscal year 2018, Pub. L. No. 115-97, 131 Stat. 2054 (codified as amended in scattered sections of 26 U.S.C.) amended the Internal Revenue Code of 1986, by adding a new paragraph to Section 151(d), which dictates that the personal exemption amount is zero for the taxable years 2018 through 2025.
- (2) Section 151(d) of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 151(d))

(d) Deduction Under Section 164(f)

- (1) Section 164(f) of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 164(f))

4. Adjusted amount determined under Subsection (a-1) of Texas Family Code section 154.125

Office of the Attorney General “Announcement of Adjustment Required by Texas Family Code section 154.125” appearing in 44 TexReg 3559 (July 12, 2019)

TRD-201902433
Ryan L. Bangert
Deputy Attorney General for Legal Counsel
Office of the Attorney General
Filed: July 30, 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 and §303.009, Texas Finance Code.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 08/05/19 - 08/11/19 is 18% for Consumer¹/Agricultural/Commercial² credit through \$250,000.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 08/05/19 - 08/11/19 is 18% for Commercial over \$250,000.

¹Credit for personal, family or household use.

²Credit for business, commercial, investment or other similar purpose.

TRD-201902426

Leslie Pettijohn

Commissioner

Office of Consumer Credit Commissioner

Filed: July 30, 2019



Commission on State Emergency Communications

Annual Review of §255.4: Definition of Local Exchange Access Line or an Equivalent Local Exchange Access Line

The Commission on State Emergency Communications (CSEC) is conducting its annual review of the definitions of the terms "local exchange access line" and "equivalent local exchange access line" as required by Health and Safety Code §771.063(c). Due to the potentially disruptive changes resulting from advancements in technology, particularly with respect to mobile Internet Protocol-enabled services, CSEC takes no position on whether the definitions in 1 TAC §255.4 sufficiently define the foregoing terms.

Persons wishing to comment on CSEC's initial determination or recommend amendments to 1 TAC §255.4 may do so by submitting written comments within 30 days following publication of this notice in the *Texas Register* to Patrick Tyler, General Counsel, Commission on State Emergency Communications, 333 Guadalupe Street, Suite 2-212, Austin, Texas 78701-3942; by facsimile to (512) 305-6937; or by email to patrick.tyler@csec.texas.gov. Please include "Comments on Rule 255.4" in the subject line of your letter, fax, or email.

TRD-201902370

Patrick Tyler

General Counsel

Commission on State Emergency Communications

Filed: July 24, 2019



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 **September 10, 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 **September 10, 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: AYANNAUR INC dba Mak Mini Mart; DOCKET NUMBER: 2019-0669-PST-E; IDENTIFIER: RN101561306; LOCATION: Denison, Grayson County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.50(b)(1)(A) and (2) and TWC, §26.3475(a) and (c)(1), by failing to monitor the underground storage tanks (USTs) for releases at a frequency of at least once every 30 days, and failing to provide release detection for the pressurized piping associated with the UST system; PENALTY: \$2,496; ENFORCEMENT COORDINATOR: Danielle Porras, (713) 767-3682; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(2) COMPANY: Chevron U.S.A. Incorporated dba Chevron M11270; DOCKET NUMBER: 2019-0405-PWS-E; IDENTIFIER: RN106598360; LOCATION: Midland, Midland County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.106(f)(2) and Texas Health and Safety Code, §341.031(a), by failing to comply with the acute maximum contaminant level of ten milligrams per liter for nitrate; PENALTY: \$660; ENFORCEMENT COORDINATOR: Marla Waters, (512) 239-4712; REGIONAL OFFICE: 9900 West IH-20, Suite 100, Midland, Texas 79706, (432) 570-1359.

(3) COMPANY: City of Opdyke West; DOCKET NUMBER: 2019-0470-PWS-E; IDENTIFIER: RN103788832; LOCATION: Opdyke West, Hockley County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.110(e)(4)(A) and (f)(3), by failing to submit a Disinfectant Level Quarterly Operating Report (DLQOR) to the executive director (ED) by the tenth day of the month following the end of each quarter for the fourth quarter of 2017 through the third quarter of 2018; 30 TAC §290.117(c)(2)(A), (h), and (i)(1), by failing to collect lead and copper tap samples at the required ten sample sites, have the samples analyzed, and report the results to the ED for the July 1, 2018 - December 31, 2018, monitoring period; 30 TAC §290.122(b)(3)(A) and (f), by failing to provide public notification and submit a copy of the notification, accompanied with a signed Certificate of Delivery, to the ED regarding the failure to comply with the maximum contaminant level (MCL) for arsenic for the fourth quarter of 2017 through the third quarter of 2018, and failing to comply with the MCL for fluoride for the fourth quarter of 2017 through the third quarter of 2018; 30 TAC §290.122(c)(2)(A) and (f), by failing to provide public notification and submit a copy of the notification, accompanied with a signed Certificate of Delivery, to the ED regarding the failure to submit a DLQOR to the ED by the tenth

day of the month following the end of the second quarter of 2017; and 30 TAC §290.271(b) and §290.274(a) and (c), by failing to mail or directly deliver one copy of the Consumer Confidence Report (CCR) to each bill paying customer by July 1st for each year, and failing to submit to the TCEQ by July 1st for each year a copy of the annual CCR and certification that the CCR was distributed to the customers of the facility, and that the information in the CCR is correct and consistent with compliance monitoring data for calendar years 2014 through 2017; PENALTY: \$1,700; ENFORCEMENT COORDINATOR: James Knittel, (512) 239-2518; REGIONAL OFFICE: 5012 50th Street, Suite 100, Lubbock, Texas 79414-3426, (806) 796-7092.

(4) COMPANY: City of Rio Hondo; DOCKET NUMBER: 2019-0389-PWS-E; IDENTIFIER: RN101209195; LOCATION: Rio Hondo, Cameron County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.42(e)(4)(B), by failing to house the gas chlorination equipment and cylinders of chlorine in separate buildings or separate rooms with impervious walls or partitions separating all mechanical and electrical equipment from the chlorine facilities; 30 TAC §290.42(f)(1)(E)(ii), by failing to provide adequate containment facilities for the facility's liquid chemical storage tanks; 30 TAC §290.44(h)(4), by failing to have all backflow prevention assemblies tested upon installation and on an annual basis by a recognized backflow assembly tester and certified that they are operating within specifications; 30 TAC §290.46(m), by failing to initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of the system's facilities and equipment; 30 TAC §290.46(m)(1)(A), by failing to inspect the facility's elevated storage tank and two ground storage tanks annually; 30 TAC §290.46(s)(2)(B)(i), by failing to calibrate the benchtop turbidimeter with primary standards at least once every 90 days; 30 TAC §290.46(s)(2)(B)(iii), by failing to calibrate the on-line turbidimeter with primary standards at least once every 90 days; and 30 TAC §290.46(z), by failing to create a nitrification action plan for systems distributing chloraminated water; PENALTY: \$1,280; ENFORCEMENT COORDINATOR: Steven Hall, (512) 239-2569; REGIONAL OFFICE: 1804 West Jefferson Avenue, Harlingen, Texas 78550-5247, (956) 425-6010.

(5) COMPANY: City of Zavalla; DOCKET NUMBER: 2019-0197-PWS-E; IDENTIFIER: RN101386100; LOCATION: Zavalla, Angelina 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: \$396; ENFORCEMENT COORDINATOR: Ryan Byer, (512) 239-2571; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1830, (409) 898-3838.

(6) COMPANY: Davis Gas Processing, Incorporated; DOCKET NUMBER: 2019-0151-AIR-E; IDENTIFIER: RN100217686; LOCATION: Big Lake, Reagan County; TYPE OF FACILITY: oil and gas production plant; RULES VIOLATED: 30 TAC §§101.20(2), 113.1090, and 122.143(4), 40 Code of Federal Regulations §63.6603(a), Federal Operating Permit (FOP) Number O3060, General Terms and Conditions (GTC) and Special Terms and Conditions Numbers 1.A and 5, and Texas Health and Safety Code (THSC), §382.085(b), by failing to change the oil and filter, inspect the spark plugs, and inspect all hoses and belts every 2,160 hours of operation or annually, whichever comes first, for an existing stationary reciprocating internal combustion engine; and 30 TAC §116.110(a) and §122.143(4), FOP Number O3060, GTC, and THSC, §382.0518(a) and §382.085(b), by failing to obtain authorization prior to constructing or modifying a source of air contaminants; PENALTY: \$13,598; ENFORCEMENT COORDINATOR: Raime Hayes-Falero,

(713) 767-3567; REGIONAL OFFICE: 622 South Oakes, Suite K, San Angelo, Texas 76903-7035, (325) 655-9479.

(7) COMPANY: DLH Construction, Incorporated; DOCKET NUMBER: 2019-0621-PWS-E; IDENTIFIER: RN105589832; LOCATION: Santa Fe, Galveston County; TYPE OF FACILITY: public water supply; RULE VIOLATED: 30 TAC §290.41(c)(3)(A), by failing to furnish a copy of well completion data for review and approval by the executive director prior to placing the facility's public drinking water well into service; PENALTY: \$52; ENFORCEMENT COORDINATOR: Julianne Dewar, (512) 239-1001; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(8) COMPANY: Gallagher Acquisitions, LLC; DOCKET NUMBER: 2019-0585-PWS-E; IDENTIFIER: RN110114097; LOCATION: Fort Worth, Tarrant County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.39(e)(1) and (h)(1) and Texas Health and Safety Code, §341.035(a), by failing to submit plans and specifications to the executive director (ED) 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 a copy of the well completion data for review and approval from the ED prior to placing a public drinking water well into service; and 30 TAC §290.46(n)(3), by failing to keep on file copies of well completion data as defined in 30 TAC §290.41(c)(3)(A) for as long as the facility's Well Number 1 remains in service; PENALTY: \$153; ENFORCEMENT COORDINATOR: Yuliya Dunaway, (210) 403-4077; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(9) COMPANY: LAKESHORE UTILITY COMPANY; DOCKET NUMBER: 2019-0228-PWS-E; IDENTIFIER: RN102674587; LOCATION: Eustace, Henderson County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.117(c)(2)(B), (h), and (i)(1), by failing to collect lead and copper tap samples at the required five sample sites, have the samples analyzed, and submit the results to the executive director (ED) for the January 1, 2015 - December 31, 2015, January 1, 2016 - December 31, 2016, January 1, 2017 - December 31, 2017, and January 1, 2018 - December 31, 2018, monitoring periods; 30 TAC §290.117(i)(6) and (j), by failing to provide a consumer notification of lead tap water monitoring results to persons served at the sites (taps) that were tested, and failing to mail a copy of the consumer notification of tap results to the ED along with certification that the consumer notification was distributed for the January 1, 2012 - December 31, 2014, monitoring period; and 30 TAC §290.271(b) and §290.274(a) and (c), by failing to mail or directly deliver one copy of the Consumer Confidence Report (CCR) to each bill paying customer by July 1st for each year, and failing to submit to the TCEQ by July 1st for each year a copy of the annual CCR and certification that the CCR has been distributed to the customers of the facility and that the information in the CCR is correct and consistent with compliance monitoring data for calendar years 2016 and 2017; PENALTY: \$1,430; ENFORCEMENT COORDINATOR: Michaelle Garza, (210) 403-4076; REGIONAL OFFICE: 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

(10) COMPANY: LAPPE CONSTRUCTION SOUTH, LLC; DOCKET NUMBER: 2019-0953-WQ-E; IDENTIFIER: RN107801417; LOCATION: Corpus Christi, Nueces County; TYPE OF FACILITY: aggregate production operation; RULE VIOLATED: 30 TAC §281.25(a)(4), by failing to obtain a multi-sector general permit; PENALTY: \$875; ENFORCEMENT COORDINATOR: Aaron Vincent, (512) 239-0855; REGIONAL OFFICE: 6300 Ocean Drive, Corpus Christi, Texas 78412-5839, (361) 825-3100.

(11) COMPANY: Monarch Utilities I L.P.; DOCKET NUMBER: 2019-0429-PWS-E; IDENTIFIER: RN101255818; LOCATION:

Warlock, Marion County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.39(j)(1)(A) and Texas Health and Safety Code (THSC), §341.0351, by failing to notify the executive director and receive approval prior to making any significant change or addition to the system's production, treatment, storage, pressure maintenance capacity; and 30 TAC §290.45(b)(1)(C)(iv) and THSC, §341.0315(c), by failing to provide an elevated storage capacity of 100 gallons per connection or a pressure tank capacity of 20 gallons per connection; PENALTY: \$600; ENFORCEMENT COORDINATOR: Yuliya Dunaway, (210) 403-4077; REGIONAL OFFICE: 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

(12) COMPANY: North Harrison Water Supply Corporation; DOCKET NUMBER: 2019-0535-PWS-E; IDENTIFIER: RN101181592; LOCATION: Marshall, Harrison County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.46(f)(2) and (3)(A)(i)(II), by failing to maintain water works operation and maintenance records and make them readily available for review by the executive director upon request; 30 TAC §290.46(s)(2)(D), by failing to verify the accuracy of the analyzer used to determine the effectiveness of chloramination at least every 90 days; 30 TAC §290.46(z), by failing to create a nitrification action plan for all systems distributing chloraminated water; and 30 TAC §290.110(c)(5), by failing to conduct chloramine effectiveness sampling to ensure that monochloramine is the prevailing chloramine species and that nitrification is controlled; PENALTY: \$250; ENFORCEMENT COORDINATOR: Ronica Rodriguez, (361) 825-3425; REGIONAL OFFICE: 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

(13) COMPANY: Oney Enterprises LLC dba I Stop; DOCKET NUMBER: 2019-0419-PST-E; IDENTIFIER: RN101907905; LOCATION: Hughes Springs, Cass County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.50(b)(1)(A) and TWC, §26.3475(c)(1), by failing to monitor the underground storage tanks for releases in a manner which will detect a release at a frequency of at least once every 30 days; PENALTY: \$4,500; ENFORCEMENT COORDINATOR: Ronica Rodriguez, (361) 825-3425; REGIONAL OFFICE: 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

(14) COMPANY: Owens Corning Insulating Systems, LLC; DOCKET NUMBER: 2019-0397-AIR-E; IDENTIFIER: RN100223585; LOCATION: Waxahachie, Ellis County; TYPE OF FACILITY: insulation manufacturing plant; RULES VIOLATED: 30 TAC §101.201(a)(1)(B) and §122.143(4), Federal Operating Permit (FOP) Number O1094, 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 §101.211(a) and §122.143(4), FOP Number O1094, GTC and STC Number 2.G, and THSC, §382.085(b), by failing to submit a notification within ten days, or as soon as practicable, prior to any scheduled maintenance, startup, or shutdown activity that is expected to cause an unauthorized emission; and 30 TAC §116.115(c) and §122.143(4), New Source Review Permit Number 6093, Special Conditions Numbers 1 and 5, FOP Number O1094, GTC and STC Number 8, and THSC, §382.085(b), by failing to prevent unauthorized emissions; PENALTY: \$16,000; ENFORCEMENT COORDINATOR: Margarita Dennis, (817) 588-5892; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(15) COMPANY: Positano Properties, LLC; DOCKET NUMBER: 2019-0537-PST-E; IDENTIFIER: RN101748788; LOCATION: Center, Shelby County; TYPE OF FACILITY: an inactive underground

storage tank (UST) system; RULES VIOLATED: 30 TAC §37.815(a) and (b) and §334.54(e)(5), by failing to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs; 30 TAC §334.7(d)(1)(A)(ii) and (B) and (3), by failing to notify the agency of any change or additional information regarding the USTs within 30 days of the occurrence of the change or addition; 30 TAC §334.49(c)(2)(C) and (4)(C) and §334.54(b)(1) - (3) and (d)(2) and TWC, §26.3475(d), by failing to keep all vent lines open and functioning, failing to maintain all piping, pumps, manways, tank access points and ancillary equipment in a capped, plugged, locked, and/or otherwise secured manner to prevent access, tampering, or vandalism by unauthorized persons, failing to ensure that any residue from stored regulated substances which remained in the temporarily out-of-service UST system did not exceed a depth of 2.5 centimeters at the deepest point and did not exceed 0.3% by weight of the system at full capacity, failing to inspect the impressed cathodic protection system at least once every 60 days to ensure that the rectifier and system components are operating properly, and failing to have the cathodic protection system inspected and tested for operability and adequacy of protection at a frequency of at least once every three years; and 30 TAC §334.602(a), by failing to identify and designate for the UST facility at least one named individual for each class of operator - Class A, Class B, and Class C; PENALTY: \$10,989; ENFORCEMENT COORDINATOR: Danielle Porras, (713) 767-3682; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1830, (409) 898-3838.

(16) COMPANY: SHIVAPLUS INTERNATIONAL, INCORPORATED dba Qwik Cheque; DOCKET NUMBER: 2019-0589-PST-E; IDENTIFIER: RN101802148; LOCATION: Powderly, Lamar County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.50(b)(2) and TWC, §26.3475(a), by failing to provide release detection for the pressurized piping associated with the underground storage tank system; PENALTY: \$2,487; ENFORCEMENT COORDINATOR: Tyler Richardson, (512) 239-4872; REGIONAL OFFICE: 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

(17) COMPANY: Terrell Trading Company Incorporated; DOCKET NUMBER: 2019-0745-PST-E; IDENTIFIER: RN102837267; LOCATION: Terrell, Kaufman County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.50(b)(2) and TWC, §26.3475(a), by failing to provide release detection for the pressurized piping associated with the underground storage tank system; PENALTY: \$2,447; ENFORCEMENT COORDINATOR: Carlos Molina, (512) 239-2506; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(18) COMPANY: Walter J. Carroll; DOCKET NUMBER: 2019-0114-WOC-E; IDENTIFIER: RN103644191; LOCATION: Waxahachie, Ellis County; TYPE OF FACILITY: public water system; RULES VIOLATED: 30 TAC §30.5(a) and §30.381(b), TWC, §37.003, and Texas Health and Safety Code, §341.034(b), by failing to have a current, valid water system operator's license prior to performing process control duties in production or distribution of public drinking water; PENALTY: \$2,269; ENFORCEMENT COORDINATOR: Ryan Byer, (512) 239-2571; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

TRD-201902419

Charmaine Backens

Director, Litigation Division

Texas Commission on Environmental Quality

Filed: July 30, 2019

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Enforcement Orders

A default order was adopted regarding Joe Martinez, Jr. dba Retired Rubber Solutions, Docket No. 2016-1186-MSW-E on July 31, 2019, assessing \$7,500 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.

An agreed order was adopted regarding Blanchard Refining Company LLC, Docket No. 2016-1354-AIR-E on July 31, 2019, assessing \$14,250 in administrative penalties with \$2,850 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 default order was adopted regarding 247 Legacy Investments, LLC dba Balcones Heights Chevron, Docket No. 2017-0972-PST-E on July 31, 2019, assessing \$20,000 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 City of Kyle, Docket No. 2017-1734-MWD-E on July 31, 2019, assessing \$171,638 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Austin Henck, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding ETC Field Services LLC, Docket No. 2018-0152-AIR-E on July 31, 2019, assessing \$7,500 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Rebecca Johnson, 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 Macat Services, LLC, Docket No. 2018-0491-WQ-E on July 31, 2019, assessing \$5,000 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 Zapata 83 Retail, LLC dba Pump N Shop 17, Docket No. 2018-0527-PST-E on July 31, 2019, assessing \$40,125 in administrative penalties with \$8,025 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 ROAD BUILDERS LLC, Docket No. 2018-0558-MLM-E on July 31, 2019, assessing \$34,237 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.

An agreed order was adopted regarding Tommy Fisher dba Acuff Steak House, Docket No. 2018-0580-PWS-E on July 31, 2019, assessing \$852 in administrative penalties with \$465 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 C-A Round Rock Holdings, Inc. and Airco Mechanical, Ltd., Docket No. 2018-0589-MLM-E on July 31, 2019, assessing \$24,563 in administrative penalties with \$4,912 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.

A default order was adopted regarding Justo Ramirez, Docket No. 2018-0621-WOC-E on July 31, 2019, assessing \$938 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 Midway Range, LLC, Docket No. 2018-0667-PWS-E on July 31, 2019, assessing \$2,344 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 Buena Vista Turf Farm, LLC, Docket No. 2018-0678-MLM-E on July 31, 2019, assessing \$17,354 in administrative penalties with \$3,470 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 BASF TOTAL Petrochemicals LLC, Docket No. 2018-0799-AIR-E on July 31, 2019, assessing \$15,000 in administrative penalties with \$3,000 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 Lone Star NGL Fractionators LLC, Docket No. 2018-0809-AIR-E on July 31, 2019, assessing \$144,637 in administrative penalties with \$28,927 deferred. Information concerning any aspect of this order may be obtained by contacting Carol McGrath, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding PETTY WATER SUPPLY AND SEWER SERVICE CORPORATION, Docket No. 2018-0826-PWS-E on July 31, 2019, assessing \$460 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Ronica Rodriguez, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding NIGTON-WAKEFIELD WATER SUPPLY CORPORATION, Docket No. 2018-0864-PWS-E on July 31, 2019, assessing \$72 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Toni Red, 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 Samay Piya Enterprise Inc dba Seminary Food Mart, Docket No. 2018-0914-PST-E on July 31, 2019, assessing \$6,686 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting John S. Mercurief 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 CLAYTON WATER SUPPLY CORPORATION, Docket No. 2018-0960-PWS-E on July 31, 2019, assessing \$175 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Michaelle Garza, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding City of Santa Rosa, Docket No. 2018-0973-PWS-E on July 31, 2019, assessing \$1,549 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 BW Gas & Convenience Retail, LLC dba Yesway 1070, Docket No. 2018-1072-PST-E on July 31, 2019, assessing \$7,588 in administrative penalties with \$1,517 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 VALESKA'S, INC., Docket No. 2018-1075-PWS-E on July 31, 2019, assessing \$660 in administrative penalties with \$660 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 City of Kilgore, Docket No. 2018-1081-MWD-E on July 31, 2019, assessing \$26,250 in administrative penalties with \$5,250 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 Valley Ranch Municipal Utility District No. 1, Docket No. 2018-1083-MWD-E on July 31, 2019, assessing \$7,438 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Harley Hobson, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding City of Dallas, Docket No. 2018-1090-MWD-E on July 31, 2019, assessing \$6,150 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Caleb Olson, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Northwest Harris County Municipal Utility District No. 15, Docket No. 2018-1117-MWD-E on July 31, 2019, assessing \$9,375 in administrative penalties with \$1,875 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 Chris Truong LLC dba Crystal Grocery 2, Docket No. 2018-1120-PST-E on July 31, 2019, assessing \$11,275 in administrative penalties with \$2,255 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 Gulf South Pipeline Company, LP, Docket No. 2018-1132-AIR-E on July 31, 2019, assessing \$11,250 in administrative penalties with \$2,250 deferred. Information concern-

ing 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 GROVES XPRESS LLC dba Super Stop, Docket No. 2018-1143-PST-E on July 31, 2019, assessing \$15,802 in administrative penalties with \$3,160 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.

TRD-201902441
Bridget C. Bohac
Chief Clerk
Texas Commission on Environmental Quality
Filed: July 31, 2019



Notice of Correction to an Agreed Order Number 7

In the July 12, 2019, issue of the *Texas Register* (44 TexReg 3564), the Texas Commission on Environmental Quality (commission) published notice of an Agreed Order, specifically Item Number 7, Spencer & Spencer. The error is as submitted by the commission. Rules violated were published as "TWC, §26.3475 and 30 TAC §334.50(b)(1)(A) and §334.54(c)(1)," but should have been as follows: "TWC, §26.3475(c)(1) and 30 TAC §334.50(b)(1)(A) and §334.54(c)(1),"

For questions concerning this error, please contact Logan Harrell at (512) 239-1439.

TRD-201902423
Charmaine Backens
Director, Litigation Division
Texas Commission on Environmental Quality
Filed: July 30, 2019



Notice of Hearing City of Star Harbor: SOAH Docket No. 582-19-6260; TCEQ Docket No. 2019-0575-MWD; Permit No. WQ0014268002

APPLICATION.

City of Star Harbor, 99 Sunset Boulevard, Malakoff, Texas 75148, has applied to the Texas Commission on Environmental Quality (TCEQ) for new Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0014268002, to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 240,000 gallons per day. TCEQ received this application on October 9, 2017.

The facility will be located approximately 3,050 feet west of the intersection of Briarwood and Farm-to-Market Road 3062, and 3,500 feet south of the intersection of Farm-to-Market Road 3062 and Jupiter Road, in Henderson County, Texas 75148. The treated effluent will be discharged to Cedar Creek; thence to Trinity River Above Lake Livingston in Segment No. 0804 of the Trinity River Basin. The unclassified receiving water use is high aquatic life use for Cedar Creek. The designated uses for Segment No. 0804 are high aquatic life use and primary contact recreation. In accordance with 30 Texas Administrative Code (TAC) Section 307.5 and the TCEQ's Procedures to Implement the Texas Surface Water Quality Standards (June 2010), an antidegradation review of the receiving waters was performed. A Tier I antidegradation review has preliminarily determined that existing water quality uses will not be impaired by this permit action. Numerical and narrative criteria

to protect existing uses will be maintained. A Tier 2 review has preliminarily determined that no significant degradation of water quality is expected in Cedar Creek, which has been identified as having high aquatic life uses. Existing uses will be maintained and protected. The preliminary determination can be reexamined and may be modified if new information is received. 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: <www.tceq.texas.gov/assets/public/hb610/index.html?lat=32.177622&lng=-96.05283&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 Star Harbor City Hall, 99 Sunset Boulevard, Malakoff, Texas.

CONTESTED CASE HEARING.

The State Office of Administrative Hearings (SOAH) will conduct a formal contested case hearing at:

10:00 a.m. - September 23, 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 June 18, 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 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, 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 www.tceq.texas.gov.

Further information may also be obtained from the City of Star Harbor at the address stated above or by calling The Honorable Warren Claxton, Mayor, at (903) 489-0091.

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: July 30, 2019

TRD-201902443

Bridget C. Bohac

Chief Clerk

Texas Commission on Environmental Quality

Filed: July 31, 2019



Notice of Hearing Texas LNG Brownsville LLC: SOAH
Docket No. 582-19-6261; TCEQ Docket No. 2019-0624-AIR;
Proposed Permit No. 139561

APPLICATION.

TEXAS LNG BROWNSVILLE LLC, 2800 North Loop West Suite 910, Houston, Texas 77092-8838, has applied to the Texas Commission on Environmental Quality (TCEQ) for issuance of Proposed Air Quality Permit Number 139561, which would authorize construction of a LNG export terminal located east from Brownsville on State Highway 48. The applicant provided the following directions to the site: From the intersection of State Highway 48 and State Highway 550 continue on State Highway 48 for 12.2 miles, the gate to the location is on the right, Brownsville, Cameron County, Texas 78521. This application was submitted to the TCEQ on March 24, 2016. The proposed facility will emit the following contaminants: nitrogen oxides, carbon monoxide, organic compounds, particulate matter including particulate matter with diameters of 10 microns or less and 2.5 microns or less, sulfur dioxide, and hazardous air pollutants, including, but not limited to hydrogen sulfide. 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: <www.tceq.texas.gov/assets/public/hb610/index.html?lat=26.040833&lng=-97.2325&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 to issue the permit because it meets all rules and regulations. The permit application, executive director's preliminary decision, and draft permit are available for viewing and copying at the TCEQ central office, the TCEQ Harlingen regional office, and at the Port Isabel Public Library, 213 Yturria Street, Port Isabel, Cameron County, Texas. The facility's compliance file, if any exists, is available for public review at the TCEQ Harlingen Regional Office, 1804 West Jefferson Avenue, Harlingen, Texas.

CONTESTED CASE HEARING.

The State Office of Administrative Hearings (SOAH) will conduct a formal contested case hearing at:

10:00 a.m. - September 12, 2019

835 East Levee Street, 2nd Floor

Brownsville, Texas 78520

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 June 18, 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 the Chapter 2001, Texas Government Code; Chapter 382, Texas Health and Safety Code; TCEQ rules including 30 Texas Administrative Code (TAC) Chapter 116, Subchapters A and B; 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 affected by the application in a way not common to 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.

MAILING LIST.

You may ask to be placed on a mailing list to obtain additional information on this application by sending a request to the Office of the Chief Clerk at the address below.

AGENCY CONTACTS AND INFORMATION.

Public comments and requests must be submitted either electronically at www.tceq.texas.gov/agency/decisions/cc/comments.html, 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. If you communicate with the TCEQ electronically, please be aware that your email address, like your physical mailing address, will become part of the agency's public record. For more information about this permit application, the permitting process, or the contested case hearing process, please call the Public Education Program toll free at (800) 687-4040. Si desea información en español, puede llamar al (800) 687-4040. General information regarding the TCEQ may be obtained electronically at www.tceq.texas.gov

In accordance with 1 TAC §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, 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 regarding the TCEQ can be found at www.tceq.texas.gov.

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.

Further information may also be obtained from TEXAS LNG BROWNSVILLE LLC at the address stated above or by calling Mr. David Glessner, General Manager Permitting at (713) 820-9607.

Issued: July 25, 2019

TRD-201902446

Bridget C. Bohac

Chief Clerk

Texas Commission on Environmental Quality

Filed: July 31, 2019



Notice of Hearing WPS I LLC: SOAH Docket No. 582-19-6327; TCEQ Docket No. 2019-0443-MWD; Permit No. WQ0015679001

APPLICATION.

WPS I LLC, 5189 East Interstate 20 Service Road North, Suite 106, Willow Park, Texas 76087, has applied to the Texas Commission on Environmental Quality (TCEQ) for new Texas Pollutant Discharge

Elimination System (TPDES) Permit No. WQ0015679001, to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 60,000 gallons per day. TCEQ received this application on April 17, 2018.

The facility will be located at 9700 East Bankhead Highway, Aledo, in Parker County, Texas 76008. The treated effluent will be discharged to an unnamed tributary; thence to Clear Fork Trinity River Below Lake Weatherford in Segment No. 0831 of the Trinity River Basin. The unclassified receiving water use is minimal aquatic life use for the unnamed tributary. The designated uses for Segment No. 0831 are primary contact recreation, public water supply and high aquatic life use. In accordance with 30 Texas Administrative Code (TAC) Section 307.5 and the TCEQ's Procedures to Implement the Texas Surface Water Quality Standards (June 2010) for the Texas Surface Water Quality Standards, an antidegradation review of the receiving waters was performed. A Tier 1 antidegradation review has preliminarily determined that existing water quality uses will not be impaired by this permit action. Numerical and narrative criteria to protect existing uses will be maintained. A Tier 2 review has preliminarily determined that no significant degradation of water quality is expected in Clear Fork Trinity River Below Lake Weatherford, which has been identified as having high aquatic life uses. Existing uses will be maintained and protected. The preliminary determination can be reexamined and may be modified if new information is received. 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: www.tceq.texas.gov/assets/public/hb610/index.html?lat=32.72222&lng=-97.6225&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 East Parker County Library, 201 Farm-to-Market Road 1187 North, Aledo, Texas.

CONTESTED CASE HEARING.

The State Office of Administrative Hearings (SOAH) will conduct a formal contested case hearing at:

10:00 a.m. - September 30, 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 July 1, 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 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, 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 www.tceq.texas.gov.

Further information may also be obtained from WPS I LLC at the address stated above or by calling Mr. Britt Phillips, at (817) 228-9447.

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: July 30, 2019

TRD-201902447

Bridget C. Bohac

Chief Clerk

Texas Commission on Environmental Quality

Filed: July 31, 2019



Notice of Opportunity to Comment on Agreed Orders of Administrative Enforcement Actions

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 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 **September 10, 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 September 10, 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: 5510 Acorn, LLC.; DOCKET NUMBER: 2018-0820-PWS-E; TCEQ ID NUMBER: RN101268258; LOCATION: 5510 Mount Houston Road, Houston, Harris County; TYPE

OF FACILITY: public water system; RULES VIOLATED: 30 TAC §290.46(z), by failing to create a Nitrification Action Plan for a system distributing chloraminated water; 30 TAC §290.110(c)(5), by failing to conduct chloramine effectiveness sampling to ensure that monochloramine is the prevailing chloramine species and that nitrification is controlled; 30 TAC §290.42(l), by failing to compile and maintain a thorough and up-to-date plant operations manual for operator review and reference; PENALTY: \$150; STAFF ATTORNEY: Kevin Bartz, Litigation Division, MC 175, (512) 239-6225; REGIONAL OFFICE: Houston Regional Office, 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(2) COMPANY: Cooper Stone, LLC; DOCKET NUMBER: 2018-1436-MLM-E; TCEQ ID NUMBER: RN104556725; LOCATION: 3786 West Farm-to-Market Road 487, Jarrell, Williamson County; TYPE OF FACILITY: dimension stone quarry; RULES VIOLATED: 30 TAC §213.4(a)(1), by failing to obtain approval of an Edwards Aquifer Protection Plan prior to commencing a regulated activity over the Edwards Aquifer Recharge Zone; and 30 TAC §334.127(a), by failing to register an aboveground storage tank with the TCEQ; PENALTY: \$7,563; STAFF ATTORNEY: Logan Harrell, Litigation Division, MC 175, (512) 239-1439; REGIONAL OFFICE: Austin Regional Office, 12100 Park 35 Circle, Building A, Room 179, Austin, Texas 78753, (512) 339-2929.

(3) COMPANY: Linda Davis; DOCKET NUMBER: 2018-0495-MLM-E; TCEQ ID NUMBER: RN109830414; LOCATION: 167 Corkey Drive, Livingston, Polk County; TYPE OF FACILITY: municipal solid waste (MSW) disposal site; RULES VIOLATED: 30 TAC §330.15(a) and (c), by causing, suffering, allowing, or permitting the unauthorized disposal of MSW; and 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; PENALTY: \$2,684; STAFF ATTORNEY: Clayton Smith, Litigation Division, MC 175, (512) 239-6224; REGIONAL OFFICE: Beaumont Regional Office, 3870 Eastex Freeway, Beaumont, Texas 77703-1830, (409) 898-3838.

(4) COMPANY: RR GOLAY LLC dba Rite Track 11; DOCKET NUMBER: 2017-1293-PST-E; TCEQ ID NUMBER: RN101864114; LOCATION: 501 United States Highway 67 West, Naples, Morris County; TYPE OF FACILITY: underground storage tank (UST) system and a convenience store with retail sales of gasoline; RULES VIOLATED: TWC, §26.3475(d) and 30 TAC §334.49(a)(1) and (e)(2), by failing to provide corrosion protection for the UST system and by failing to maintain all required corrosion protection records; 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(a) and 30 TAC §334.50(b)(2), by failing to provide release detection for the pressurized piping associated with the UST system; PENALTY: \$9,046; STAFF ATTORNEY: Clayton Smith, Litigation Division, MC 175, (512) 239-6224; REGIONAL OFFICE: Tyler Regional Office, 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

TRD-201902421

Charmaine Backens

Director, Litigation Division

Texas Commission on Environmental Quality

Filed: July 30, 2019



Notice of Opportunity to Comment on 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 Default Order (DO). 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 **September 10, 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 the 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 September 10, 2019**. Comments may also be sent by facsimile machine to the attorney at (512) 239-3434. The commission's attorney is available to discuss the DO and/or the comment procedure at the listed phone numbers; however, TWC, §7.075, provides that comments on the DO shall be submitted to the commission in **writing**.

(1) COMPANY: Deyma Davila dba DEYS RV AND MOBILE PARK; DOCKET NUMBER: 2018-0937-PWS-E; TCEQ ID NUMBER: RN106914047; LOCATION: 285 Southeast 1000 Street, Andrews, Andrews County; TYPE OF FACILITY: public water system; RULES VIOLATED: 30 TAC §290.110(e)(4)(A) and (f)(3), by failing to submit Disinfectant Level Quarterly Operating Report to the executive director (ED) by the tenth day of the month following the end of each quarter for the first quarter of 2016 through the fourth quarter of 2017; and 30 TAC §290.117(i)(6) and (j), by failing to provide a consumer notification of lead tap water monitoring results to persons served at the sites (taps) that were tested, and failing to mail a copy of the consumer notification of tap results to the ED along with certification that the consumer notification had been distributed in a manner consistent with TCEQ requirements for the January 1 - December 31, 2017, monitoring period; PENALTY: \$889; STAFF ATTORNEY: Jaime Garcia, Litigation Division, MC 175, (512) 239-5807; REGIONAL OFFICE: Midland Regional Office, 9900 West Interstate Highway 20, Suite 100, Midland, Texas 79706, (432) 570-1359.

TRD-201902422

Charmaine Backens

Director, Litigation Division

Texas Commission on Environmental Quality

Filed: July 30, 2019



Notice of Public Hearing on Assessment of Administrative Penalties and Requiring Certain Actions of E Z Stop, L.L.C. dba City Stop: SOAH Docket No. 582-19-6469; TCEQ Docket No. 2018-0727-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. - August 29, 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 October 19, 2018, concerning assessing administrative penalties against and requiring certain actions of E Z STOP, L.L.C. dba City Stop, for violations in Nueces County, Texas, of: Texas Water Code §26.3475(a) and (c)(1) and 30 Texas Administrative Code §334.50(b)(1)(A) and (b)(2).

The hearing will allow E Z STOP, L.L.C. dba City Stop, 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 E Z STOP, L.L.C. dba City Stop, 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 E Z STOP, L.L.C. dba City Stop 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.** E Z STOP, L.L.C. dba City Stop, the Executive Director of the Commission, and the Commission's Public Interest Counsel are the only designated parties to this proceeding.

Legal Authority: Texas Water Code §7.054 and chs. 7 and 26 and 30 Texas Administrative Code chs. 70 and 334; Texas 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 Taylor Pearson, Staff Attorney, Texas Commission on Environmental Quality, Litigation Division, Mail Code 175, P.O. Box 13087, Austin, Texas 78711-3087, telephone (512) 239-3400. Information concerning your participation in this hearing may be obtained by contacting Vic McWherter, Public Interest Counsel, Mail Code 103, at the same P.O. Box address given above, or by telephone at (512) 239-6363.

Any document filed prior to the hearing must be filed with TCEQ's Office of the Chief Clerk and SOAH. Documents filed with the Office of the Chief Clerk may be filed electronically at 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, 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: July 30, 2019

TRD-201902444

Bridget C. Bohac

Chief Clerk

Texas Commission on Environmental Quality

Filed: July 31, 2019



Notice of Public Hearing on Assessment of Administrative Penalties and Requiring Certain Actions of Sai Jba Inc dba Tijuana Grocery: SOAH Docket No. 582-19-6468; TCEQ Docket No. 2018-1272-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. - August 29, 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 20, 2019, concerning assessing administrative penalties against and requiring certain actions of SAI JBA INC dba Tijuana Grocery, for violations in Tarrant County, Texas, of: Tex. Water Code §§26.3467(a) and 26.3475(a), (c)(1), (c)(2), and 30 Texas Administrative Code §§334.8(c)(4)(A)(vii), (c)(5)(A)(i), and (c)(5)(B)(ii), 334.50(b)(1)(A) and (b)(2), and 334.51(b)(2)(C).

The hearing will allow SAI JBA INC dba Tijuana Grocery, 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 SAI JBA INC dba Tijuana Grocery, 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 SAI JBA INC dba Tijuana Grocery 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.** SAI JBA INC dba Tijuana Grocery, the Executive Director of the Commission, and the Commission's Public Interest Counsel are the only designated parties to this proceeding.

Legal Authority: Tex. Water Code §7.054 and chs. 7 and 26 and 30 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 Taylor Pearson, Staff Attorney, Texas Commission on Environmental Quality, Litigation Division, Mail Code 175, P.O. Box 13087, Austin, Texas 78711-3087, telephone (512) 239-3400. Information concerning your participation in this hearing may be obtained by contacting Vic McWherter, Public Interest Counsel, Mail Code 103, at the same P.O. Box address given above, or by telephone at (512) 239-6363.

Any document filed prior to the hearing must be filed with TCEQ's Office of the Chief Clerk and SOAH. Documents filed with the Office of the Chief Clerk may be filed electronically at 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, 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: July 30, 2019

TRD-201902445

Bridget C. Bohac

Chief Clerk

Texas Commission on Environmental Quality

Filed: July 31, 2019



Notice of Stakeholder Meeting to Solicit Comments on the Implementation and Administration of the Governmental Alternative Fuel Fleet Grant Program

The Governmental Alternative Fuel Fleet (GAFF) Grant Program is established under Texas Health and Safety Code, Chapter 395, to be administered by the Texas Commission on Environmental Quality (TCEQ or commission). The GAFF Grant Program is one of several incentive programs under the Texas Emissions Reduction Plan (TERP).

The GAFF Grant Program will provide grants to assist eligible applicants in purchasing or leasing new motor vehicles that operate primarily on compressed natural gas, liquefied natural gas, liquefied petroleum gas, hydrogen fuel cells, or electricity, including electricity to power fully electric motor vehicles and plug-in hybrid motor vehicles. The GAFF Grant Program will also provide grants to assist eligible applicants in the installation of refueling infrastructure for grant funded vehicles.

Eligible applicants include:

--a state agency or political subdivision that operates a fleet of more than 15 motor vehicles, excluding motor vehicles that are owned and operated by a private company or other third party under a contract with the entity; and

--a mass transit or school transportation provider or other public entity established to provide public or school transportation services.

The TCEQ will conduct a stakeholder meeting to solicit informal comments on the implementation and administration of the GAFF Grant Program on Wednesday, September 4, 2019, at 1:30 p.m., at the commission's central office located at 12100 Park 35 Circle, Building E, Room 201S, Austin, Texas.

Written comments may be submitted to Ron Hieser, MC 204, Implementation Grants Section, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087, or faxed to (512) 239-0077. Electronic comments may be submitted to terp@tceq.texas.gov. Comments must be received by the TCEQ no later than September 30, 2019. Please note that this is an opportunity to provide *informal* comments to staff. While staff will review all comments received, the TCEQ will not be formally responding to any informal comments.

For additional information, please contact Ron Hieser at (512) 239-0244, or toll free at (800) 919-TERP (8377).

TRD-201902427

Robert Martinez

Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: July 30, 2019



Notice of Water Quality Application

The following notice was issued on July 25, 2019.

The following does not require publication in a newspaper. Written comments or requests for a public meeting may be submitted to the Office of the Chief Clerk, Mail Code 105, P.O. Box 13087, Austin Texas 78711-3087 WITHIN (30) DAYS OF THE ISSUED DATE OF THE NOTICE.

INFORMATION SECTION

Alcoa World Alumina LLC, which operates Alcoa Point Comfort Operations (a bauxite refining facility which produces alumina, aluminum fluoride, and other aluminum oxide products) has applied for a minor amendment to Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0000394000 to modify the sampling language for stormwater outfalls (Outfalls 008 - 016) to specify sampling shall begin within 60 minutes and shall continue until completed; authorize the use of automated sampling equipment for Outfalls 008 - 016; specify stormwater as an authorized wastestream for Outfall 003; specify that screen cleaning, inspection, and maintenance activities are on an as-needed basis during facility curtailment; revise the term "Lavaca Bay Cooling Water" to "Lavaca Bay Water" throughout the permit; modify the requirements of the stormwater diversion provision (Other Requirement No. 7) to specify which requirements are applicable during facility operational and curtailment phases; modify Other Requirement No. 13 to specify which requirements are applicable during facility operational and curtailment phases; update the Recycle Lake Systems definition to include appropriate references for Outfalls 301 and 003; extend the monitoring period for total organic carbon and chemical oxygen demand at Outfall 301 to last a minimum duration of three years; authorize the use of remote monitoring of flows via Outfall 201; add Recycle Lake System waters to the list of waters discharged via Outfall 301; and add Outfalls 301 and 401 to the list of

exceptions to Other Requirement No. 16. The draft permit authorizes the discharge of air compressor blowdown, bauxite refining process liquids (including condensers and/or evaporators liquid from short duration process upset conditions), bay water from pipeline repair or leaks, boiler rinsing and cleaning liquids, cooling tower blowdown, Cox's Creek water, decant water from dredge materials, engineered natural systems effluent, fire hydrant flushing, gypsum disposal area wastewaters, Lavaca Bay Water (from pipeline repairs and/or leaks), miscellaneous de minimis waste waters, potable water (pipeline leaks, maintenance/repairs, washdown, etc.), water and wastewater from valve and cleaning operations, powerhouse steam condensate, previously monitored effluents (from internal Outfalls 101, 201, and 301), recycle lake system waters, stormwater, stormwater runoff and decant water from dredge materials, stormwater from inactive and/or rehabilitated residue disposal areas, waters from the residue disposal areas, and domestic sewage (from internal Outfall 401) via Outfall 001 at a daily average flow not to exceed 62,000,000 gallons per day; air compressor blowdown, bauxite refining process liquids, boiler rinsing and cleaning liquids, cooling tower blowdown, Cox's Creek water, engineered natural systems effluent, decant water from dredge materials, fire hydrant flushing, gypsum disposal area waste waters, miscellaneous de minimis waste waters, potable water (such as pipeline leaks & repairs, wash down, etc.), water and wastewater from valve and cleaning operations, process wastewater from the Aluminum Fluoride/Hydrogen Fluoride and Aluminum Trihydrate processes, recycle lake system waters, storm lake waters, stormwater, stormwater runoff from the former CAPA facility, stormwater from the former Chlor-Alkali Process Area (CAPA), stormwater runoff and decant water from dredge materials, stormwater runoff from inactive and/or rehabilitated Residue Disposal Areas, synthetic flocculent (used as a sedimentation aid), waters from the residue disposal areas, potable water (such as pipeline leaks and repairs, wash down, etc.) and domestic sewage (from internal Outfall 401) via Outfall 101 at a daily average flow not to exceed 4,320,000 gallons per day; air compressor blowdown, bauxite refining process liquids (including condensers and/or evaporators liquid from short duration process upset conditions), fire hydrant flushing, gypsum disposal area wastewaters, once-through Lavaca Bay Water and condensate, miscellaneous de minimis waste waters, potable water (pipeline leaks, maintenance/repairs, washdown, etc.), and stormwater via Outfall 201 at a daily average flow not to exceed 26,000,000 gallons per day; air compressor blowdown, bauxite refining process liquids, engineered natural systems effluent, fire hydrant flushing, miscellaneous de minimis waste waters, potable water (pipeline leaks, maintenance/repairs, washdown, etc.), water and wastewater from valve and cleaning operations, water from the residue disposal areas, Cox's Creek Water, stormwater (including stormwater runoff from the former CAPA facility, stormwater runoff and decant water from dredge materials, and stormwater runoff from inactive and/or rehabilitated Residue Areas, and from upstream and off-site properties), synthetic flocculent (used as a sedimentation aid), and Recycle Lake System waters via Outfall 301 on an intermittent and flow-variable basis; air compressor blowdown, bauxite refining process liquids, engineered natural systems effluent, fire hydrant flushing, miscellaneous de minimis waste waters, potable water (pipeline leaks, maintenance/repairs, washdown, etc.), stormwater (including stormwater from the former CAPA facility) and treated domestic wastewater via Outfall 401 on an intermittent and flow-variable basis; air compressor blowdown, bauxite refining process liquids, bay water from pipeline repair or leaks, boiler rinsing and cleaning liquids, cooling tower blowdown, Cox's Creek water, engineered natural systems effluent, fire hydrant flushing, gypsum disposal area wastewaters, Lavaca Bay Water (from pipeline repairs and/or leaks), miscellaneous de minimis waste waters, potable water (pipeline leaks, maintenance/repairs, washdown, etc.), water and

wastewater from valve and cleaning operations, powerhouse steam condensate, process wastewater from the aluminum fluoride/hydrogen fluoride and aluminum trihydrate processes, recycle lake waters, storm lake waters, stormwater, stormwater from the former CAPA facility, stormwater from inactive and/or rehabilitated residue disposal areas, synthetic flocculent (used as a sedimentation aid), waters from the residue disposal areas, and domestic sewage (from internal Outfall 401) via Outfall 003 on an intermittent and flow-variable basis; air compressor blowdown, bauxite refining process liquids, bay water from pipeline repair or leaks, cooling tower blowdown, engineered natural systems effluent, fire hydrant flushing, Lavaca Bay Water (from pipeline repairs and/or leaks), miscellaneous de minimis waste waters, potable water (pipeline leaks, maintenance/repairs, washdown, etc.), stormwater, and synthetic flocculent (used as a sedimentation aid) via Outfall 005 on an intermittent and flow-variable basis; air compressor blowdown, bauxite refining process liquids, engineered natural systems effluent, fire hydrant flushing, Lavaca Bay Water (from pipeline repairs and/or leaks), miscellaneous de minimis waste waters, potable water (pipeline leaks, maintenance/repairs, washdown, etc.), stormwater, synthetic flocculent (used as a sedimentation aid), waste water from Sedimentation lagoon and Outfall 006 drainage pattern, and treated stormwater and effluent routed from Outfalls 005 and 007 via Outfall 006 on an intermittent and flow-variable basis; air compressor blowdown, cooling tower blowdown, engineered natural systems effluent, fire hydrant flushing, Lavaca Bay Water (from pipeline repairs and/or leaks), miscellaneous de minimis waste waters, potable water (pipeline leaks, maintenance/repairs, washdown, etc.), stormwater (including the former Carbon Plant facility), stormwater runoff from upstream and off-site properties, and synthetic flocculent (used as a sedimentation aid) via Outfall 007 on an intermittent and flow-variable basis; air compressor blowdown, bay water from pipeline repairs and leaks, decant water from dredge materials, engineered natural systems effluent, fire hydrant flushing, Lavaca Bay Water (from pipeline repairs and/or leaks), miscellaneous de minimis waste waters, potable water (pipeline leaks, maintenance/repairs, washdown, etc.), and stormwater via Outfall 008 on an intermittent and flow-variable basis; air compressor blowdown, fire hydrant flushing, Lavaca Bay Water (from pipeline repairs and/or leaks), miscellaneous de minimis waste waters, potable water (pipeline leaks, maintenance/repairs, washdown, etc.), powerhouse steam condensate, and stormwater (including treated effluent from Outfall 003 lagoon during emergency events) via Outfall 009 on an intermittent and flow-variable basis; air compressor blowdown, bauxite refining process liquids, engineered natural systems effluent, fire hydrant flushing, Lavaca Bay Water (from pipeline repairs and/or leaks), miscellaneous de minimis waste waters, potable water (pipeline leaks, maintenance/repairs, washdown, etc.), and stormwater (including roadways and/or bauxite refining process liquids) via Outfall 010 on an intermittent and flow-variable basis; air compressor blowdown, engineered natural systems effluent, Lavaca Bay Water (from pipeline repairs and/or leaks), miscellaneous de minimis waste waters, potable water (pipeline leaks, maintenance/repairs, washdown, etc.), and stormwater (including stormwater runoff from upstream and off-site properties) via Outfall 011 on an intermittent and flow-variable basis; air compressor blowdown, Lavaca Bay Water (from pipeline repairs and/or leaks), miscellaneous de minimis waste waters, potable water (pipeline leaks, maintenance/repairs, washdown, etc.), and stormwater (including stormwater runoff from upstream and off-site properties) via Outfall 012 on an intermittent and flow-variable basis; air compressor blowdown, bauxite refining process liquids, bay water from pipeline repair or leaks, Cox's Creek water, decant water from dredge materials, engineered natural systems effluent, fire hydrant flushing, Lavaca Bay Water (from pipeline repairs and/or leaks), miscellaneous de minimis waste waters, potable water (pipeline leaks, maintenance/repairs, washdown, etc.), and stormwater (including

stormwater runoff from TxDOT right of ways and from upstream and off-site properties) via Outfall 013 on an intermittent and flow-variable basis; air compressor blowdown, bauxite refining process liquids, Cox's Creek water, decant water from dredge materials, engineered natural systems effluent, fire hydrant flushing, miscellaneous de minimis waste waters, potable water (pipeline leaks, maintenance/repairs, washdown, etc.), and stormwater (including stormwater runoff and decant water from dredge materials, and stormwater runoff from inactive and/or rehabilitated Residue Areas, TxDOT right of ways, and from upstream and off-site properties) via Outfalls 014 and 015 on an intermittent and flow-variable basis; and air compressor blowdown, bauxite refining process liquids, bay water from pipeline repair and leaks, Cox's Creek water, decant water from dredge materials, engineered natural systems effluent, fire hydrant flushing, miscellaneous de minimis waste waters, potable water (pipeline leaks, maintenance/repairs, washdown, etc.), and stormwater (including stormwater runoff and decant water from dredge materials, and stormwater runoff from inactive and/or rehabilitated Residue Areas, TxDOT right of ways, and from upstream and off-site properties) via Outfall 016 on an intermittent and flow-variable basis. The facility is located south of State Highway 35 from its intersection with Farm-to-Market Road 1593, west of Cox Creek, east of Lavaca Bay, and north of Cox Bay, in near the City of Point Comfort in Calhoun County, Texas 77978.

If you need more information about these permit applications or the permitting process, please call the TCEQ Public Education Program, Toll Free, at (800) 687-4040. General information about the TCEQ can be found at our website at www.tceq.texas.gov. Si desea información en español, puede llamar al (800) 687-4040.

TRD-201902442

Bridget C. Bohac

Chief Clerk

Texas Commission on Environmental Quality

Filed: July 31, 2019



Update to the Water Quality Management Plan (WQMP)

The Texas Commission on Environmental Quality (TCEQ or commission) requests comments from the public on the draft July 2019 Update to the WQMP for the State of Texas.

Download the draft July 2019 WQMP Update at https://www.tceq.texas.gov/permitting/wqmp/WQmanagement_updates.html or view a printed copy at the TCEQ Library, Building A, 12100 Park 35 Circle, Austin, Texas.

The WQMP is developed and promulgated in accordance with the requirements of Federal Clean Water Act, §208. The draft update includes projected effluent limits of specific domestic dischargers, which may be useful for planning in future permit actions. The draft update may also contain service area populations for listed wastewater treatment facilities, designated management agency information, and total maximum daily load (TMDL) revisions.

Once the commission certifies a WQMP update, it is submitted to the United States Environmental Protection Agency (EPA) for approval. For some Texas Pollutant Discharge Elimination System (TPDES) permits, the EPA's approval of a corresponding WQMP update is a necessary precondition to TPDES permit issuance by the commission.

Deadline

All comments must be received at the TCEQ no later than **5:00 p.m., September 9, 2019.**

How to Submit Comments

Comments must be submitted in writing to:

Nancy Vignali

Texas Commission on Environmental Quality

Water Quality Division, MC 150

P.O. Box 13087

Austin, Texas 78711-3087

Comments may also be faxed to (512) 239-4420, but must be followed up with written comments by mail within three working days of the fax date or by the comment deadline, whichever is sooner.

For further information, or questions, please contact Ms. Vignali at (512) 239-1303 or by email at Nancy.Vignali@tceq.texas.gov.

TRD-201902420

Robert Martinez

Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: July 30, 2019



Texas Ethics Commission

List of Late Filers

Below is a list from the Texas Ethics Commission naming the filers who failed to pay the penalty fine for failure to file the report, or filing a late report, in reference to the specified filing deadline. If you have any questions, you may contact Sue Edwards at (512) 463-5800.

Deadline: Lobby Activities Report due December 10, 2018

Christopher Walker, 1708 Silver St., Houston, Texas 77007

Deadline: Lobby Activities Report due January 10, 2019

Melodie Shrader, 327 7th St. NW, 9th Fl., Washington, District of Columbia 20004

Christopher Walker, 1708 Silver St., Houston, Texas 77007

Deadline: Lobby Activities Report due February 11, 2019

Chris J. Sanchez, 106 E. 6th St., Ste. 900, Austin, Texas 78701

Deadline: Personal Financial Statement due March 13, 2019

Traci G. LaChance, P.O. Box 877, Clute, Texas 77531

Deadline: Personal Financial Statement due May 6, 2019

David Coatney, 3916 Sapphire Loop, Round Rock, Texas 78681

Deadline: Monthly Report due May 6, 2019 for Committees

Peter Hwang, Houston 80-20 PAC, 8300 Bender Rd., Humble, Texas 77396

Bonita C. Ocampo, Tarrant County Tejano Democrats, 3803 S. Jones St., Fort Worth, Texas 76110

Ernie Perez, Border Health PAC, 612 W. Nolano St., Ste. 340, McAllen, Texas 78504

Deadline: Semiannual Report due July 16, 2018 for Committees

Ateja Dukes, Dawnya Dukes Campaign (DISSOLVED), 5224 Marymount Dr., Austin, Texas 78723

Deadline: Monthly Report due August 6, 2018 for Committees

James Welch, Texas Chiropractic Assn. PAC, 4220 Treadway, Beaumont, Texas 77706

Deadline: Monthly Report due October 5, 2018 for Committees

James Welch, Texas Chiropractic Assn. PAC, 4220 Treadway, Beaumont, Texas 77706

Deadline: Monthly Report due November 5, 2018 for Committees

James Welch, Texas Chiropractic Assn. PAC, 4220 Treadway, Beaumont, Texas 77706

Deadline: Monthly Report due January 7, 2019 for Committees

James Welch, Texas Chiropractic Assn. PAC, 4220 Treadway, Beaumont, Texas 77706

Deadline: 8-Day Report due April 26, 2019 for Committees

Brandon W. Maxey, Together Texas PAC, 1350 N. Greenville Ave #3216, Richardson, Texas 75081

TRD-201902379

Anne Temple Peters

Executive Director

Texas Ethics Commission

Filed: July 25, 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 July 22, 2019 to July 26, 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, August 2, 2019. The public comment period for this project will close at 5:00 p.m. on Sunday, September 1, 2019.

FEDERAL AGENCY ACTIONS:

Applicant: INEOS Styrolution America, LLC

Location: The project site is located in wetlands adjacent to Galveston Bay, located at 12222 Port Road, in Pasadena, Harris County, Texas.

Latitude & Longitude (NAD 83): 29.595372, -95.015377

Project Description: The applicant proposes to discharge dredged or fill material into 1.327 acres of wetlands and 0.037 acre of open water for the purpose of constructing an Acrylonitrile Styrene Acrylate (ASA) polymer unit and associated structures including, but not limited to, a maintenance building, warehouse, laboratory, roadways, railway, and railcar loading area.

Type of Application: U.S. Army Corps of Engineers (USACE) permit application # SWG-2018-00613. This application will be reviewed pursuant to Section 404 of the Clean Water Act.

CMP Project No: 19-1234-F1

Applicant: Port of Beaumont Navigation District

Location: The project site is located in the Neches River on a tract located south of Interstate Highway 10 and Old Highway 90, in Vidor, Orange County, Texas.

Latitude & Longitude (NAD 83): 30.079023, -94.05859

Project Description: The applicant proposes to hydraulically or mechanically dredge approximately 1,407,199 cubic yards (CY) of new material from the Neches River to an initial depth of 42.0 feet below Mean Lower Low Water (MLLW), to create a ship berthing area, a turning basin and a barge berthing area at a depth of 17.0 feet below MLLW. Approximately, 1,100,000 CY will be placed in Beneficial Use Sites. The remaining 307,199 CY will be placed in Placement Area 23, 24 or 25. The applicant also proposes to construct two ship docks and a barge dock. The two ship docks will consist of: a new platform measuring 130' x 60', a 20' x 80' long ship gangway platform, an approach-way, piperack support walkways, fire water platform, 6 breasting dolphins, 6 mooring dolphins and 3 barge monopiles. The new barge dock will accommodate river inland barges and will consist of a new barge dock platform measuring 60' x 40', approach-way, piperack supports, and 9 barge monopiles. The project will also include roads, shoreline protection, and containment levees. In the future, the ship berth and turning basin will be dredged to 48.0 feet below MLLW. The purpose of the project is to construct a new marine terminal with ship docks, a barge dock and tank storage on Port property to accommodate the loading and unloading of bulk liquid products. This project will discharge dredged or fill material into 20.6 acres of wetlands on the project tract.

Type of Application: U.S. Army Corps of Engineers (USACE) permit application # SWG-2018-00464. This application will be reviewed pursuant to Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act. Note: The consistency review for this project may be conducted by the Texas Commission on Environmental Quality as part of its certification under §401 of the Clean Water Act.

CMP Project No: 19-1366-F1

Applicant: Zydeco Pipeline Company LLC

Location: The project site is located under the Neches River, Bird Island Bayou, and the Bessie Heights Area, in Jefferson and Orange Counties, Texas.

Latitude & Longitude (NAD 83): 29.987080, -93.935495

Project Description: The applicant proposes to replace a 22,688-linear-foot section of the Houston to Houma 22-inch-diameter pipeline. Originating at the Motiva Terminal in Port Neches and ending at a valve station near Bridge City, Texas. Approximately 52 acres of open water and wetlands will be temporarily impacted by construction. Approximately 2 acres of Palustrine Forested Wetlands and 0.3 acres of Palustrine scrub shrub will be cleared and converted to Palustrine Emergent Wetlands. All excavated areas will be restored to preconstruction elevations. Portions of the pipeline will be horizontally directionally drilled under the Neches River and Bird Island Bayou. Approximately 53,011 cubic yards of material will be excavated and is proposed to be sidecast during open trenching and dredging to gain access to the project site.

Type of Application: U.S. Army Corps of Engineers (USACE) permit application # SWG-2016-00268. This application will be reviewed pursuant to Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act. Note: The consistency review for this project may be conducted by the Texas Commission on Environmental Quality as part of its certification under §401 of the Clean Water Act.

CMP Project No: 19-1367-F1

Applicant: Fisher Industrial Gateway Terminals, LLC

Location: The project site is located at the terminus of Tri City Beach Road south of Cedar Bayou, in Baytown, Chambers County, Texas.

Latitude & Longitude (NAD 83): 29.264555, -94.896683

Project Description: The applicant proposes to construct a commercial goods dock and fleeting project intended for the loading of steel rolls, containers, and liquid products safely and efficiently. The proposed project would shorten trips needed for hauling loads to only half-mile upstream of Cedar Bayou, saving transportation costs, delays, traffic, and barge collisions while providing a safer alternative for the shipping and receiving of commercial goods. In order to complete the project, the applicant is proposing to install 1,338 feet (ft) of steel corrugated bulkheading to stabilize the banks of the commercial dock, expand the existing, privately owned Tri City Beach Road to a width of 200 ft to allow safe thoroughfare that would fill 1.69 acres (ac) of Waters of the United States (WOUS), including wetlands. The proposed project would also raise the loading and unloading dock to an elevation of +9 ft above Mean Lower Low Water (MLLW). The applicant proposes to mechanically dredge approximately 32.94 ac and 684,000 cubic yards to a depth of -14 ft below MLLW to facilitate barge access within the area. Dredged material will be placed within a previously approved upland disposal site located 0.2 mile from the project. It is anticipated that 0.08 ac of oyster reef, 33.55 ac of waterbodies, and 0.53 ac of estuarine wetlands will be directly impacted by the proposed project.

Type of Application: U.S. Army Corps of Engineers (USACE) permit application # SWG-2011-00070. This application will be reviewed pursuant to Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act. Note: The consistency review for this project may be conducted by the Texas Commission on Environmental Quality as part of its certification under §401 of the Clean Water Act.

CMP Project No: 19-1297-F1

Applicant: Port of Houston Authority

Location: The proposed Houston 4 Project site is located in wetlands and in Buffalo Bayou on a 389.11-acre site that includes 339.0 acres of land and 50.11 acres of open water located adjacent to the Houston Ship Channel (HSC). The project is located east of Greens Bayou adjacent to Corps Stations 760+00 to 810+00 of the HSC, in Houston, Harris County, Texas.

Latitude & Longitude (NAD 83): 29.763194, -95.161072

Project Description: The applicant proposes to construct terminal infrastructure and dock facilities to support vessel loading and unloading for the transportation, importing, and exporting of petroleum products, petrochemicals, and other bulk liquids.

The proposed project consists of the construction of a marine terminal including four ship docks, three barge docks, breasting dolphins, mooring dolphins, and 5,305 feet of new sheet pile bulkhead wall. Additionally, the project consists of the construction of terminal supporting infrastructure including storage/processing facilities, rail receiving/loading yards, maintenance yards, above ground pipe racks, vehicle access roads, electrical substations, truck loading bay, and terminal operation offices and facilities. The proposed project requires the removal and relocation of approximately 3.8 million cubic yards of material within a 63.27-acre area to provide the area necessary to safely maneuver and berth incoming and outgoing vessels. Of that, approximately 870,000 cubic yards of material will be excavated above the MLLW line and 2.49 million cubic yards of material below the MLLW line will be dredged to obtain depths of -46.5 feet MLLW, and 2-foot allowable overdredge along the proposed ship docks and depths of -15 feet MLLW, plus a 2-foot overdredge along the proposed barge docks.

Approximately 5,927 cubic yards of slope stabilization material will be placed along the proposed bulkhead wall.

The applicant plans to utilize private Dredged Material Placement Areas for the initial new-work dredging and relocation of the 3.8 million cubic yards of material.

Of the potential Waters of the United States identified within the survey area of the proposed project, seven palustrine forested (PFO) wetlands, nine palustrine emergent (PEM) wetlands, two palustrine scrub-shrub (PSS) wetlands, one palustrine unconsolidated bottom (PUB) wetlands, four tributaries, and one open-water area are proposed to be impacted by construction and operation of the proposed project. Construction and operation activities would result in unavoidable impacts to approximately 11.702 acres of wetlands consisting of 3.925 acres of PFO wetland, 6.446 acres of PEM wetland, and 1.331 acres of PSS wetland. The proposed project would also impact approximately 2.056 acres of open water pond area.

Type of Application: U.S. Army Corps of Engineers (USACE) permit application # SWG-2018-00560. This application will be reviewed pursuant to Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act. Note: The consistency review for this project may be conducted by the Texas Commission on Environmental Quality as part of its certification under §401 of the Clean Water Act.

CMP Project No: 19-1353-F1

Applicant: Enterprise Product Operating, LLC

Location: The project site is located under the Neches River, in Jefferson and Orange Counties, Texas.

Latitude & Longitude (NAD 83): 30.027278, -94.031454

Project Description: The applicant is requesting authorization to decommission (i.e. abandon in place) approximately 1,028 feet of existing 20-inch-diameter pipe extending across the Neches River, located in Jefferson and Orange Counties, Texas.

Type of Application: U.S. Army Corps of Engineers (USACE) permit application # SWG-2013-00954. This application will be reviewed pursuant to Section 10 of the Rivers and Harbors Act of 1899

CMP Project No: 19-1368-F1

Applicant: Texas City Terminal Railway Company

Location: The project site is located in Texas City Ship Channel, at 2201 Dock Road, in Texas City, Galveston County, Texas.

Latitude & Longitude (NAD 83): 29.378523, -94.86894

Project Description: The applicant proposes to construct a new bulk liquids dock at the Port of Texas City facility (Dock 42/43). To facilitate proper access to the dock, and to improve navigation safety, the applicant proposes to deepen 2,400 linear feet of the industrial canal from -41 mean lower low water (MLLW) to -46 MLLW and re-align 900 feet of the green toe of the channel. Re-aligning the green toe would result in an incremental widening of the channel by 0 feet to 104 feet and an additional 1.4 acres of maintained channel. The proposed project would be constructed using a hydraulic (or cutter-head) dredge, and dredged spoil for this project would be placed in existing dredged material placement area on Snake Island (Shoal Point Terminal: Cell A), which is immediately adjacent to the project area. The expected dredge quantity for the

initial deepening is approximately 194,000 cubic yards. This includes maintenance and virgin material to a proposed maintained depth of -46 MLLW, plus 2.0 feet of advanced maintenance and 1.0 feet of allowable over depth. A portion of this material could be utilized to raise,

improve, and/or construct levees within the dredged material placement area as needed to increase the capacity.

Type of Application: U.S. Army Corps of Engineers (USACE) permit application # SWG-2016-00153. This application will be reviewed pursuant to Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act. Note: The consistency review for this project may be conducted by the Texas Commission on Environmental Quality as part of its certification under §401 of the Clean Water Act.

CMP Project No: 19-1265-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-201902449

Mark A. Havens

Chief Clerk and Deputy Land Commissioner

General Land Office

Filed: July 31, 2019



Notice of Approval of Coastal Boundary Survey

Pursuant to §33.136 of the Texas Natural Resources Code, notice is hereby given that George P. Bush, Commissioner of the Texas General Land Office, approved a coastal boundary survey described as follows:

Boundary Survey Matagorda County §33.136 Sketch 15, dated February 23-25, 2019, delineates the meanders of the Mean Higher High-Water Line along a portion of the Benjamin Wightman League, Abstract 100 and along a portion of the G. B. Culver Survey, Abstract 551, Texas General Land Office school file number 144506 and along State Submerged Tracts 450, 464, and 466, Matagorda County, Texas. The survey is associated with the Community Block Grant Program Ike Round 2.2 Non-Housing Funds. Situated approximately 2.8 miles southwesterly from the San Bernard National Wildlife Refuge. Centroid coordinates N 28° 45' 07", W 95° 39' 26", WGS84. A copy of the survey has been filed in Plat Record 596 & 597, pages A & B Matagorda County Plat Records.

This survey is intended to provide pre-project baseline information related to an erosion response activity on coastal public lands. An owner of uplands adjoining the project area is entitled to continue to exercise littoral rights possessed prior to the commencement of the erosion response activity, but may not claim any additional land as a result of accretion, reliction, or avulsion resulting from the erosion response activity.

For a copy of this survey refer to Matagorda County Sec. 33.136 Sketch 15. For more information on this matter, contact Mark Neugebauer, Director of Surveying Services, Texas General Land Office by phone at (512) 475-1437, email mark.neugebauer@glo.texas.gov, or fax (512) 463-5229.

TRD-201902448

Mark Havens

Chief Clerk, Deputy Land Commissioner

General Land Office

Filed: July 31, 2019



Texas Health and Human Services Commission

Public Notice: Request for a Renewal of the §1915(i) Home and Community-Based Services - Adult Mental Health Program

The Texas Health and Human Services Commission (HHSC) announces its intent to submit transmittal number 19-0021 to the Texas State Plan for Medical Assistance, under Title XIX of the Social Security Act, Section §1915(i). The proposed amendment is effective September 1, 2020.

The purpose of this amendment is to request a renewal of the §1915(i) Home and Community-Based Services - Adult Mental Health (HCBS-AMH) program serving adults with a diagnosis of serious mental illness (SMI) and extended tenure in inpatient psychiatric facilities, or adults with a diagnosis of SMI who have a history of psychiatric crisis and repeated discharges from correctional facilities or a pattern of emergency department utilization. This 1915(i) program was originally authorized by CMS approval of SPA 14-014, effective September 1, 2015.

To continue the program, the proposed amendment is estimated to result in an annual aggregate expenditure of \$11,536,572 for federal fiscal year (FFY) 2020, consisting of \$7,024,619 in federal funds and \$4,511,953 in state general revenue. For FFY 2021, the estimated annual expenditure is \$15,416,654 consisting of \$9,570,659 in federal funds and \$5,845,995 in state general revenue.

To obtain copies of the proposed amendment, interested parties may contact Courtney Pool, State Plan Coordinator, by mail at the Health and Human Services Commission, P.O. Box 13247, Mail Code H-600, Austin, Texas 78711; by telephone at (512) 424-6889; by facsimile at (512) 730-7472; or by email at Medicaid_Chip_SPA_Inquiries@hhsc.state.tx.us. Copies of the proposal will also be made available for public review at the local offices of the Texas Health and Human Services Commission.

TRD-201902418
Karen Ray
Chief Counsel
Texas Health and Human Services Commission
Filed: July 29, 2019

Texas Department of Housing and Community Affairs

Notice of Public Hearing on the 2020 Streamlined Annual Public Housing Agency PHA Plan for the Housing Choice Voucher Program

Section 511 of Title V of the Quality Housing and Work Responsibility Act of 1998 (P. L. 205-276) requires the Texas Department of Housing and Community Affairs (the Department) to prepare a 2019 Streamlined Annual Public Housing Agency PHA Plan for the Housing Choice Voucher Program. Title 24, §903.17 of the Code of Federal Regulations requires that the Department conduct a public hearing regarding that plan. The Department will hold a public hearing to receive oral and written comments for the development of the Department's 2020 Streamlined Annual Public Housing Agency PHA Plan for the Housing Choice Voucher Program. The hearing will take place at the following time and location:

Wednesday, September 16, 2019
Texas Department of Housing and Community Affairs
221 East 11th Street, Room 116
Austin, Texas 78701

1:00 p.m. - 3:00 p.m.

The proposed 2019 Streamlined Annual Public Housing Agency (PHA) Plan for the Housing Choice Voucher Program and all supporting documentation are available to the public for viewing at the Department's main office, 221 East 11th Street, Attn: Section 8 Program, Austin, Texas from July 31, 2019 - September 16, 2019 on weekdays during the hours of 8:00 a.m. until 4:00 p.m. The proposed plan will also be available for viewing on the Department's website at: www.tdhca.state.tx.us/section-8/announcements.htm.

Written comments from any interested persons unable to attend the hearing may be submitted by e-mail to Andre Adams, Section 8 Program Manager, and Community Affairs Division at andre.adams@tdhca.state.tx.us or by mail at P.O. Box 13941, Austin, Texas 78711-3941. Comments must be received by 4:00 p.m., Austin local time, Friday, September 16, 2019. Questions or requests for additional information may be directed to Andre Adams by calling (512) 475-3884 or the e-mail listed.

Individuals who require a language interpreter for the hearing should contact Andre Adams at (512) 475-3884 or Relay Texas at 1 (800) 735-2989 at least two days prior to the hearing date. Personas que hablan español y requieren un intérprete, favor de llamar a Elena Peinado al siguiente número (512) 475-3814 por lo menos tres días antes de la junta para hacer los preparativos apropiados.

Individuals who require auxiliary aids or services for this hearing should contact Andre Adams at (512) 475-3884 or Relay Texas at (800) 735-2989 at least two days before the scheduled hearing so that appropriate arrangements can be made.

TRD-201902432
David Cervantes
Acting Director
Texas Department of Housing and Community Affairs
Filed: July 30, 2019



Request for Proposal from Investment Banking Firms for Single Family Mortgage Revenue Bond Issues

The Texas Department of Housing and Community Affairs (TDHCA) is issuing this request for proposal (RFP) from investment banking firms interested in providing investment banking services from time to time as Senior Manager or Co-Manager for one or more of its proposed single family mortgage revenue bond new issues and/or refundings.

Responses to the RFP must be received at TDHCA no later than 2:00 p.m., Austin local time, on Tuesday, August 20, 2019. To obtain a copy of the RFP, please email your request to the attention of Julie Dumbleck at julie.dumbleck@tdhca.state.tx.us or visit the Bond Finance Division web page at www.tdhca.state.tx.us.

TRD-201902405
David Cervantes
Acting Director
Texas Department of Housing and Community Affairs
Filed: July 26, 2019



Third Amendment to 2019-1 Multifamily Direct Loan Annual Notice of Funding Availability

I. Sources of Multifamily Direct Loan Funds.

Multifamily Direct Loan funds are made available through program income generated from prior year HOME allocations, de-obligated funds

from prior year HOME allocations, the 2018 Grant Year HOME allocation, the 2017 and 2018 Grant Year National Housing Trust Fund (NHTF) allocations, loan repayments from the Tax Credit Assistance Program (TCAP Repayment funds or TCAP RF), and program income generated by Neighborhood Stabilization Program Round 1 (NSP1) loan repayments. The Department may amend this NOFA or the Department may release a new NOFA upon executing its 2019 HOME or 2019 NHTF allocation(s) from HUD or receiving additional TCAP or NSP1 loan repayments. These funds have been programmed for multifamily activities including acquisition, refinance, and preservation of affordable housing involving new construction and/or rehabilitation.

II. Notice of Funding Availability (NOFA).

The Texas Department of Housing and Community Affairs (the Department) announces the availability of up to \$57,743,041 in Multifamily Direct Loan funding for the development of affordable multifamily rental housing for low-income Texans.

Of that amount, at least \$500,000 will be available for eligible Community Housing Development Organizations (CHDO) meeting the requirements of the definition of Community Housing Development Organization found in 24 CFR §92.2 and the requirements of this NOFA; up to \$11,638,041 will be available for applications proposing Supportive Housing in accordance with 10 TAC §11.1(d)(121) and §11.302(g)(3) of the 2019 Qualified Allocation Plan (QAP) or applications that commit to setting aside units for extremely low-income households as required by 10 TAC §13.4(a)(1)(A)(ii). Additionally, at least \$2,000,000 will be available in a Preservation set-aside for applications proposing rehabilitation to assist developments at risk of losing their affordability and/or to ensure an extended affordability period with an investment of Direct Loan Funds. The remaining funds will be available under the General set-aside for applications proposing eligible activities, including those mentioned in the Preservation set-aside as well as New Construction.

At the Board meeting on July 25, 2019, the Department finalized the Second Amendment to 2019-1 Multifamily Direct Loan Annual NOFA, whereby \$8,401,779 in HOME Program Income became available in the General set-aside exclusively for award to 2019 9% HTC-layered applications. On the same day, this Third Amendment made an additional \$5,100,000 in proposed HOME Program Income available to add to the General set-aside exclusively for award to 2019 9% HTC-layered applications. The proposed funds are contingent on staff's completion of the financial mechanisms needed to allow expenditure of the proposed funds.

The Multifamily Direct Loan program provides loans to for-profit and nonprofit entities to develop affordable housing for low-income Texans qualified as earning 80 percent or less of the applicable Area Median Family Income. All funding is currently available on a statewide basis within each set-aside until November 26, 2019.

III. Application Deadline and Availability.

Based on the availability of funds, Applications may be accepted until 5:00 p.m. Austin local time on November 26, 2019. The

"Amended 2019-1 Multifamily Direct Loan Annual NOFA" is posted on the Department's website: <http://www.tdhca.state.tx.us/multifamily/nofas-rules.htm>. Subscribers to the Department's LISTSERV will receive notification that the finalized Second Amendment and Third Amendment to the NOFA are posted. Subscription to the Department's LISTSERV is available at <http://maillist.tdhca.state.tx.us/list/subscribe.html?lui=f9mu0g2g&mContainer=2&mOwner=G382s2w2r2p>.

Questions regarding the 2019-1 Multifamily Direct Loan Annual NOFA may be addressed to Andrew Sinnott at (512) 475-0538 or andrew.sinnott@tdhca.state.tx.us.

TRD-201902440

David Cervantes

Acting Director

Texas Department of Housing and Community Affairs

Filed: July 31, 2019

Texas Lottery Commission

Scratch Ticket Game Number 2170 "Hit \$5,000"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 2170 is "HIT \$5,000". The play style is "key number match".

1.1 Price of Scratch Ticket Game.

A. The price for Scratch Ticket Game No. 2170 shall be \$1.00 per Scratch Ticket.

1.2 Definitions in Scratch Ticket Game No. 2170.

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, 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, 5X SYMBOL, HIT SYMBOL, \$1.00, \$2.00, \$3.00, \$5.00, \$10.00, \$15.00, \$25.00, \$50.00, \$100, \$500 and \$5,000.

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. 2170 - 1.2D

PLAY SYMBOL	CAPTION
01	ONE
02	TWO
03	THR
04	FOR
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	TWFV
26	TWSX
27	TWSV
28	TWET
29	TWNI
30	TRTY
5X SYMBOL	WINX5
HIT SYMBOL	WIN\$
\$1.00	ONE\$
\$2.00	TWO\$
\$3.00	THR\$
\$5.00	FIV\$
\$10.00	TEN\$
\$15.00	FFN\$

\$25.00	TWV\$
\$50.00	FFTY\$
\$100	ONHN
\$500	FVHN
\$5,000	FVTH

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 (2170), a seven (7) digit Pack number, and a three (3) digit Ticket number. Ticket numbers start with 001 and end with 150 within each Pack. The format will be: 2170-000001-001.

H. Pack - A Pack of the "HIT \$5,000" Scratch Ticket Game contains 150 Tickets, packed in plastic shrink-wrapping and fanfolded in pages of five (5). Ticket 001 to 005 will be on the top page; Tickets 006 to 010 on the next page etc.; and Tickets 146 to 150 will be on the last page. All Packs will be tightly shrink-wrapped. There will be no breaks between the Tickets in a 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 "HIT \$5,000" Scratch Ticket Game No. 2170.

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 "HIT \$5,000" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose sixteen (16) Play Symbols. If a 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 the player reveals a "HIT" Play Symbol, the player wins the prize for that symbol instantly. If the player reveals a "5X" Play Symbol, the player wins 5 TIMES the prize for that symbol. 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 sixteen (16) 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 sixteen (16) 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 sixteen (16) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the sixteen (16) 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. A Ticket can win as indicated by the prize structure.

C. A Ticket can win up to seven (7) times.

D. On winning and Non-Winning Tickets, the top cash prizes of \$500 and \$5,000 will each appear at least once, except on Tickets winning seven (7) times.

E. No matching non-winning YOUR NUMBERS Play Symbols will appear on a Ticket.

F. Non-winning Prize Symbols will not match a winning Prize Symbol on a Ticket.

G. Non-Winning Tickets will not contain more than two (2) matching Prize Symbols.

H. No matching WINNING NUMBERS Play Symbols will appear on a Ticket.

I. YOUR NUMBERS Play Symbols will never equal the corresponding Prize Symbol (i.e., 01 and \$1, 02 and \$2, 03 and \$3, 10 and \$10, 15 and \$15 and 25 and \$25).

J. The "5X" (WINX5) Play Symbol will never appear as a WINNING NUMBERS Play Symbol.

K. The "5X" (WINX5) Play Symbol will never appear on a Non-Winning Ticket.

L. The "5X" (WINX5) Play Symbol will never appear more than once on a Ticket.

M. The "5X" (WINX5) Play Symbol will win 5 TIMES the prize for that Play Symbol and will win as per the prize structure.

N. The "HIT" (WINS) Play Symbol will never appear as a WINNING NUMBERS Play Symbol.

O. The "HIT" (WINS) Play Symbol will never appear on a Non-Winning Ticket.

P. The "HIT" (WINS) Play Symbol will never appear more than once on a Ticket.

Q. The "HIT" (WINS) Play Symbol will win the prize for that Play Symbol.

R. The "HIT" (WINS) and "5X" (WINX5) Play Symbols will never appear on the same Ticket.

2.3 Procedure for Claiming Prizes.

A. To claim a "HIT \$5,000" Scratch Ticket Game prize of \$1.00, \$2.00, \$5.00, \$10.00, \$15.00, \$25.00, \$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 \$25.00, \$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 "HIT \$5,000" Scratch Ticket Game prize of \$5,000, 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 "HIT \$5,000" 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 "HIT \$5,000" 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 "HIT \$5,000" 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 9,000,000 Scratch Tickets in Scratch Ticket Game No. 2170. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 2170 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$1	870,000	10.34
\$2	660,000	13.64
\$5	150,000	60.00
\$10	150,000	60.00
\$15	20,000	450.00
\$25	18,000	500.00
\$50	1,500	6,000.00
\$100	600	15,000.00
\$500	75	120,000.00
\$5,000	8	1,125,000.00

*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 4.81. 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. 2170 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. 2170, 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-201902428
Bob Biard
General Counsel
Texas Lottery Commission
Filed: July 30, 2019



Scratch Ticket Game Number 2171 "Hit \$250,000"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 2171 is "HIT \$250,000". The play style is "key number match".

1.1 Price of Scratch Ticket Game.

A. The price for Scratch Ticket Game No. 2171 shall be \$5.00 per Scratch Ticket.

1.2 Definitions in Scratch Ticket Game No. 2171.

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, 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, 5X SYMBOL, HIT SYMBOL, \$5.00, \$10.00, \$20.00, \$25.00, \$50.00, \$100, \$250, \$500, \$1,000, \$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. 2171 - 1.2D

PLAY SYMBOL	CAPTION
01	ONE
02	TWO
03	THR
04	FOR
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	TRV
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
5X SYMBOL	WINX5
HIT SYMBOL	WIN\$
\$5.00	FIV\$
\$10.00	TEN\$
\$20.00	TWY\$
\$25.00	TWV\$
\$50.00	FFTY\$
\$100	ONHN
\$250	TOFF
\$500	FVHN
\$1,000	ONTH
\$10,000	10 TH
\$250,000	250 TH

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 (2171), 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: 2171-0000001-001.

H. Pack - A Pack of the "HIT \$250,000" Scratch Ticket Game contains 075 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 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 front of Ticket 075 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 "HIT \$250,000" Scratch Ticket Game No. 2171.

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 "HIT \$250,000" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose fifty-five (55) Play Symbols. If a 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. If the player reveals a "HIT" Play Symbol, the player wins the prize for that symbol instantly. If the player reveals a "5X" Play Symbol, the player wins 5 TIMES the prize for that symbol. 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 fifty-five (55) 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 fifty-five (55) 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 fifty-five (55) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the fifty-five (55) 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. A Ticket can win as indicated by the prize structure.

C. A Ticket can win up to twenty-five (25) times.

D. On winning and Non-Winning Tickets, the top cash prizes of \$1,000, \$10,000 and \$250,000 will each appear at least once, except on Tickets winning twenty-five (25) times, with respect to other parameters, play action or prize structure.

E. No matching non-winning YOUR NUMBERS Play Symbols will appear on a Ticket.

F. Tickets winning more than one (1) time will use as many WINNING NUMBERS Play Symbols as possible to create matches, unless restricted by other parameters, play action or prize structure.

G. No matching WINNING NUMBERS Play Symbols will appear on a Ticket.

H. YOUR NUMBERS Play Symbols will never equal the corresponding Prize Symbol (i.e., 10 and \$10, 20 and \$20, 25 and \$25 and 50 and \$50).

I. On all Tickets, a Prize Symbol will not appear more than three (3) times, except as required by the prize structure to create multiple wins.

J. On Non-Winning Tickets, a WINNING NUMBERS Play Symbol will never match a YOUR NUMBERS Play Symbol.

K. The "5X" (WINX5) Play Symbol will never appear as a WINNING NUMBERS Play Symbol.

L. The "5X" (WINX5) Play Symbol will never appear on a Non-Winning Ticket.

M. The "5X" (WINX5) Play Symbol will never appear more than once on a Ticket.

N. The "5X" (WINX5) Play Symbol will win 5 TIMES the prize for that Play Symbol and will win as per the prize structure.

O. The "HIT" (WINS) Play Symbol will never appear as a WINNING NUMBERS Play Symbol.

P. The "HIT" (WINS) Play Symbol will never appear on a Non-Winning Ticket.

Q. The "HIT" (WINS) Play Symbol will never appear more than once on a Ticket.

R. The "HIT" (WINS) Play Symbol will win the prize for that Play Symbol.

S. The "HIT" (WINS) and "5X" (WINX5) Play Symbols will never appear on the same Ticket.

2.3 Procedure for Claiming Prizes.

A. To claim a "HIT \$250,000" Scratch Ticket Game prize of \$5.00, \$10.00, \$25.00, \$50.00, \$100, \$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 \$25.00, \$50.00, \$100, \$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 "HIT \$250,000" Scratch Ticket Game prize of \$1,000, \$10,000 and \$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 "HIT \$250,000" 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 "HIT \$250,000" 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 "HIT \$250,000" 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 7,200,000 Scratch Tickets in Scratch Ticket Game No. 2171. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 2171 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$5	768,000	9.38
\$10	720,000	10.00
\$25	96,000	75.00
\$50	116,000	62.07
\$100	24,000	300.00
\$250	4,200	1,714.29
\$500	800	9,000.00
\$1,000	200	36,000.00
\$10,000	20	360,000.00
\$250,000	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 4.16. 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. 2171 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. 2171, 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-201902429
 Bob Biard
 General Counsel
 Texas Lottery Commission
 Filed: July 30, 2019



Scratch Ticket Game Number 2172 "Hit \$500,000"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 2172 is "HIT \$500,000". The play style is "key number match".

1.1 Price of Scratch Ticket Game.

A. The price for Scratch Ticket Game No. 2172 shall be \$10.00 per Scratch Ticket.

1.2 Definitions in Scratch Ticket Game No. 2172.

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, 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, 10X SYMBOL, HIT SYMBOL, \$10.00, \$15.00, \$20.00, \$25.00, \$40.00, \$50.00, \$100, \$200, \$500, \$5,000, \$20,000 and \$500,000.

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. 2172 - 1.2D

PLAY SYMBOL	CAPTION
01	ONE
02	TWO
03	THR
04	FOR
05	FIV
06	SIX
07	SVN
08	EGT
09	NIN
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	TWFV
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
10X SYMBOL	WINX10
HIT SYMBOL	WIN\$
\$10.00	TEN\$
\$15.00	FFN\$
\$20.00	TWY\$
\$25.00	TWV\$
\$40.00	FRTY\$
\$50.00	FFTY\$
\$100	ONHN
\$200	TOHN
\$500	FVHN
\$5,000	FVTH
\$20,000	20 TH
\$500,000	500 TH

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 (2172), 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: 2172-0000001-001.

H. Pack - A Pack of the "HIT \$500,000" Scratch Ticket Game contains 050 Tickets, packed in plastic shrink-wrapping and fanfolded in pages of one (1). The back of 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.

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 "HIT \$500,000" Scratch Ticket Game No. 2172.

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 "HIT \$500,000" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose sixty-six (66) Play Symbols. If a 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. If the player reveals a "HIT" Play Symbol, the player wins the prize for that symbol instantly. If the player reveals a "10X" Play Symbol, the player wins 10 TIMES the prize for that symbol. 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 sixty-six (66) 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 sixty-six (66) 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 sixty-six (66) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the sixty-six (66) 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. A Ticket can win as indicated by the prize structure.

C. A Ticket can win up to thirty (30) times.

D. On winning and Non-Winning Tickets, the top cash prizes of \$5,000, \$20,000 and \$500,000 will each appear at least once, except on Tickets winning thirty (30) times, with respect to other parameters, play action or prize structure.

E. No matching non-winning YOUR NUMBERS Play Symbols will appear on a Ticket.

F. On all Tickets, a Prize Symbol will not appear more than four (4) times, except as required by the prize structure to create multiple wins.

G. No matching WINNING NUMBERS Play Symbols will appear on a Ticket.

H. YOUR NUMBERS Play Symbols will never equal the corresponding Prize Symbol (i.e., 15 and \$15, 20 and \$20, 25 and \$25, 40 and \$40 and 50 and \$50).

I. On Non-Winning Tickets, a WINNING NUMBERS Play Symbol will never match a YOUR NUMBERS Play Symbol.

J. The "10X" (WINX10) Play Symbol will never appear as a WINNING NUMBERS Play Symbol.

K. The "10X" (WINX10) Play Symbol will never appear on a Non-Winning Ticket.

L. The "10X" (WINX10) Play Symbol will never appear more than once on a Ticket.

M. The "10X" (WINX10) Play Symbol will win 10 TIMES the prize for that Play Symbol and will win as per the prize structure.

N. The "HIT" (WINS) Play Symbol will never appear as a WINNING NUMBERS Play Symbol.

O. The "HIT" (WINS) Play Symbol will never appear on a Non-Winning Ticket.

P. The "HIT" (WINS) Play Symbol will never appear more than once on a Ticket.

Q. The "HIT" (WINS) Play Symbol will win the prize for that Play Symbol.

R. The "HIT" (WINS) and "10X" (WINX10) Play Symbols will never appear on the same Ticket.

2.3 Procedure for Claiming Prizes.

A. To claim a "HIT \$500,000" Scratch Ticket Game prize of \$10.00, \$20.00, \$25.00, \$50.00, \$100, \$200 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 \$25.00, \$50.00, \$100, \$200 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 "HIT \$500,000" Scratch Ticket Game prize of \$5,000, \$20,000 and \$500,000, 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 "HIT \$500,000" 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 "HIT \$500,000" 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 "HIT \$500,000" 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. 2172. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 2172 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$10	660,000	9.09
\$20	320,000	18.75
\$25	320,000	18.75
\$50	130,000	46.15
\$100	100,000	60.00
\$200	9,000	666.67
\$500	1,500	4,000.00
\$5,000	50	120,000.00
\$20,000	10	600,000.00
\$500,000	3	2,000,000.00

*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 3.89. 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. 2172 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. 2172, 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-201902430
 Bob Biard
 General Counsel
 Texas Lottery Commission
 Filed: July 30, 2019

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Scratch Ticket Game Number 2173 "Hit \$1,000,000"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 2173 is "HIT \$1,000,000". The play style is "key number match".

1.1 Price of Scratch Ticket Game.

A. The price for Scratch Ticket Game No. 2173 shall be \$30.00 per Scratch Ticket.

1.2 Definitions in Scratch Ticket Game No. 2173.

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, 06, 07, 08, 09, 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, 5X SYMBOL, 10X SYMBOL, HIT SYMBOL, \$30.00, \$50.00, \$60.00, \$100, \$150, \$300, \$500, \$1,000, \$10,000 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. 2173 - 1.2D

PLAY SYMBOL	CAPTION
01	ONE
02	TWO
03	THR
04	FOR
06	SIX
07	SVN
08	EGT
09	NIN
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	TRV
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
5X SYMBOL	WINX5
10X SYMBOL	WINX10
HIT SYMBOL	WIN\$
\$30.00	TRTY\$
\$50.00	FFTY\$
\$60.00	SXTY\$
\$100	ONHN
\$150	ONFF
\$300	THHN
\$500	FVHN
\$1,000	ONTH
\$10,000	10 TH
\$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 (2173), 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: 2173-0000001-001.

H. Pack - A Pack of the "HIT \$1,000,000" Scratch Ticket Game contains 025 Tickets, packed in plastic shrink-wrapping and fanfolded in pages of one (1). The front of 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 "HIT \$1,000,000" Scratch Ticket Game No. 2173.

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 "HIT \$1,000,000" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose sixty-six (66) Play Symbols. If a 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. If the player reveals a "HIT" Play Symbol, the player wins the prize for that symbol instantly. If the player reveals a "5X" Play Symbol, the player wins 5 TIMES the prize for that symbol. If the player reveals a "10X" Play Symbol, the player wins 10 TIMES the prize for that symbol. 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 sixty-six (66) 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 sixty-six (66) 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 sixty-six (66) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the sixty-six (66) 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. A Ticket can win as indicated by the prize structure.

C. A Ticket can win up to thirty (30) times.

D. On winning and Non-Winning Tickets, the top cash prizes of \$10,000 and \$1,000,000 will each appear at least once, except on Tickets winning thirty (30) times, with respect to other parameters, play action or prize structure.

E. No matching non-winning YOUR NUMBERS Play Symbols will appear on a Ticket.

F. Tickets winning more than one (1) time will use as many WINNING NUMBERS Play Symbols as possible to create matches, unless restricted by other parameters, play action or prize structure.

G. No matching WINNING NUMBERS Play Symbols will appear on a Ticket.

H. On all Tickets, a Prize Symbol will not appear more than four (4) times, except as required by the prize structure to create multiple wins.

I. YOUR NUMBERS Play Symbols will never equal the corresponding Prize Symbol (i.e., 30 and \$30 and 50 and \$50).

J. On Non-Winning Tickets, a WINNING NUMBERS Play Symbol will never match a YOUR NUMBERS Play Symbol.

K. The "5X" (WINX5) Play Symbol will never appear as a WINNING NUMBERS Play Symbol.

L. The "5X" (WINX5) Play Symbol will never appear on a Non-Winning Ticket.

M. The "5X" (WINX5) Play Symbol will never appear more than once on a Ticket.

N. The "5X" (WINX5) Play Symbol will win 5 TIMES the prize for that Play Symbol and will win as per the prize structure.

O. The "10X" (WINX10) Play Symbol will never appear as a WINNING NUMBERS Play Symbol.

P. The "10X" (WINX10) Play Symbol will never appear on a Non-Winning Ticket.

Q. The "10X" (WINX10) Play Symbol will never appear more than once on a Ticket.

R. The "10X" (WINX10) Play Symbol will win 10 TIMES the prize for that Play Symbol and will win as per the prize structure.

S. The "HIT" (WIN\$) Play Symbol will never appear as a WINNING NUMBERS Play Symbol.

T. The "HIT" (WIN\$) Play Symbol will never appear on a Non-Winning Ticket.

U. The "HIT" (WIN\$) Play Symbol will win the prize for that Play Symbol.

V. The "HIT" (WIN\$) and "5X" (WINX5) Play Symbols will never appear on the same Ticket.

W. The "HIT" (WIN\$) and "10X" (WINX10) Play Symbols will never appear on the same Ticket.

X. The "HIT" (WIN\$) Play Symbol will never appear more than once on a Ticket.

2.3 Procedure for Claiming Prizes.

A. To claim a "HIT \$1,000,000" Scratch Ticket Game prize of \$30.00, \$50.00, \$100, \$150, \$200, \$300 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, \$50.00, \$100, \$150, \$200, \$300 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 "HIT \$1,000,000" Scratch Ticket Game prize of \$10,000, \$100,000 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 "HIT \$1,000,000" 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 "HIT \$1,000,000" 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 "HIT \$1,000,000" 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 5,040,000 Scratch Tickets in Scratch Ticket Game No. 2173. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 2173 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$30	604,800	8.33
\$50	554,400	9.09
\$100	100,800	50.00
\$150	104,832	48.08
\$200	100,800	50.00
\$300	42,000	120.00
\$500	7,560	666.67
\$10,000	100	50,400.00
\$100,000	12	420,000.00
\$1,000,000	3	1,680,000.00

*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 3.33. 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. 2173 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. 2173, 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-201902431

Bob Biard
 General Counsel
 Texas Lottery Commission
 Filed: July 30, 2019



Scratch Ticket Game Number 2193 "Monopoly™ 10x®"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 2193 is "MONOPOLY™ 10X®". The play style is "key number match".

1.1 Price of Scratch Ticket Game.

A. The price for Scratch Ticket Game No. 2193 shall be \$1.00 per Scratch Ticket.

1.2 Definitions in Scratch Ticket Game No. 2193.

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, 11, 12, 13, 14, 15, 16, 17, 18, 19, 10X SYMBOL, \$1.00, \$2.00, \$5.00, \$10.00, \$20.00, \$50.00, \$100 and \$5,000.

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. 2193 - 1.2D

PLAY SYMBOL	CAPTION
01	ONE
02	TWO
03	THR
04	FOR
05	FIV
06	SIX
07	SVN
08	EGT
09	NIN
11	ELV
12	TLV
13	TRN
14	FTN
15	FFN
16	SXN
17	SVT
18	ETN
19	NTN
10X SYMBOL	WINX10
\$1.00	ONE\$
\$2.00	TWO\$
\$5.00	FIV\$
\$10.00	TEN\$
\$20.00	TWY\$
\$50.00	FFTY\$
\$100	ONHN
\$5,000	FVTH

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 (2193), a seven (7) digit Pack number, and a three (3) digit Ticket number. Ticket numbers start with 001 and end with 150 within each Pack. The format will be: 2193-0000001-001.

H. Pack - A Pack of the "MONOPOLY™ 10X®" Scratch Ticket Game contains 150 Tickets, packed in plastic shrink-wrapping and fanfolded in pages of five (5). Tickets 001 to 005 will be on the top page; Tickets 006 to 010 on the next page; etc.; and Tickets 146 to 150 will be on the last page with backs exposed. Ticket 001 will be folded over so the front of Ticket 001 and 010 will be exposed.

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 "MONOPOLY™ 10X®" Scratch Ticket Game No. 2193.

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 "MONOPOLY™ 10X®" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose eleven (11) Play Symbols. If a player matches any of the YOUR NUMBERS Play Symbols to the WINNING NUMBER Play Symbol, the player wins the prize for that number. If the player reveals a "10X" Play Symbol, the player wins 10 TIMES the prize for that symbol. 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 eleven (11) 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 eleven (11) 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 eleven (11) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the eleven (11) 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: The top Prize Symbol will appear on every Ticket, unless restricted by other parameters, play action or prize structure.

C. KEY NUMBER MATCH: No prize amount in a non-winning spot will correspond with the YOUR NUMBERS Play Symbol (i.e., 01 and \$1).

D. KEY NUMBER MATCH: A non-winning Prize Symbol will never match a winning Prize Symbol.

E. KEY NUMBER MATCH: No matching non-winning Prize Symbols on a Ticket, unless restricted by other parameters, play action or prize structure.

F. KEY NUMBER MATCH: The "10X" (WINX10) Play Symbol will only appear on intended winning Tickets, as dictated by the prize structure.

G. KEY NUMBER MATCH: No matching non-winning YOUR NUMBERS Play Symbols on a Ticket.

2.3 Procedure for Claiming Prizes.

A. To claim a "MONOPOLY™ 10X®" Scratch Ticket Game prize of \$1.00, \$2.00, \$5.00, \$10.00, \$20.00, \$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 \$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 "MONOPOLY™ 10X®" Scratch Ticket Game prize of \$5,000, 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 "MONOPOLY™ 10X®" 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 "MONOPOLY™ 10X®" 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 "MONOPOLY™ 10X®" 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.

2.9 Promotional Second-Chance Drawings. Any Non-Winning "MONOPOLY™ 10X®" Scratch Ticket may be entered into one (1) of five (5) 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 Prizes. There will be approximately 29,040,000 Scratch Tickets in Scratch Ticket Game No. 2193. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 2193 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$1	2,710,400	10.71
\$2	2,226,400	13.04
\$5	484,000	60.00
\$10	387,200	75.00
\$20	96,800	300.00
\$50	24,200	1,200.00
\$100	3,388	8,571.43
\$5,000	30	968,000.00

*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 4.90. 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. 2193 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. 2193, 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-201902435
 Bob Biard
 General Counsel
 Texas Lottery Commission
 Filed: July 30, 2019

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Texas Public Finance Authority
 Request for Proposals for Financial Advisor

The Texas Public Finance Authority (the "Authority") solicits responses to a Request for Proposals ("RFP") from firms with the qualifications and experience required to provide financial advisory services to assist the Authority beginning on or about September 1, 2019, and ending August 31, 2021, or, at the option of the Authority, through August 31, 2023.

The Board of Directors of the Authority will make its selection based on demonstrated competence, experience, knowledge and qualifications, as well as any conflicts of interest or potential conflicts of interest identified.

A copy of the RFP is available on the Authority's website at <http://www.tpfa.texas.gov/rfp.aspx> and the Electronic State Business Daily ("ESBD") at <http://www.txsmartbuy.com/sp>.

Responses are due no later than 2:00 p.m. (CST) on August 19, 2019, at the offices of the Authority, pursuant to the instructions in the RFP.

TRD-201902382
 Kevin Van Oort
 General Counsel
 Texas Public Finance Authority
 Filed: July 26, 2019

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Request for Qualifications for Bond Counsel
 Texas Public Finance Authority (the "Authority") solicits responses to this Request for Qualifications ("RFQ") from law firms interested in

providing bond counsel services, including disclosure counsel services, to the Authority for up to a four-year period beginning September 1, 2019.

The Board of Directors of the Authority will make its selection based upon demonstrated competence, experience, knowledge and qualifications. All contracts with outside counsel must be approved by the Office of Attorney General. Further, hourly fees and expense reimbursements may be limited by the Office of the Attorney General.

A copy of the RFQ is available on the Authority's website at <http://www.tpfa.texas.gov/rfp.aspx> and the Electronic State Business Daily ("ESBD") at <http://www.txsmartbuy.com/sp>.

Responses are due no later than 3:00 p.m. (CT) on August 14, 2019, at the offices of the Authority, pursuant to the instructions in the RFQ.

TRD-201902373
Kevin Van Oort
General Counsel
Texas Public Finance Authority
Filed: July 25, 2019



Public Utility Commission of Texas

Request for Proposal - Technical Consulting Services

RFP Number **473-19-00007 (Project 49245)**

The Public Utility Commission of Texas (PUCT) issues this request for proposals (RFP) for a contractor to act as the independent market monitor for the ERCOT region.

Scope of Work:

The Public Utility Commission of Texas (PUCT or Commission) is issuing a Request for Proposals for an independent market monitor (IMM) for the wholesale electricity market in the Electric Reliability Council of Texas, Inc. (ERCOT) power region from any qualified, interested persons. The IMM, including a director and his or her staff, must have the qualifications needed to effectively carry out the market monitoring functions prescribed by the Public Utility Regulatory Act (PURA), and by PUCT Substantive Rules. The IMM will contract with both the PUCT and ERCOT, with the PUCT approving, overseeing, and supervising the IMM.

The commission will use a best value method to determine the winning bid.

The commission has bid similar services in the past.

RFP documentation may be obtained by contacting:

Jay Stone
Public Utility Commission of Texas
RFPCorrespondence@puc.texas.gov

RFP documentation is also located on the PUCT website at <http://www.puc.state.tx.us/agency/about/procurement/Default.aspx>.

Deadline for proposal submission is Wednesday, October 9, 2019 - 10:00 a.m., CT

TRD-201902437
Andrea Gonzalez
Rules Coordinator
Public Utility Commission of Texas
Filed: July 31, 2019



Red River Authority of Texas

Request for Qualifications for Legal Services

The Red River Authority of Texas (the Authority) is soliciting Statements of Qualifications for experienced legal firms or individual attorneys for the purposes of providing legal services to the Authority on a contractual basis. Legal services include, but are not limited, legal representation in the areas of water law, utility law, environmental law, general governmental law, administrative law, federal contract implemented with respect to water and environmental law. Interested parties can find the complete Request for Qualifications on the Authority's website at www.rra.texas.gov under the Public Notices tab. Additional information can be obtained by contacting Mr. Randy Whiteman, General Manager, at randy.whiteman@rra.texas.gov or by calling (940) 723-8697.

TRD-201902416
Randy Whiteman
General Manager
Red River Authority of Texas
Filed: July 29, 2019



Request for Qualifications for Municipal Advisory Services

The Red River Authority of Texas (the Authority) is soliciting Statements of Qualifications for experienced Municipal Advisory Services firms for the purposes of providing Municipal Advisory Services to the Authority on a contractual basis. Interested parties can find the complete Request for Qualifications on the Authority's website at www.rra.texas.gov under the Public Notices tab. Additional information can be obtained by contacting Mr. Randy Whiteman, General Manager, at randy.whiteman@rra.texas.gov or by calling (940) 723-8697.

TRD-201902415
Randy Whiteman
General Manager
Red River Authority of Texas
Filed: July 29, 2019



Request for Qualifications for Special Legal Services

The Red River Authority of Texas (the Authority) is soliciting Statements of Qualifications for experienced legal firms or individual attorneys for the purposes of providing legal services to the Authority on a contractual basis. Legal services include, but are not limited, legal representation in the areas of water law, utility law, environmental law, general governmental law, administrative law, federal contract implemented with respect to water and environmental law. Interested parties can find the complete Request for Qualifications on the Authority's website at www.rra.texas.gov under the Public Notices tab. Additional information can be obtained by contacting Mr. Randy Whiteman, General Manager, at randy.whiteman@rra.texas.gov or by calling (940) 723-8697.

TRD-201902417
Randy Whiteman
General Manager
Red River Authority of Texas
Filed: July 29, 2019



Texas Workforce Commission

Request for Comment Regarding the Management Fee Rate
Charged by WorkQuest formerly TIBH Industries Inc. (Central
Nonprofit Agency)

Notice is hereby given that the Texas Workforce Commission (the Commission) will review and make a decision on the management fee rate charged by the central nonprofit agency, WorkQuest, for its services to the community rehabilitation programs and operation of the State Use Program for Fiscal Year 2020 as required by §122.019(d) and (e) of the Texas Human Resources Code and 40 Texas Administrative Code Section 806.31. This review will be considered by the Commission no earlier than Friday, October 4, 2019, in a duly-posted Open Meeting. Formal notice of this future Commission meeting will be published separately. WorkQuest has requested that the Commission set the Fiscal Year 2020 management fee rate at 6% of the sales price for products, 6% of the contract price for services and 5% of the contract price for temporary services. The Commission seeks public comment on WorkQuest's management fee rate request as required by §122.030 of the Texas Human Resources Code.

Comments should be submitted in writing on or before Thursday, October 3, 2019, to Kelvin Moore of the Purchasing from People with Disabilities section of the Commission, 101 East 15th Street Room 316T, Austin, Texas 78711, or via email to: kelvin.moore@twc.state.tx.us

For all other questions, contact the Texas Workforce Commission at (512) 436-3244.

TRD-201902424
Les Trobman
General Counsel
Texas Workforce Commission
Filed: July 30, 2019

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Request for Comment Regarding the Services Performed by
WorkQuest formerly TIBH Industries Inc.

Notice is hereby given that the Texas Workforce Commission (the Commission) intends to review the services provided by the central nonprofit agency, WorkQuest, for Fiscal Year 2019 as required by §122.019(c) of the Texas Human Resources Code and 40 Texas Administrative Code §806.31. As required by those sections, the Commission will review the performance of WorkQuest to determine whether that agency's performance complies with the Commission's contractual specifications. This review will be considered by the Commission no earlier than Friday, October 4, 2019, in a duly-posted Open Meeting. Formal notice of this future Commission meeting will be published separately. The Commission requests that interested parties submit comments regarding the services of WorkQuest in its operation of the State Use Program, under §122.019 (a)-(b) of the Texas Human Resources Code no later than Thursday, October 3, 2019. Comments shall be submitted to Kelvin Moore, Program Manager, 101 E. 15th St., Room 651-T, Austin, Texas 78701, or via email to: kelvin.moore@twc.state.tx.us.

For all other questions or comments, contact the Texas Workforce Commission at (512) 436-3244.

TRD-201902425
Les Trobman
General Counsel
Texas Workforce Commission
Filed: July 30, 2019

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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