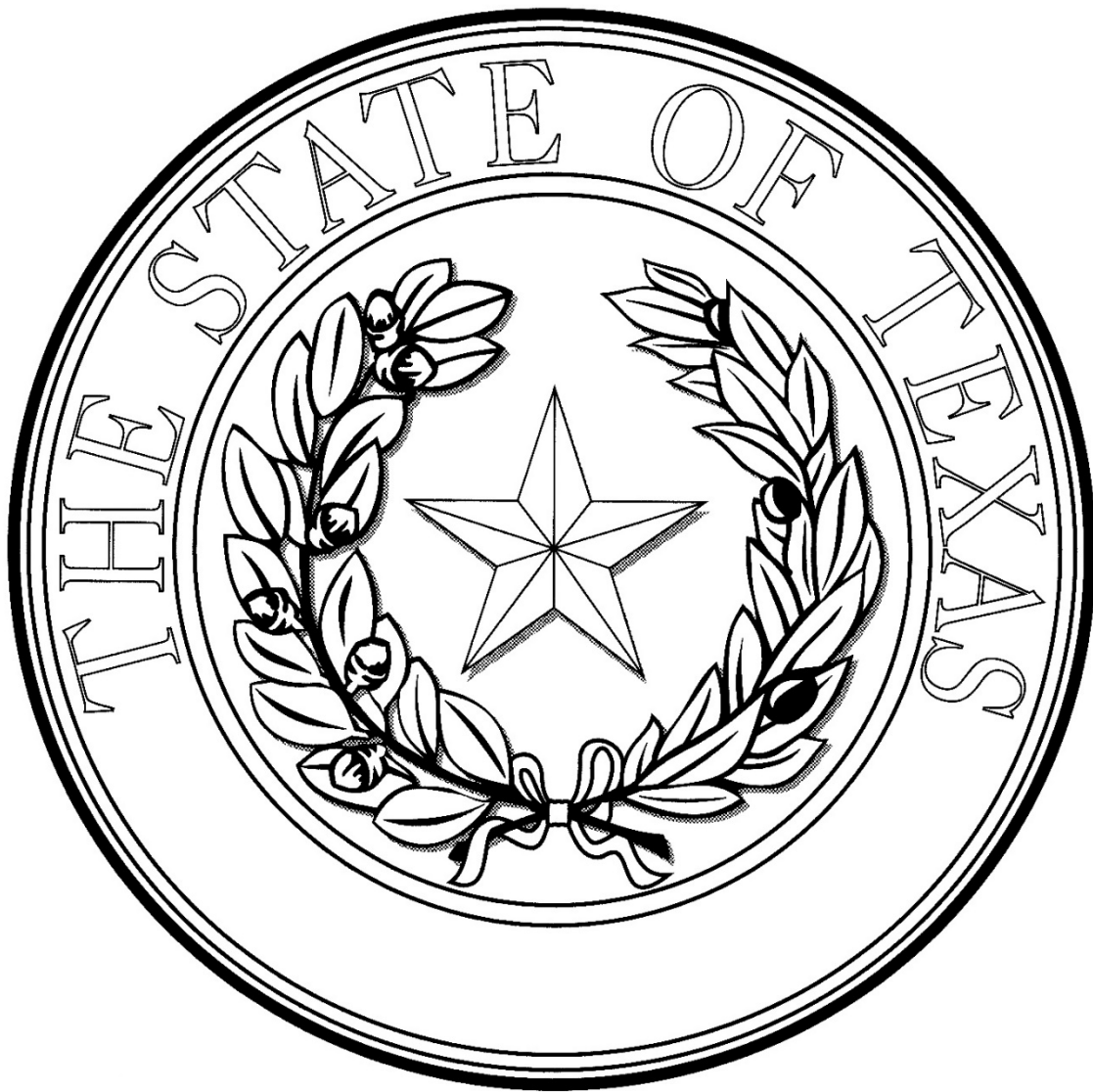

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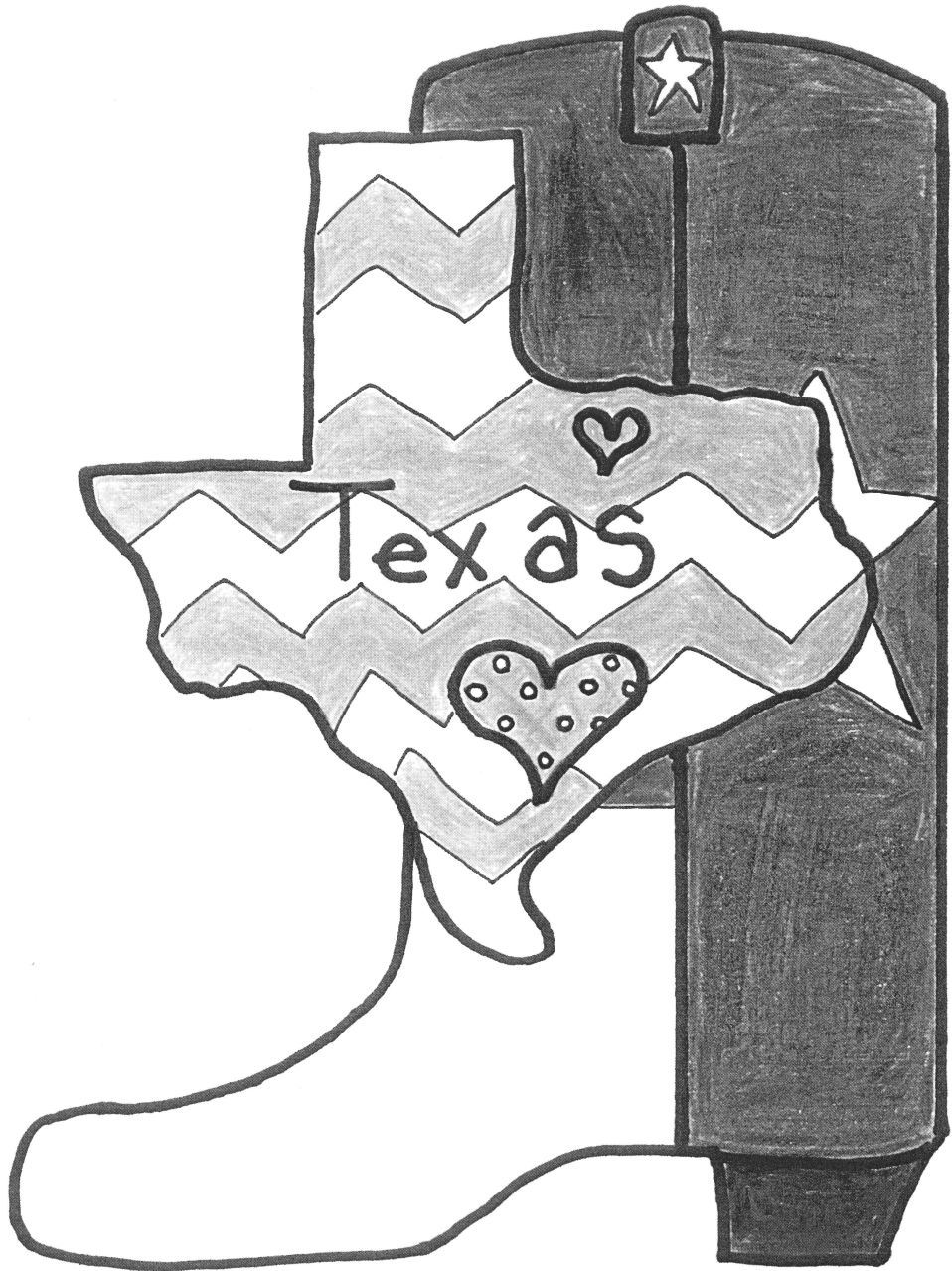
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THE GOVERNOR

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

Appointments

Appointments for July 23, 2020

Appointed as Judge of the 426th Judicial District, Bell County, for a term until December 31, 2020, or until his successor shall be duly elected and qualified, Steven J. "Steve" Duskie of Killeen, Texas (replacing Judge Fancy H. Jezek of Temple, who resigned).

Appointed Judge of the 457th Judicial District Court pursuant to SB 891, 86th Legislature, Regular Session, for a term until December 31, 2020, or until his successor shall be duly elected and qualified, Vincenzo J. "Vince" Santini of Conroe, Texas.

Appointed as Justice of the First Court of Appeals, Place 5, for a term until December 31, 2020, or until his successor shall be duly elected and qualified, Noel T. "Terry" Adams, Jr. of Houston, Texas (replacing Justice Laura Carter Higley of Houston, who resigned).

Appointments for July 24, 2020

Appointed to the Early Childhood Intervention Advisory Committee, for a term to expire February 1, 2021, Sarah E. Abrahams of Austin, Texas (Ms. Abrahams is being reappointed).

Appointed to the Early Childhood Intervention Advisory Committee, for a term to expire February 1, 2021, Catherine K. Carlton of Arlington, Texas (replacing Diane Kazlow of Plano, whose term expired).

Appointed to the Early Childhood Intervention Advisory Committee, for a term to expire February 1, 2021, Cynthia A. "Cal" Lopez of Austin, Texas (replacing Barbara W. James of Austin, whose term expired).

Appointed to the Early Childhood Intervention Advisory Committee, for a term to expire February 1, 2021, Patricia K. Reedy of Texarkana, Texas (replacing John M. Cissik of McKinney, whose term expired).

Appointed to the Early Childhood Intervention Advisory Committee, for a term to expire February 1, 2021, Patricia "Pattie" Rosenlund of Mission, Texas (replacing Laura L. Kender of Arlington, whose term expired).

Appointed to the Early Childhood Intervention Advisory Committee, for a term to expire February 1, 2021, Lizzeth Saldana of San Antonio, Texas (replacing Katherine Lee of Gatesville, whose term expired).

Appointed to the Early Childhood Intervention Advisory Committee, for a term to expire February 1, 2021, Jeremy Triplett of Austin, Texas (replacing Manda Lee-Waldrep Hall, M.D. of Austin, whose term expired).

Appointed to the Early Childhood Intervention Advisory Committee, for a term to expire February 1, 2021, Ryan D. Van Ramshorst, M.D. of San Antonio, Texas (replacing Jenny F. Hinson of Cedar Park, whose term expired).

Appointed to the Early Childhood Intervention Advisory Committee, for a term to expire February 1, 2023, Terrie F. Breeden of Wimberley, Texas (Ms. Breeden is being reappointed).

Appointed to the Early Childhood Intervention Advisory Committee, for a term to expire February 1, 2023, Melissa G. Griffiths of Trophy Club, Texas (replacing Holly Anne Sanchez of McKinney, whose term expired).

Appointed to the Early Childhood Intervention Advisory Committee, for a term to expire February 1, 2023, Stephanie Klick of Fort Worth, Texas (replacing Representative John Davis of Houston, whose term expired).

Appointed to the Early Childhood Intervention Advisory Committee, for a term to expire February 1, 2023, Guillermo Lopez of Austin, Texas (replacing Pamela M. Perez of El Paso, whose term expired).

Appointed to the Early Childhood Intervention Advisory Committee, for a term to expire February 1, 2023, Christina R. Sherrod, M.D. of Southlake, Texas (replacing Richard C. Adams, M.D. of Plano, whose term expired).

Appointed to the Early Childhood Intervention Advisory Committee, for a term to expire February 1, 2023, Stephanie Shine, Ph.D. of Lubbock, Texas (replacing Alferma Giles, Ph.D. of Richmond, whose term expired).

Appointed to the Early Childhood Intervention Advisory Committee, for a term to expire February 1, 2023, Laura J. Warren of Blanco, Texas (Ms. Warren is being reappointed).

Appointed to the Early Childhood Intervention Advisory Committee, for a term to expire February 1, 2023, Elizabeth "Betsy" Barry Zulfer of Round Rock, Texas (replacing Karen Leigh Meyer of San Antonio, whose term expired).

Appointed to the Early Childhood Intervention Advisory Committee, for a term to expire February 1, 2025, Rachel C. Bowden of Austin, Texas (replacing Katrina M. Daniel of Austin, whose term expired).

Appointed to the Early Childhood Intervention Advisory Committee, for a term to expire February 1, 2025, Hannah H. English of Houston, Texas (replacing Harvey G. Salinas of Corpus Christi, whose term expired).

Appointed to the Early Childhood Intervention Advisory Committee, for a term to expire February 1, 2025, Cynthia D. "Cindy" Lee of Wylie, Texas (replacing Lynn Davis Sullivan of Fort Worth, whose term expired).

Appointed to the Early Childhood Intervention Advisory Committee, for a term to expire February 1, 2025, Kristina B. Otterstrom of The Woodlands, Texas (replacing Rumisha J. Rice of Houston, whose term expired).

Appointed to the Early Childhood Intervention Advisory Committee, for a term to expire February 1, 2025, Chasey Reed-Boston, Ed.D. of Texas City, Texas (replacing Patricia "Pattie" Rosenlund of Mission, whose term expired).

Appointed to the Early Childhood Intervention Advisory Committee, for a term to expire February 1, 2025, Diana A. Ruiz, D.N.P. of Odessa,

Texas (replacing Emily Ocker Dean, Ph.D. of Abilene, whose term expired).

Appointed to the Early Childhood Intervention Advisory Committee, for a term to expire February 1, 2025, Allison P. Wilson of Austin, Texas (appointed pursuant to Human Resources Code Sec.73.004).

Appointments for July 27, 2020

Appointed as Judge of the 96th Judicial District, Tarrant County, for a term until December 31, 2020, or until his successor shall be duly elected and qualified, Joseph P. "Pat" Gallagher of Fort Worth, Texas (replacing Judge Reuben "R.H." Wallace, Jr. of Keller, who resigned).

Appointed as presiding officer of the Alamo Regional Mobility Authority, for a term to expire February 1, 2022, Michael J. "Mike" Lynd, Jr., of San Antonio, Texas (Mr. Lynd is being reappointed).

Appointed as Judge of the 95th Judicial District, Dallas County, for a term until December 31, 2020, or until his successor shall be duly elected and qualified, Michael G. "Mike" Lee of Dallas, Texas (replacing Justice David W. Evans of Cedar Hill, who was appointed to the Fifth Court of Appeals).

Appointments for July 28, 2020

Appointed as the Executive Commissioner of Health and Human Services, for a term to expire February 1, 2021, Cecile Erwin Young of Austin, Texas (replacing Courtney N. Phillips, Ph.D. of Austin, who resigned).

Appointed to the Governor's Committee on People with Disabilities, for a term to expire February 1, 2022, Jose J. "Joseph" Muniz of Harlingen, Texas (replacing Amy L. Scott of Austin, who resigned).

Appointed to the Chronic Kidney Disease Task Force pursuant to HB 1225, 86th Legislature, Regular Session, for a term to expire at the pleasure of the Governor, Lisa B. Glenn, M.D. of Austin, Texas.

Greg Abbott, Governor

TRD-202003057



Appointments

Appointments for July 29, 2020

Appointed as presiding officer of the Cameron County Regional Mobility Authority, for a term to expire February 1, 2022, Frank Parker, Jr. of Brownsville, Texas (Mr. Parker is being reappointed).

Appointed as Interstate Compact Administrator for Adult Offender Supervision, for a term to expire at the pleasure of the Governor, Rene J. Hinojosa of Conroe, Texas (replacing Pamela E. "Pam" Thielke of Pflugerville, who resigned).

Appointed to the Texas Emergency Services Retirement System Board of Trustees, for a term to expire September 1, 2025, Nathan Douglas of Seabrook, Texas (replacing Francisco R. "Frank" Torres of Raymondville, whose term expired).

Appointed to the Texas Emergency Services Retirement System Board of Trustees, for a term to expire September 1, 2025, Matthew R. "Matt" Graves of Alvin, Texas (replacing Danny L. "Dan" Key of Friendswood, whose term expired).

Appointed to the Texas Emergency Services Retirement System Board of Trustees, for a term to expire September 1, 2025, Jerry Romero of El Paso, Texas (replacing Andrew "Taylor" Allen of Dallas, whose term expired).

Greg Abbott, Governor

TRD-202003089



Proclamation 41-3752

TO ALL TO WHOM THESE PRESENTS SHALL COME:

WHEREAS, I, Greg Abbott, Governor of Texas, issued a disaster proclamation on March 13, 2020, certifying under Section 418.014 of the Texas Government Code that the novel coronavirus (COVID-19) poses an imminent threat of disaster for all counties in the State of Texas; and

WHEREAS, in each subsequent month effective through today, I have renewed the disaster declaration for all Texas counties; and

WHEREAS, the Commissioner of the Texas Department of State Health Services, Dr. John Hellerstedt, has determined that COVID-19 continues to represent a public health disaster within the meaning of Chapter 81 of the Texas Health and Safety Code; and

WHEREAS, pursuant to legislative authorization under Chapter 418 of the Texas Government Code, I have issued executive orders, proclamations, and suspensions of Texas laws in response to the COVID-19 disaster, aimed at using the least restrictive means available to protect the health and safety of Texans and ensure an effective response to this disaster; and

WHEREAS, Section 41.001(a) of the Texas Election Code provides that a general or special election in this state shall be held on a uniform election date, and the next uniform election date is occurring on November 3, 2020; and

WHEREAS, I issued a proclamation on March 18, 2020, suspending Sections 41.0052(a) and (b) of the Texas Election Code and Section 49.103 of the Texas Water Code to the extent necessary to allow political subdivisions that would otherwise have held elections on May 2, 2020, to move their general and special elections for 2020 only to the November 3, 2020, uniform election date; and

WHEREAS, Texas law provides that eligible voters have a right to cast a vote in person; and

WHEREAS, as counties across Texas prepare for the upcoming elections on November 3, 2020, and establish procedures for eligible voters to exercise their right to vote in person, it is necessary that election officials implement health protocols to conduct elections safely and to protect election workers and voters; and

WHEREAS, in order to ensure that elections proceed efficiently and safely when Texans go to the polls to cast a vote in person during early voting or on election day for the November 3, 2020, elections, it is necessary to increase the number of days in which polling locations will be open during the early voting period, such that election officials can implement appropriate social distancing and safe hygiene practices; and

WHEREAS, Section 85.001(a) of the Texas Election Code provides that the period for early voting by personal appearance begins 17 days before election day; and

WHEREAS, Section 86.006(a-1) of the Texas Election Code provides that a voter may deliver a marked mail ballot in person to the early voting clerk's office while the polls are open on election day; and

WHEREAS, in consultation with the Texas Secretary of State, it has become apparent that for the November 3, 2020, elections, strict compliance with the statutory requirements in Sections 85.001(a) and 86.006(a-1) of the Texas Election Code would prevent, hinder, or delay necessary action in coping with the COVID-19 disaster, and that

providing additional time for early voting will provide Texans greater safety while voting in person; and

WHEREAS, pursuant to Section 418.016 of the Texas Government Code, the legislature has expressly authorized the Governor to suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business or the orders or rules of a state agency if strict compliance with the provisions, orders, or rules would in any way prevent, hinder, or delay necessary action in coping with a disaster;

NOW, THEREFORE, I, GREG ABBOTT, Governor of Texas, under the authority vested in me by the Constitution and laws of the State of Texas, do hereby suspend Section 85.001(a) of the Texas Election Code to the extent necessary to require that, for any election ordered or authorized to occur on November 3, 2020, early voting by personal appearance shall begin on Tuesday, October 13, 2020, and shall continue through the fourth day before election day. I further suspend Section 86.006(a-1) of the Texas Election Code, for any election ordered or authorized to occur on November 3, 2020, to the extent necessary to allow a voter to deliver a marked mail ballot in person to the early voting clerk's office prior to and including on election day.

The Secretary of State shall take notice of this proclamation and shall transmit a copy of this order immediately to every County Judge of this state and all appropriate writs will be issued and all proper proceedings will be followed to the end that said elections may be held and their results proclaimed in accordance with law.

IN TESTIMONY WHEREOF, I have hereto signed my name and have officially caused the Seal of State to be affixed at my office in the City of Austin, Texas, this the 27th day of July, 2020.

Greg Abbott, Governor
TRD-202003054



Proclamation 41-3753

TO ALL TO WHOM THESE PRESENTS SHALL COME:

WHEREAS, I, GREG ABBOTT, Governor of the State of Texas, do hereby certify that the severe weather from Hurricane Hanna, which

began on July 25, 2020, poses a threat of imminent disaster, including property damage and loss of life, due to widespread flooding, storm surge, and hurricane force winds, in Aransas, Bee, Bexar, Brazoria, Brooks, Calhoun, Cameron, Dimmit, Duval, Fort Bend, Galveston, Goliad, Harris, Hidalgo, Jackson, Jim Hogg, Jim Wells, Kenedy, Kleberg, La Salle, Live Oak, Matagorda, McMullen, Nueces, Refugio, San Patricio, Starr, Victoria, Webb, Wharton, Willacy, and Zapata counties;

NOW, THEREFORE, in accordance with the authority vested in me by Section 418.014 of the Texas Government Code, I do hereby declare a state of disaster in the previously listed counties;

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

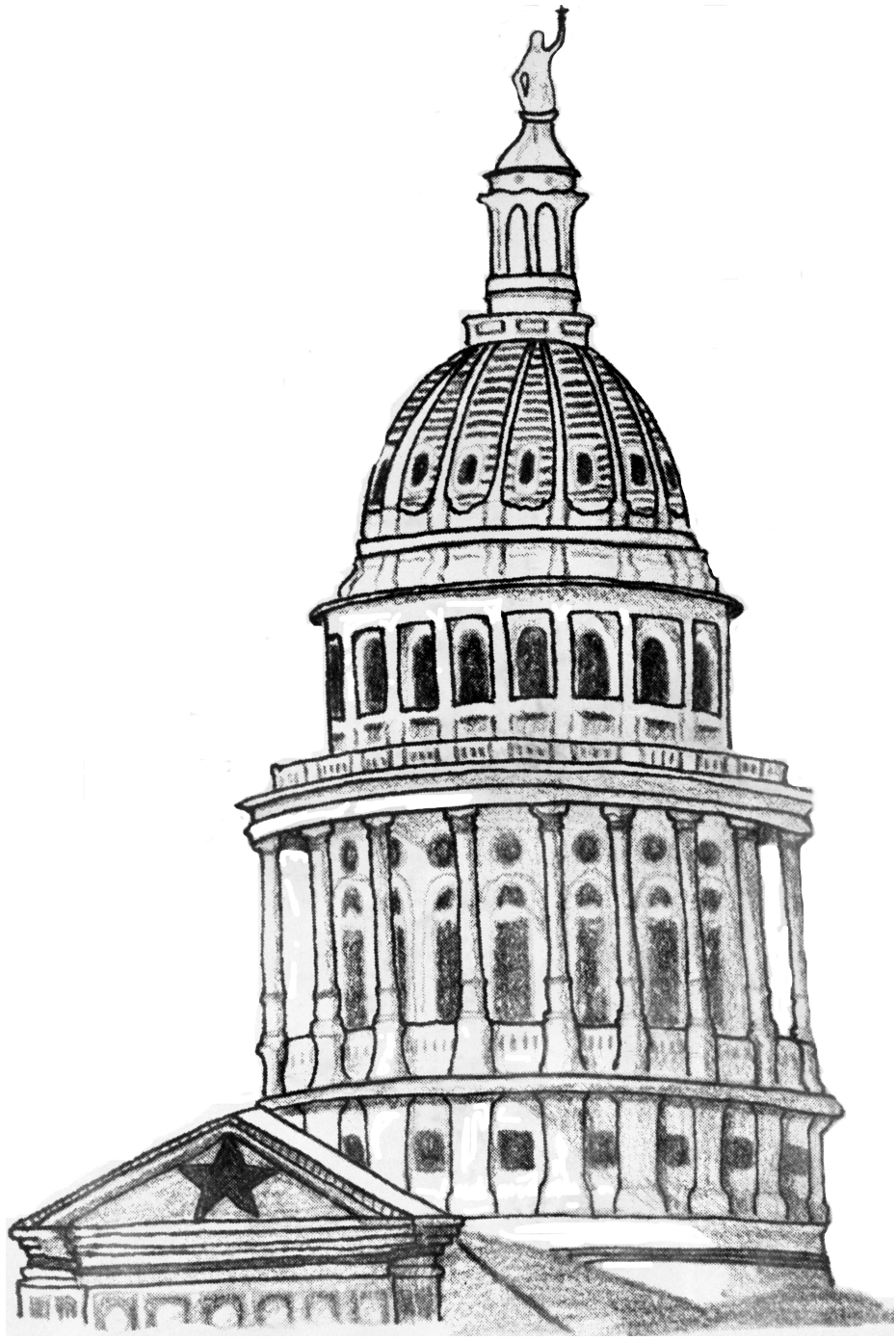
Pursuant to Section 418.016 of the code, any regulatory statute prescribing the procedures for conduct of state business or any order or rule of a state agency that would in any way prevent, hinder, or delay necessary action in coping with this disaster shall be suspended upon written approval of the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

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

IN TESTIMONY WHEREOF, I have hereunto signed my name and have officially caused the Seal of State to be affixed at my office in the City of Austin, Texas, this the 25th day of July, 2020.

Greg Abbott, Governor
TRD-202003069





THE ATTORNEY GENERAL

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

An index to the full text of these documents is available on the Attorney General's website at <https://www.texas.attorneygeneral.gov/attorney-general-opinions>. 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: <https://www.texasattorneygeneral.gov/attorney-general-opinions>.)

Requests for Opinions

RQ-0364-KP

Requestor:

The Honorable James White

Chair, House Committee on Corrections

Texas House of Representatives

Post Office Box 2910

Austin, Texas 78768-2910

Re: Whether subsection 38.001(f) of the Education Code and title 25, section 97.62 of the Administrative Code allow school districts, during an epidemic, to exclude students who decline vaccinations for reasons of conscience even when such vaccinations are unrelated to the epidemic (RQ-0364-KP)

Briefs requested by August 19, 2020

RQ-0365-KP

Requestor:

Mr. Brian K. Guthrie

Executive Director

Teacher Retirement System of Texas

1000 Red River Street

Austin, Texas 78701-2698

Re: Application of section 552.143 of the Government Code to investment information published in a media source of general circulation (RQ-0365-KP)

Briefs requested by August 20, 2020

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

TRD-202003058

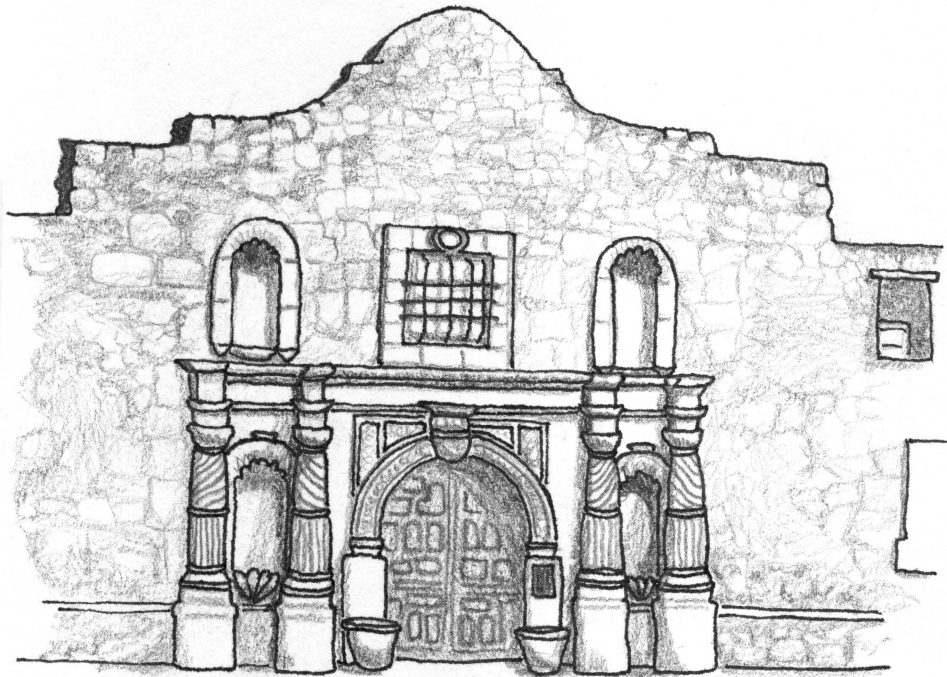
Lesley French

General Counsel

Office of the Attorney General

Filed: July 28, 2020





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 25. HEALTH SERVICES

PART 1. DEPARTMENT OF STATE HEALTH SERVICES

CHAPTER 133. HOSPITAL LICENSING

SUBCHAPTER C. OPERATIONAL REQUIREMENTS

25 TAC §133.51

The Department of State Health Services is renewing the effectiveness of emergency new §133.51 for a 60-day period. The text of the emergency rule was originally published in the April 17, 2020, issue of the *Texas Register* (45 TexReg 2469).

Filed with the Office of the Secretary of State on July 28, 2020.

TRD-202003081

Karen Ray

Chief Counsel

Department of State Health Services

Original effective date: April 3, 2020

Expiration date: September 29, 2020

For further information, please call: (512) 834-4591



CHAPTER 135. AMBULATORY SURGICAL CENTERS

SUBCHAPTER A. OPERATING REQUIRE- MENTS FOR AMBULATORY SURGICAL CENTERS

25 TAC §135.2, §135.26

The agency is renewing the effectiveness of emergency amended §135.2 and §135.26 for a 60-day period. The text of the emergency rule was originally published in the April 10, 2020, issue of the *Texas Register* (45 TexReg 2376).

Filed with the Office of the Secretary of State on July 24, 2020.

TRD-202003023

Karen Ray

Chief Counsel

Department of State Health Services

Original effective date: March 27, 2020

Expiration date: September 22, 2020

For further information, please call: (512) 834-4591



TITLE 26. HEALTH AND HUMAN SERVICES

PART 1. HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 306. BEHAVIORAL HEALTH DELIVERY SYSTEM

SUBCHAPTER Z. EMERGENCY RULEMAKING

26 TAC §306.1351

The Executive Commissioner of the Health and Human Services Commission (HHSC) adopts on an emergency basis in Title 26, Texas Administrative Code, Chapter 306, Behavioral Health Delivery System, new Subchapter Z, Emergency Rulemaking, §306.1351, concerning an emergency rule in response to COVID-19 in order to reduce the risk of transmission of COVID-19. As authorized by Government Code, §2001.034, the Commission may adopt an emergency rule without prior notice or hearing if it finds that an imminent peril to the public health, safety, or welfare requires adoption on fewer than 30 days' notice. Emergency rules adopted under Government Code, §2001.034, may be effective for not longer than 120 days and may be renewed for not longer than 60 days.

BACKGROUND AND PURPOSE

The purpose of the emergency rulemaking is to support the Governor's March 13, 2020, proclamation certifying that the COVID-19 virus poses an imminent threat of disaster in the state and declaring a state of disaster for all counties in Texas. In this proclamation, the Governor authorized the use of all available resources of state government and of political subdivisions that are reasonably necessary to cope with this disaster and directed that government entities and businesses would continue providing essential services. The Commission accordingly finds that an imminent peril to the public health, safety, and welfare of the state requires immediate adoption of these emergency rules for Behavioral Health Services in response to COVID-19.

To protect individuals receiving mental health services and the public health, safety, and welfare of the state during the COVID-19 pandemic, HHSC is adopting an emergency rule to establish flexibility of certain requirements to: allow alternative methods other than face-to-face contact or in-person interactions, such as the use of telehealth, telemedicine, video-conferencing, or telephonic methods; allow virtual platforms instead of a private physical space for certain in-person interactions, such as the use of a telephone or video-conferencing; and allow a child or adolescent participating in the YES Waiver Program to reside with another responsible adult as the child or adolescent may not be residing with his or her legally authorized representative due to COVID-19.

STATUTORY AUTHORITY

The emergency rulemaking is adopted under Government Code, §2001.034 and §531.005 and Health and Safety Code §§533.014, 533.035, 533.0356, 534.052, 534.058, 572.0025, 571.006, and 577.010. Government Code §2001.034 authorizes the adoption of emergency rules without prior notice and hearing, if an agency finds that an imminent peril to the public health, safety, or welfare requires adoption of a rule on fewer than 30 days' notice; and Government Code, §531.0055, authorizes the Executive Commissioner of the Health and Human Services Commission to adopt rules and policies necessary for the operation and provision of health and human services by health and human services system. Health and Safety Code §533.014 requires the Executive Commissioner of HHSC to adopt rules regarding certain responsibilities for LMHAs; §533.035 authorizes HHSC to contract with LMHAs for the delivery of mental health services; §533.0356 allows the Executive Commissioner of HHSC to adopt rules governing Local Behavioral Health Authorities (LBHAs); §534.052 authorizes the Executive Commissioner of HHSC to adopt rules to ensure the adequate provision of community-based mental health services; §534.058 authorizes the Executive Commissioner to develop standards of care for services provided by LMHAs and their subcontractor; §572.0025 authorizes the Executive Commissioner of HHSC to adopt rules governing the voluntary admission of a patient to an inpatient mental health facility; §571.006 authorizes the Executive Commissioner to adopt rules to ensure the proper and efficient treatment of persons with mental illness; and §577.010 authorizes the Executive Commissioner to adopt rules to ensure the proper care and treatment of patients in a private mental hospital or mental health facility.

The emergency rule implements Government Code §531.0055 and Health and Safety Code §§533.014, 533.035, 533.0356, 534.052, 534.058, 572.0025, 571.006, and 577.010.

§306.1351. COVID-19 Flexibilities.

(a) Rules in Title 25 and Title 26 of the Texas Administrative Code (TAC) require behavioral health providers to deliver certain services through face-to-face contact. Beginning on March 13, 2020, through the withdrawal or expiration of this emergency rule, the provision of behavioral health services through a face-to-face contact, otherwise required by the rules identified in subsection (b) of this section, is not required. Instead, providers may use telehealth, telemedicine, video-conferencing, or telephonic methods to engage with the individual to provide these services, to the extent this flexibility is permitted by and does not conflict with other law or obligation of the provider. Providers must ensure the selected method of contact complies with all applicable requirements related to security and privacy of information.

(b) Providers may use alternative interaction methods instead of a face-to-face contact to provide the services described in the following rules:

- (1) §301.327 of this title (relating to Access to Mental Health Community Services);
- (2) §301.351 of this title (relating to Crisis Services);
- (3) §301.353 of this title (relating to Provider Responsibilities for Treatment Planning and Service Authorization);
- (4) §301.357 of this title (relating to Additional Standards of Care Specific to Mental Health Community Services for Children and Adolescents);
- (5) §301.359 of this title (relating to Telemedicine Services);

(6) §306.207 of this title (relating to Post Discharge or Absence for Trial Placement: Contact and Implementation of the Recovery or Treatment Plan);

(7) §306.263 of this chapter (relating to MH Case Management Services Standards);

(8) §306.275 of this chapter (relating to Documenting MH Case Management Services);

(9) §306.277 of this chapter (relating to Medicaid Reimbursement);

(10) §306.305 of this chapter (relating to Definitions);

(11) §306.323 of this chapter (relating to Documentation Requirements);

(12) §306.327 of this chapter (relating to Medicaid Reimbursement);

(13) §307.53 of this title (relating to Eligibility Criteria and HCBS-AMH Assessment);

(14) 25 TAC §415.10 (relating to Medication Monitoring);
and

(15) 25 TAC §415.261 (relating to Time Limitation on an Order for Restraint or Seclusion Initiated in Response to a Behavioral Emergency).

(c) Section 414.554 of Title 25 of the Texas Administrative Code requires behavioral health providers to provide a private physical space for certain in-person interactions. Beginning on March 13, 2020, through the withdrawal or expiration of this emergency rule, the provision of a private physical space, otherwise required by the rule identified in subsection (d) of this section, is not required. Instead, providers may provide virtual platforms, such as telephone or video-conferencing, rather than providing a private physical space for these interactions to the extent this flexibility is permitted by and does not conflict with other law or obligation of the provider. Providers must ensure the selected method of contact complies with all applicable requirements related to security and privacy of information.

(d) Providers may provide virtual platforms instead of a private physical space for these interactions provided under 25 TAC §414.554 (relating to Responsibilities of Local Authorities, Community Centers, and Contractors).

(e) Section 307.5 of Title 26 of the Texas Administrative Code requires a child or adolescent participating in the Youth Empowerment Services (YES) Waiver Program to reside with their legally authorized representative. Children or adolescents participating in the YES Waiver Program are not required to reside with their legally authorized representative, notwithstanding the requirements of §307.5 of this title (relating to Eligibility Criteria).

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 23, 2020.

TRD-202003016

Karen Ray

Chief Counsel

Health and Human Services Commission

Effective date: July 23, 2020

Expiration date: November 19, 2020

For further information, please call: (512) 468-1729

◆ ◆ ◆
CHAPTER 500. COVID-19 EMERGENCY
HEALTH CARE FACILITY LICENSING
SUBCHAPTER A. HOSPITALS

26 TAC §500.2

The agency is renewing the effectiveness of emergency new §500.2 for a 60-day period. The text of the emergency rule was originally published in the April 17, 2020, issue of the *Texas Register* (45 TexReg 2470).

Filed with the Office of the Secretary of State on July 28, 2020.

TRD-202003080

Karen Ray

Chief Counsel

Health and Human Services Commission

Original effective date: April 4, 2020

Expiration date: September 30, 2020

For further information, please call: (512) 834-4591

◆ ◆ ◆
SUBCHAPTER B. END STAGE RENAL
DISEASE FACILITIES

26 TAC §500.20

The Health and Human Services Commission is renewing the effectiveness of emergency new §500.20 for a 60-day period. The text of the emergency rule was originally published in the April 17, 2020, issue of the *Texas Register* (45 TexReg 2470).

Filed with the Office of the Secretary of State on July 28, 2020.

TRD-202003079

Karen Ray

Chief Counsel

Health and Human Services Commission

Original effective date: April 3, 2020

Expiration date: September 29, 2020

For further information, please call: (512) 834-4591

◆ ◆ ◆
CHAPTER 510. PRIVATE PSYCHIATRIC
HOSPITALS AND CRISIS STABILIZATION
UNITS

SUBCHAPTER C. OPERATIONAL
REQUIREMENTS

26 TAC §510.48

The agency is renewing the effectiveness of emergency new §510.48 for a 60-day period. The text of the emergency rule was originally published in the April 17, 2020, issue of the *Texas Register* (45 TexReg 2472).

Filed with the Office of the Secretary of State on July 28, 2020.

TRD-202003078

Karen Ray
Chief Counsel
Health and Human Services Commission
Original effective date: April 3, 2020
Expiration date: September 29, 2020
For further information, please call: (512) 438-3161

◆ ◆ ◆
CHAPTER 550. LICENSING STANDARDS
FOR PRESCRIBED PEDIATRIC EXTENDED
CARE CENTERS
SUBCHAPTER C. GENERAL PROVISIONS
DIVISION 1. OPERATIONS AND SAFETY
PROVISIONS

26 TAC §550.212

The Health and Human Services Commission is renewing the effectiveness of emergency new §550.212 for a 60-day period. The text of the emergency rule was originally published in the April 17, 2020, issue of the *Texas Register* (45 TexReg 2473).

Filed with the Office of the Secretary of State on July 28, 2020.

TRD-202003077

Karen Ray

Chief Counsel

Health and Human Services Commission

Original effective date: April 3, 2020

Expiration date: September 29, 2020

For further information, please call: (512) 438-3161

◆ ◆ ◆
CHAPTER 551. INTERMEDIATE CARE
FACILITIES FOR INDIVIDUALS WITH AN
INTELLECTUAL DISABILITY OR RELATED
CONDITIONS
SUBCHAPTER M. COVID-19 EMERGENCY
RULE

26 TAC §551.401

The agency is renewing the effectiveness of emergency new §551.401 for a 60-day period. The text of the emergency rule was originally published in the April 17, 2020, issue of the *Texas Register* (45 TexReg 2474).

Filed with the Office of the Secretary of State on July 28, 2020.

TRD-202003075

Karen Ray

Chief Counsel

Health and Human Services Commission

Original effective date: April 3, 2020

Expiration date: September 29, 2020

For further information, please call: (512) 438-3161

CHAPTER 553. LICENSING STANDARDS
FOR ASSISTED LIVING FACILITIES
SUBCHAPTER C. STANDARDS FOR
LICENSURE

26 TAC §553.45

The agency is renewing the effectiveness of emergency new §553.45 for a 60-day period. The text of the emergency rule was originally published in the April 17, 2020, issue of the *Texas Register* (45 TexReg 2475).

Filed with the Office of the Secretary of State on July 28, 2020.

TRD-202003071

Karen Ray

Chief Counsel

Health and Human Services Commission

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Expiration date: September 29, 2020

For further information, please call: (512) 438-3161



CHAPTER 558. LICENSING STANDARDS
FOR HOME AND COMMUNITY SUPPORT
SERVICES AGENCIES
SUBCHAPTER D. ADDITIONAL STANDARDS
SPECIFIC TO LICENSE CATEGORY AND
SPECIFIC TO SPECIAL SERVICES

26 TAC §558.408

The Health and Human Services Commission is renewing the effectiveness of emergency new §558.408 for a 60-day period. The text of the emergency rule was originally published in the April 17, 2020, issue of the *Texas Register* (45 TexReg 2476).

Filed with the Office of the Secretary of State on July 28, 2020.

TRD-202003072

Karen Ray

Chief Counsel

Health and Human Services Commission

Original effective date: April 3, 2020

Expiration date: September 29, 2020

For further information, please call: (512) 438-3161



SUBCHAPTER H. STANDARDS SPECIFIC TO
AGENCIES LICENSED TO PROVIDE HOSPICE
SERVICES

DIVISION 7. HOSPICE INPATIENT UNITS

26 TAC §558.872

The Health and Human Services Commission is renewing the effectiveness of emergency new §558.872 for a 60-day period. The text of the emergency rule was originally published in the April, 17, 2020, issue of the *Texas Register* (45 TexReg 2477).

Filed with the Office of the Secretary of State on July 28, 2020.

TRD-202003076

Karen Ray

Chief Counsel

Health and Human Services Commission

Original effective date: April 3, 2020

Expiration date: September 29, 2020

For further information, please call: (512) 438-3161



**TITLE 40. SOCIAL SERVICES AND ASSIS-
TANCE**

**PART 1. DEPARTMENT OF AGING
AND DISABILITY SERVICES**

**CHAPTER 19. NURSING FACILITY
REQUIREMENTS FOR LICENSURE AND
MEDICAID CERTIFICATION**

**SUBCHAPTER CC. COVID-19 EMERGENCY
RULE**

40 TAC §19.2801

The Department of Aging and Disability Services is renewing the effectiveness of emergency new §19.2801 for a 60-day period. The text of the emergency rule was originally published in the April 17, 2020, issue of the *Texas Register* (45 TexReg 2479).

Filed with the Office of the Secretary of State on July 28, 2020.

TRD-202003083

Karen Ray

Chief Counsel

Department of Aging and Disability Services

Original effective date: April 3, 2020

Expiration date: September 29, 2020

For further information, please call: (512) 438-3161



**CHAPTER 98. DAY ACTIVITY AND HEALTH
SERVICES REQUIREMENTS**

**SUBCHAPTER D. LICENSURE AND
PROGRAM REQUIREMENTS**

40 TAC §98.65

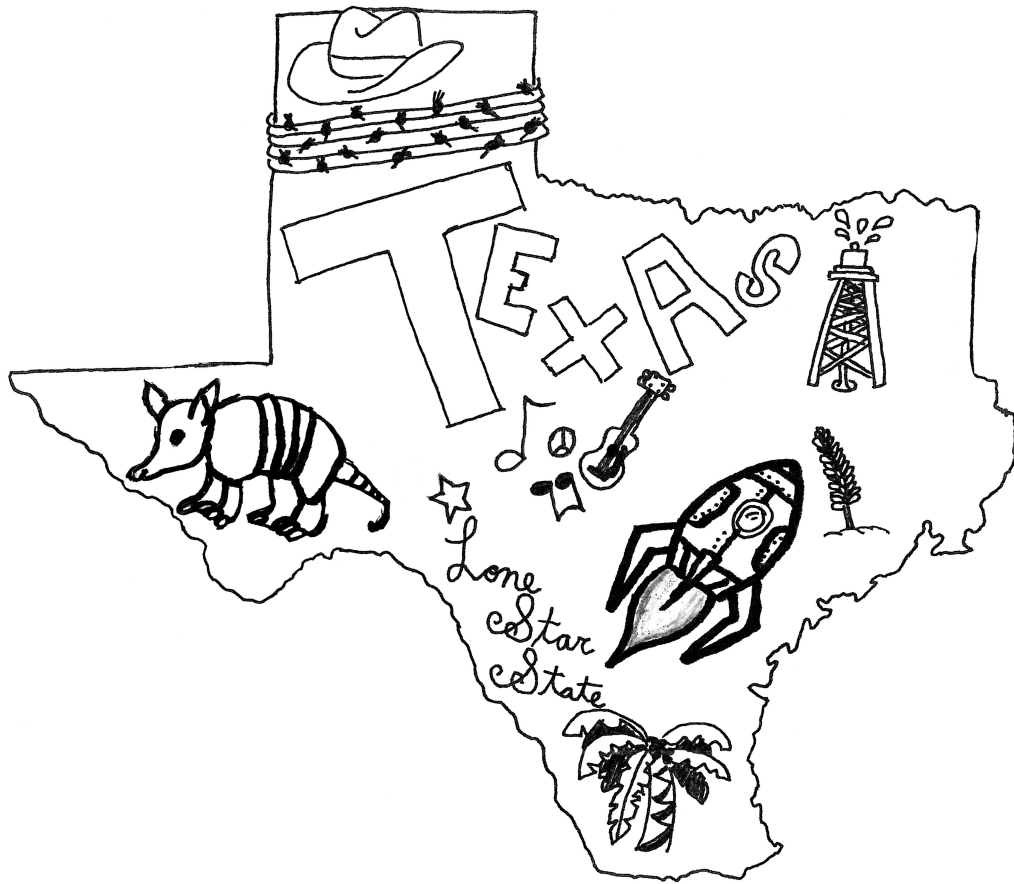
The Department of Aging and Disability Services is renewing the effectiveness of emergency new §98.65 for a 60-day period. The text of the emergency rule was originally published in the April 17, 2020, issue of the *Texas Register* (45 TexReg 2480).

Filed with the Office of the Secretary of State on July 28, 2020.

TRD-202003082

Karen Ray
Chief Counsel
Department of Aging and Disability Services
Original effective date: April 3, 2020
Expiration date: September 29, 2020
For further information, please call: (512) 438-3161





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 16. ECONOMIC REGULATION

PART 4. TEXAS DEPARTMENT OF LICENSING AND REGULATION

CHAPTER 75. AIR CONDITIONING AND REFRIGERATION

16 TAC §75.110

The Texas Department of Licensing and Regulation (Department) proposes amendments to an existing rule at 16 Texas Administrative Code (TAC), Chapter 75, §75.110, regarding the Air Conditioning and Refrigeration Program. These proposed changes are referred to as the "proposed rule."

EXPLANATION OF AND JUSTIFICATION FOR THE RULE

The rules under 16 TAC, Chapter 75, implement Texas Occupations Code, Chapter 1302, Air Conditioning and Refrigeration Contractors.

The Air Conditioning and Refrigeration Contractor License Law, Tex. Occ. Code §1302.101(a), requires the Commission to adopt rules for the practice of air conditioning and refrigeration contracting that are at least as strict as the standards provided by the Uniform Mechanical Code and the International Mechanical Code. These codes define the standard of practice for air conditioning and refrigeration contracting and are used by Department staff to evaluate the mechanical integrity and proper installation and service of air conditioning and refrigeration systems. The proposed amendments are necessary to align the program's applicable codes with currently recognized national standards and to provide clarity and consistency for the Department's licensees.

The proposed rule updates the applicable code editions from 2015 to 2018 for the International Residential Code, International Mechanical Code, International Fuel Gas Code, and Uniform Mechanical Code. The proposed rule also adopts by reference the edition of the International Energy Conservation Code (IECC) adopted by the State Energy Conservation Office pursuant to Chapter 388 of the Texas Health and Safety Code and 34 TAC §19.53. As of the time of this writing, the State Energy Conservation Office has adopted the 2015 edition of the IECC.

The proposed rule was presented to and discussed by the Air Conditioning and Refrigeration Contractors Advisory Board at its meeting on July 15, 2020. The Advisory Board did not make any changes to the proposed rule. The Advisory Board voted and recommended that the proposed rule be published in the *Texas Register* for public comment.

SECTION-BY-SECTION SUMMARY

The proposed rule amends §75.110(a) to adopt the 2018 editions of the International Residential Code, International Mechanical Code, International Fuel Gas Code, and Uniform Mechanical Code. Proposed §75.110(a) also adopts the edition of the IECC adopted by the State Energy Conservation Office pursuant to Chapter 388 of the Texas Health and Safety Code.

The proposed rule amends subsection (b) to state that the currently adopted code editions will remain in effect through December 31, 2020. Further, proposed subsection (b) states that air conditioning and refrigeration work permitted or begun before January 1, 2021 may be performed in accordance with the 2015 edition of the applicable codes.

The other proposed amendments remove outdated or unnecessary language from the rule.

FISCAL IMPACT ON STATE AND LOCAL GOVERNMENT

Tony Couvillon, Policy Research and Budget Analyst, has determined that for each year of the first five years the proposed rule is in effect, there are no estimated additional costs or reductions in costs to state or local government as a result of enforcing or administering the proposed rule.

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

LOCAL EMPLOYMENT IMPACT STATEMENT

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

PUBLIC BENEFITS

Mr. Couvillon has also determined that for each year of the first five-year period the proposed rule is in effect, the public benefit will be consistency in the health and safety, installation, and maintenance requirements for air conditioning and refrigeration work performed in Texas.

PROBABLE ECONOMIC COSTS TO PERSONS REQUIRED TO COMPLY WITH PROPOSAL

Mr. Couvillon has determined that for each year of the first five-year period the proposed rule is in effect, there may be some economic costs to persons, including small or micro-businesses, required to comply with the proposed rule. However, adoption of the updated codes may also result in cost savings for licensees and customers. The Department is unable to provide an estimate of costs or cost savings attributable to the updated codes, as those costs or cost savings will be determined by the market for air conditioning and refrigeration services.

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

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

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

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

GOVERNMENT GROWTH IMPACT STATEMENT

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

1. The proposed rule does not create or eliminate a government program.
2. Implementation of the proposed rule does not require the creation of new employee positions or the elimination of existing employee positions.
3. Implementation of the proposed rule does not require an increase or decrease in future legislative appropriations to the agency.
4. The proposed rule does not require an increase or decrease in fees paid to the agency.
5. The proposed rule does not create a new regulation.
6. The proposed rule does not expand, limit, or repeal an existing regulation.
7. The proposed rule does not increase or decrease the number of individuals subject to the rule's applicability.
8. The proposed rule does not positively or adversely affect this state's economy.

TAKINGS IMPACT ASSESSMENT

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

PUBLIC COMMENTS

Comments on the proposed rule may be submitted electronically on the Department's website at <https://ga.tdlr.texas.gov:1443/form/gcerules>; by facsimile to (512) 475-3032; or by mail to Monica Nuñez, Legal Assistant, Texas Department of Licensing and Regulation, P.O. Box 12157, Austin, Texas 78711. The deadline for comments is 30 days after publication in the *Texas Register*.

STATUTORY AUTHORITY

The proposed rule is proposed under Texas Occupations Code, Chapters 51 and 1302, which authorize the Texas Commission of Licensing and Regulation, the Department's governing body, to adopt rules as necessary to implement these chapters and any other law establishing a program regulated by the Department.

The statutory provisions affected by the proposed rule are those set forth in Texas Occupations Code, Chapters 51 and 1302. No other statutes, articles, or codes are affected by the proposed rule.

§75.110. *Applicable Codes.*

(a) Effective January 1, 2021, the commission adopts the following applicable codes as referenced in the Act and this chapter:

- (1) 2018 International Residential Code;
- (2) 2018 International Mechanical Code;
- (3) 2018 International Fuel Gas Code;
- (4) 2018 Uniform Mechanical Code; and

(5) the edition of the International Energy Conservation Code adopted by the State Energy Conservation Office pursuant to Chapter 388 of the Texas Health and Safety Code.

{(a) The commission adopts the following as the applicable codes as referenced in the Act and this chapter:}

{(1) 2012 edition of the Uniform Mechanical Code; and}

{(2) 2012 editions of the International Mechanical Code, the International Residential Code, and other applicable codes.}

(b) The 2015 [2012] codes shall remain in effect through December 31, 2020 [2017]. All air conditioning and refrigeration work permitted or started before January 1, 2021 [2018], may be completed in accordance with the 2015 [2012] code editions.

{(c) The commission adopts the following as the applicable codes as referenced in the Act and this chapter:}

{(1) 2015 edition of the Uniform Mechanical Code; and}

{(2) 2015 editions of the International Mechanical Code, the International Residential Code, and other applicable codes.}

{(d) The 2015 codes shall be effective January 1, 2018.}

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 27, 2020.

TRD-202003041

Brad Bowman

General Counsel

Texas Department of Licensing and Regulation

Earliest possible date of adoption: September 6, 2020

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



PART 8. TEXAS RACING COMMISSION

CHAPTER 323. DISCIPLINARY ACTION AND ENFORCEMENT

The Texas Racing Commission ("the Commission") proposes amendments to 16 TAC §323.101, Administrative Penalties, and §313.201, Reporting of Criminal Activity and Convictions. The proposed amendments to §323.101 would delete text that is duplicative of a provision in the Texas Racing Act ("Act") and would update a reference to a section of the Act to refer to the Occupations Code instead of Vernon's Civil Statutes. The proposed amendments to §323.201 would delete an outdated reference to Vernon's Texas Codes Annotated.

FISCAL IMPLICATIONS FOR STATE AND LOCAL GOVERNMENT

Chuck Trout, Executive Director, has determined that for the first five-year period the amendments are in effect, there will be no fiscal implications for local or state government as a result of enforcing the amendments. Enforcing or administering the amendments does not have foreseeable implications relating to cost or revenues of the state or local governments.

ANTICIPATED PUBLIC BENEFIT AND COST

Mr. Trout has determined that for each year of the first five years that the amendments are in effect, the anticipated public benefit will be clarity of these provisions. There is no probable economic cost to persons required to comply with the amendments.

LOCAL EMPLOYMENT IMPACT STATEMENT

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

GOVERNMENT GROWTH IMPACT STATEMENT

For each year of the first five years that the proposed amendments are in effect, the government growth impact is as follows: the amendments do not create or eliminate a government program; the amendments do not create any new employee positions or eliminate any existing employee positions; implementation of the amendments does not require an increase or decrease in future legislative appropriations to the agency; the amendments do not require an increase or decrease in fees paid to the agency; the amendments do not create new regulations; the amendments do not expand existing regulations; the amendments do not repeal existing regulations; the amendments do not increase or decrease the number of individuals subject to the rule's applicability; and the amendments are not expected to have an adverse effect on this state's economy.

EFFECT ON SMALL AND MICRO-BUSINESSES

The proposed amendments will have no adverse economic effect on small or micro-businesses, and therefore preparation of an economic impact statement and a regulatory flexibility analysis is not required.

IMPACT ON EMPLOYMENT CONDITIONS

There are no negative impacts upon employment conditions in this state as a result of the proposed amendments.

ADVERSE ECONOMIC EFFECT ON RURAL COMMUNITIES

There will be no adverse effect on rural communities as a result of the proposed amendments. Because the agency has determined that the proposed amendments will have no adverse economic effect on rural communities, preparation of an Economic Impact Statement and a Regulatory Flexibility Analysis, as detailed under Texas Government Code §2006.002, is not required.

REGULATORY ANALYSIS OF MAJOR ENVIRONMENTAL RULES

Mr. Trout has determined that these proposed amendments do not constitute a "major environmental rule" as defined by Government Code, §2001.0225. Accordingly, an environmental impact analysis is not required.

TAKINGS IMPACT STATEMENT

Mr. Trout has determined that the proposed amendments will not affect private real property and will not restrict, limit, or impose a burden on an owner's right to his or her private real property and, therefore, will not constitute a taking. As a result, a takings impact assessment is not required, as provided by Government Code §2007.043.

EFFECT ON AGRICULTURAL, HORSE, AND GREYHOUND INDUSTRIES

The proposed amendments will not have an adverse effect on the state's agricultural, horse breeding, horse training, greyhound breeding, or greyhound training industries.

PUBLIC COMMENTS

All comments or questions regarding the proposed amendments may be submitted in writing within 30 days following publication of this notice in the *Texas Register* by mail to Robert Elrod, Public Information Officer for the Texas Racing Commission, at P.O. Box 12080, Austin, Texas 78711-2080, by e-mail to info@txrc.texas.gov, by telephone to (512) 833-6699, or by fax to (512) 833-6907.

SUBCHAPTER B. CIVIL REMEDIES

16 TAC §323.101

STATUTORY AUTHORITY

The amendments are proposed under Tex. Occ. Code §2023.004, which authorizes the Commission to adopt rules to administer the Act.

No other statute, code, or article is affected by the proposed amendments.

§323.101. *Administrative Penalties.*

[(a) If the Commission determines that a person regulated under this Act has violated this Act or a rule or order adopted under this Act in a manner that constitutes a ground for a disciplinary action under this Act, the Commission may assess an administrative penalty against that person as provided by this section.]

[(b)] The Commission delegates to the executive secretary the authority to prepare and issue preliminary reports pursuant to the Act, Chapter 2033, Subchapter B [§ 15-03].

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 22, 2020.

TRD-202003008

Chuck Trout
Executive Director
Texas Racing Commission

Earliest possible date of adoption: September 6, 2020

For further information, please call: (512) 833-6699



SUBCHAPTER C. CRIMINAL ENFORCEMENT

16 TAC §323.201

STATUTORY AUTHORITY

The amendments are proposed under Tex. Occ. Code §2023.004, which authorizes the Commission to adopt rules to administer the Act.

No other statute, code, or article is affected by the proposed amendments.

§323.201. *Reporting of Criminal Activity and Convictions.*

(a) A licensee, a Commission employee, or an applicant for a license from the Commission shall report any conviction of a felony or misdemeanor, other than a misdemeanor under [Vernon's Texas Codes Annotated,] Transportation Code, Title 7, Vehicles and Traffic, or a similar misdemeanor traffic offense.

(b) (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 22, 2020.

TRD-202003009

Chuck Trout

Executive Director

Texas Racing Commission

Earliest possible date of adoption: September 6, 2020

For further information, please call: (512) 833-6699



TITLE 19. EDUCATION

PART 2. TEXAS EDUCATION AGENCY

CHAPTER 61. SCHOOL DISTRICTS

SUBCHAPTER CC. COMMISSIONER'S

RULES CONCERNING SCHOOL FACILITIES

19 TAC §61.1038, §61.1039

The Texas Education Agency (TEA) proposes amendments to §61.1038 and §61.1039, concerning bond enhancement programs for school districts and open-enrollment charter schools. The proposed amendments would update cross references to state and federal statute and align language for open-enrollment charter schools to the rule on the Bond Guarantee Program for charter schools.

BACKGROUND INFORMATION AND JUSTIFICATION: Texas Education Code (TEC), Chapter 45, Subchapter I, establishes an intercept program to provide credit enhancement for school district bonds. Section 61.1038 sets out the statutory provisions for the intercept credit enhancement program; provides definitions; sets out the data sources used for prioritization of applications; explains application and approval requirements; provides a description of how applications would be processed; and sets out eligibility requirements, limitations on access to the credit enhancement, financial exigency provisions, and credit enhancement restrictions. The section also explains what effect defeasance would have on bonds approved for credit enhancement,

the responsibilities of school districts that are unable to make payments on enhanced bonds, how payments would be made under the program, and how the Foundation School Program would be reimbursed for payments. In addition, the section describes penalties for repeated failure of a district to make payments on enhanced bonds.

TEC, Chapter 45, Subchapter J, establishes a charter school facilities credit enhancement program to help charter holders obtain financing to purchase, repair, or renovate real property for facilities. Section 61.1039 sets out the statutory provisions for the credit enhancement program, provides definitions, and explains the requirements of and policies related to the program's application and approval process. The section also provides limitations on access to the program and explains program payment conditions and restrictions.

House Bill 3, 86th Texas Legislature, 2019, recodified TEC, Chapter 41, to Chapter 49 and Chapter 42 to Chapter 48. The proposed amendments to §61.1038 and §61.1039 would update the statutory references to conform to the recodification.

In addition, the amendment to §61.1039 would eliminate references to a repealed federal statute regarding tax credit bonds and make the reference more encompassing of state or federal definitions of debt service. The amendment would also modify the statement regarding obligation of entities under control of the charter holder to conform to 19 TAC §33.67(e)(2)(A)(iii) relating to the Bond Guarantee Program for charter schools.

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

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

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

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

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

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

PUBLIC BENEFIT AND COST TO PERSONS: Mr. Lopez has determined that for each year of the first five years the proposal is in effect, the public benefit anticipated as a result of enforcing the proposal would be the reflection of correct state and federal statutory references and clarification for open-enrollment charter schools on the implementation of the Bond Enhancement Program for charter schools. There is no anticipated economic cost to persons who are required to comply with the proposal.

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

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

PUBLIC COMMENTS: The public comment period on the proposal begins August 7, 2020, and ends September 21, 2020. A request for a public hearing on the proposal submitted under the Administrative Procedure Act must be received by the commissioner of education not more than 14 calendar days after notice of the proposal has been published in the *Texas Register* on August 7, 2020. A form for submitting public comments is available on the TEA website at [https://tea.texas.gov/About_TEA/Laws_and_Rules/Commissioner_Rules_\(TAC\)/Proposed_Commissioner_of_Education_Rules/](https://tea.texas.gov/About_TEA/Laws_and_Rules/Commissioner_Rules_(TAC)/Proposed_Commissioner_of_Education_Rules/).

STATUTORY AUTHORITY. The amendments are proposed under Texas Education Code (TEC), §45.261(b), which gives the commissioner the authority to authorize reimbursement of the Foundation School Program in a manner other than that provided in TEC, §45.261; TEC, §45.263, which gives the commissioner authority to adopt rules necessary for the administration of the school district bond enhancement program; TEC, §45.302, which gives the commissioner authority to adopt a program for charter schools and establish a structure and procedures substantially similar to the program for school districts; TEC, §45.303, which gives the commissioner authority to limit participation to charter schools that meet standards established by the commissioner and to impose minimum debt service requirements; and TEC, §45.308, which states that if the commissioner establishes a program under TEC, Chapter 45, Subchapter J, the commissioner shall adopt rules to administer the program.

CROSS REFERENCE TO STATUTE. The amendments implement Texas Education Code, §§45.261(b), 45.263, 45.302, 45.303, and 45.308.

§61.1038. *School District Bond Enhancement Program.*

(a) (No change.)

(b) Definitions. The following definitions apply to the interest credit enhancement program for school district bonds.

(1) (No change.)

(2) Average daily attendance (ADA)--Total refined average daily attendance as defined by the TEC, §48.005 [§42.005].

(3) - (6) (No change.)

(7) Foundation School Program (FSP)--The program established under the TEC, Chapters [41, 42, and] 46, 48, and 49, or any successor program of state-appropriated funding for school districts in this state.

(8) - (13) (No change.)

(c) Data sources.

(1) The following data sources will be used for purposes of prioritization:

(A) - (C) (No change.)

(D) enrollment information reported to the Texas Student Data System Public Education Information Management System (TSDS PEIMS) for the five-year time period ending in the year before the application date.

(2) (No change.)

(d) - (f) (No change.)

(g) Limitations on access to the credit enhancement.

(1) The commissioner will limit approval for the credit enhancement to a district with less than the amount of annual debt service per student in ADA or less than the amount of total debt service per student in ADA that is specified as the limitation in §33.65 of this title at the time of the application for a guarantee or a credit enhancement. The limitation will not apply to school districts that have enrollment growth, as defined in subsection (b)(5) of this section, of at least 25%, based on TSDS PEIMS data on enrollment available at the time of application. The annual debt service amount is the amount defined by §33.65(b)(1) of this title. The total debt service amount is the amount defined by subsection (b)(13) of this section.

(2) (No change.)

(h) - (l) (No change.)

(m) Payment from intercepted funds.

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

(4) If, as a result of payments made under this subsection, there is insufficient money to fully fund the FSP, the commissioner will, to the extent necessary, reduce each school district's foundation school fund allocations, other than any portion appropriated from the ASF, in the same manner provided by the TEC, §48.266(f) [§42.253(h)], for a case in which school district entitlements exceed the amount appropriated. The following fiscal year, the commissioner will increase each school district's entitlement under the TEC, §48.266 [§42.253], by an amount equal to the reduction under this paragraph.

(5) - (6) (No change.)

(n) - (p) (No change.)

§61.1039. *Open-Enrollment Charter School Bond Enhancement Program.*

(a) (No change.)

(b) Definitions. The following definitions apply to the open-enrollment charter school facilities credit enhancement program.

(1) (No change.)

(2) Annual debt service--Payments of principal and interest on outstanding bonded debt scheduled to occur between September 1 and August 31 during a fiscal year as reported by the Municipal Advisory Council (MAC) of Texas or its successor, if the open-enrollment charter holder is responsible for outstanding bonded indebtedness.

(A) - (B) (No change.)

(C) Annual debt service includes required payments into a sinking fund as authorized under the laws of Texas and the United States of America [26 United States Code (USC) §54A(d)(4)(C)], provided that the sinking fund is maintained by a trustee or other

entity approved by the commissioner that is not under the control or common control of the charter holder.

(3) (No change.)

(4) Average daily attendance (ADA)--Total refined average daily attendance as defined by the TEC, §48.005 [~~§42.005~~]

(5) - (9) (No change.)

(10) Foundation School Program (FSP)--The program established under the TEC, Chapters ~~[41, 42, and]~~ 46, ~~48, and 49~~, or any successor program of state appropriated funding for school districts in the state of Texas.

(11) - (12) (No change.)

(13) Open-enrollment charter--This term has the meaning assigned in §100.1001 [~~§100.1011~~] of this title (relating to Definitions).

(14) (No change.)

(15) Open-enrollment charter school--This term has the meaning assigned to the term "charter school" in §100.1001 [~~§100.1011~~] of this title.

(16) (No change.)

(17) Open-enrollment charter school campus--This term has the meaning assigned to the term "charter school campus" in §100.1001 [~~§100.1011~~] of this title.

(18) Proposed annual debt service--Payments of principal and interest on the outstanding bonded debt for which the enhancement is sought scheduled to occur between September 1 and August 31 during the fiscal year in which the credit enhancement is sought and each fiscal year for which the credit enhancement is or would be in effect as described in the amortization schedule for the bonded debt for which the enhancement is sought. Proposed annual debt service includes required payments into a sinking fund as authorized under the laws of Texas and the United States of America [26 USC §54A(d)(4)(C)], provided that the sinking fund is maintained by a trustee or other entity approved by the commissioner that is not under the control or common control of the charter holder.

(19) - (20) (No change.)

(c) Eligibility to apply for the credit enhancement.

(1) To have its application for the credit enhancement considered, an open-enrollment charter holder must:

(A) - (B) (No change.)

(C) in its application, agree that the bonded indebtedness for which the credit enhancement is sought will be undertaken as an obligation of all tax-exempt entities under common control of the open-enrollment charter holder and agree that all such entities will be liable for the obligation if the open-enrollment charter holder defaults on the bonded indebtedness, provided that an entity that does not operate a charter school in Texas is subject to this subparagraph only to the extent that it has received state funds from the open-enrollment charter holder;

(D) - (E) (No change.)

(2) (No change.)

(d) - (l) (No change.)

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

Filed with the Office of the Secretary of State on July 27, 2020.

TRD-202003040

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Earliest possible date of adoption: September 6, 2020

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



TITLE 22. EXAMINING BOARDS

PART 6. TEXAS BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS

CHAPTER 131. ORGANIZATION AND ADMINISTRATION

The Texas Board of Professional Engineers and Land Surveyors (Board) proposes amendments to 22 Texas Administrative Code, Chapter 131, specifically §§131.1 - 131.3, 131.5, 131.7, 131.9, 131.11, 131.15, 131.31, 131.37, 131.41, 131.43, 131.45, 131.81, 131.85, 131.101, and 131.103, regarding the organization and administration of the agency. These proposed changes are referred to as "proposed rules."

EXPLANATION OF AND JUSTIFICATION FOR THE RULES

The rules under 22 Texas Administrative Code Chapter 131 implement Texas Occupations Code, Chapter 1001, the Texas Engineering Practice Act.

The proposed rules implement necessary changes as required by House Bill (HB) 1523, 86th Legislature, Regular Session (2019), related to the merger of operations of the Texas Board of Professional Engineers and the Texas Board of Professional Land Surveying into the Texas Board of Professional Engineers and Land Surveyors (TBPELS).

As required by HB 1523, the operations of the two agencies have been merged into one and the associated rules regarding operations of the agency have been merged into Chapter 131 per the guidance of the Secretary of State. These rules reflect language that has been expanded to include the name of the new agency, the regulation of land surveying, and other changes incorporated due to the merger. Some language has been included from the previous surveying rules including 22 Texas Administrative Code, Chapter 661.

SECTION-BY-SECTION SUMMARY

The proposed rules amend §131.1 by adding references to land surveying and the Professional Land Surveying Practices Act to reflect the merger.

The proposed rules create a new section §131.2 concerning rule definitions. It moves the definition rule to the beginning of the chapter and combines engineering rule section §131.81 and surveying rule section §661.31. It also clarifies language related to land surveying, engineering, and updates citations.

The proposed rules amend §131.3 by updating the agency name to the Texas Board of Professional Engineers and Land Surveyors.

The proposed rules amend §131.5 by updating the agency name to the Texas Board of Professional Engineers and Land Surveyors.

The proposed rules amend §131.7 with minor language clarifications, references to land surveyors, and a reference to the Board membership to include a member from the General Land Office per HB 1523 modification to Texas Occupations Code §1001.1011.

The proposed rules amend §131.9 with a minor language clarification.

The proposed rules amend §131.11 contain minor language clarifications and remove unnecessary citations.

The proposed rules amend §131.15 by clarifying committee names, adding references to land surveying and surveyor registration, and removing specific references to advisory committee and replacing with general authority for advisory committees per HB 1523 and Texas Occupations Code §1001.216 as amended.

The proposed rules amend §131.31 by stating that a registered professional land surveyor may also be eligible to be Executive Director.

The proposed rules amend §131.37 to clarify a citation to Chapter 2261 of the Texas Government Code.

The proposed rules amend §131.41 to clarify the title of the rule.

The proposed rules amend §131.43 with a minor language change and by clarifying that only the Board chair may set time limits for public comment.

The proposed rules amend §131.45 to remove a requirement designating the specific location of board meetings.

The proposed rules repeal §131.81 and move the language to §131.2 to clarify the formatting of the chapter.

The proposed rules amend §131.85 to add language related to the land surveying rule adoption process which requires input from the Surveying Advisory Committee, as provided for in HB 1523 and Texas Occupations Code §1001.216 as amended.

The proposed rules amend §131.101 to clarify that Texas Occupations Code §1001, subchapter M, only provides for advisory opinions for engineering and not surveying.

The proposed rules amend §131.103 to clarify that Texas Occupations Code §1001, subchapter M, only provides for advisory opinions for engineering and not surveying.

FISCAL IMPACT ON STATE AND LOCAL GOVERNMENT

Dr. Lance Kinney, Ph.D., P.E., Executive Director for the Board, has determined that for each year of the first five years the proposed rules are in effect, there are no estimated additional costs or reductions in costs to state or local government as a result of enforcing or administering the proposed rule.

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

LOCAL EMPLOYMENT IMPACT STATEMENT

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

PUBLIC BENEFITS

Dr. Kinney has determined that for each year of the first five-year period the proposed rules are in effect, the public benefit will be the efficient and effective merger and operations of the Texas Board of Professional Engineers and Land Surveyors per HB 1523 and clarified rule language.

PROBABLE ECONOMIC COSTS TO PERSONS REQUIRED TO COMPLY WITH PROPOSAL

Dr. Kinney has determined that for each year of the first five-year period the proposed rules are in effect, there are no anticipated economic costs to persons who are required to comply with the proposed rules because the changes are related to agency operations as set forth in HB 1523, Occupations Code 1001 and 1071.

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

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

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

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

GOVERNMENT GROWTH IMPACT STATEMENT

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

1. The proposed rules do not create or eliminate a government program.
2. Implementation of the proposed rules do not require the creation of new employee positions or the elimination of existing employee positions.
3. Implementation of the proposed rules do not require an increase or decrease in future legislative appropriations to the agency.
4. The proposed rules do not require an increase or decrease in fees paid to the agency.
5. The proposed rules do not create a new regulation.
6. The proposed rules do not expand, limit, or repeal a regulation except as provided by HB 1532 which transferred the regulation of land surveying to the TBPELS, and these rules reflect a transfer of that regulatory authority from the former Board of Professional Land Surveying to the TBPELS.
7. The proposed rules do not increase the number of individuals subject to the rule's applicability.
8. The proposed rules do not positively or adversely affect this state's economy.

TAKINGS IMPACT ASSESSMENT

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

ENVIRONMENTAL RULE ANALYSIS

The Board has determined that the proposed rules are not brought with the specific intent to protect the environment or reduce risks to human health from environmental exposure; thus, the Board asserts the proposed rules are not a "major environmental rule," as defined by Government Code §2001.0225. As a result, the Board asserts preparation of an environmental impact analysis, as provided by §2001.0225, is not required.

PUBLIC COMMENTS

Any comments or request for a public hearing may be submitted, no later than 30 days after the publication of this notice, to Lance Kinney, Ph.D., P.E., Executive Director, Texas Board of Professional Engineers, 1917 S. Interstate 35, Austin, Texas 78741, faxed to his attention at (512) 440-0417 or sent by email to rules@engineers.texas.gov.

SUBCHAPTER A. SCOPE AND DEFINITIONS [ORGANIZATION OF THE BOARD]

22 TAC §131.1, §131.2

STATUTORY AUTHORITY

The rules are proposed pursuant to Texas Occupations Code §§1001.101 and 1001.202, which authorize the Board to regulate engineering and land surveying and make and enforce all rules and regulations and bylaws consistent with the Act as necessary for the performance of its duties, the governance of its own proceedings, and the regulation of the practices of engineering and land surveying in this state. The proposed rules also comply with HB 1523.

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

§131.1. Purpose and Duties.

(a) The board is statutorily empowered to regulate the practice of engineering and land surveying in Texas.

(b) The board shall promulgate and adopt rules as authorized and required by statute, which are necessary for the performance of its duties. Such rules shall establish standards of conduct and ethics for engineers and land surveyors, ensure strict compliance with and enforcement of the provisions of the Acts [Aet], ensure uniform standards of practice and procedure, and provide for public participation, notice of the agency actions, and a fair and expeditious determination of causes before the board.

(c) The board may act directly under its statute and rules or through the executive director or a committee of the board.

(d) Pursuant to the Texas Engineering Practice Act and the Professional Land Surveying Practices Act, the board is responsible for policy-making decisions and the executive director is responsible for the agency's management decisions.

§131.2. Definitions.

In applying the Texas Engineering Practice Act, the Professional Land Surveying Practices Act, and the board rules, the following definitions

shall prevail unless the word or phrase is defined in the text for a particular usage. Singular and masculine terms shall be construed to include plural and feminine terms and vice versa.

(1) ABET - ABET, Inc., formerly the Accreditation Board for Engineering and Technology.

(2) Acts - The Texas Engineering Practice Act, Texas Occupations Code Chapter 1001, and the Professional Land Surveying Practices Act, Texas Occupations Code Chapter 1071.

(3) Advisory Opinion - A statement of policy issued by the board that provides guidance to the public and regulated community regarding the board's interpretation and application of Chapter 1001, Texas Occupations Code, and/or board rules related to the practice of engineering.

(4) Agency or Board - Texas Board of Professional Engineers and Land Surveyors.

(5) ANSAC/ABET - Applied and Natural Science Accreditation Commission of ABET. Previously the Applied Science Accreditation Commission (ASAC) of ABET.

(6) Applicant - A person applying for a license or registration to practice professional engineering or land surveying or a firm applying for a certificate of registration to offer or provide professional engineering or land surveying services.

(7) Application - The forms, information, and fees necessary to obtain a license, registration, or certification issued by the Board.

(8) Complainant - Any party who has filed a complaint with the board against a person or entity subject to the jurisdiction of the board.

(9) Construction estimate - As used in §1071.004, a depiction of a possible easement route for planning purposes.

(10) Contested case - A proceeding, including but not restricted to rate making and licensing, in which the legal rights, duties, or privileges of a party are to be determined by an agency after an opportunity for adjudicative hearing pursuant to the Administrative Procedure Act, Chapter 2001, Texas Government Code.

(11) Direct supervision - The control over and detailed professional knowledge of the work prepared under the engineer or land surveyor's supervision. Direct Supervision entails that the engineer or land surveyor personally makes decisions or personally reviews and approves proposed decisions prior to their implementation and has control over the decisions either through physical presence or the use of communications devices. Direct Supervision entails that a land surveyor be able to give instructions for research of adequate thoroughness to support collection of relevant data, the placement of all monuments, and the preparation and delivery of all surveying documents.

(12) EAC/ABET - Engineering Accreditation Commission of ABET.

(13) EAOR number - An engineering advisory opinion request file number assigned by the executive director to a pending advisory opinion in accordance with this chapter.

(14) Electronic Seal - For the purposes of this Chapter, an electronic seal is a digital representation of a licensee or registrant's seal including, but not limited to, a digital scan of a physical seal.

(15) Electronic Signature - For the purposes of this Chapter, an electronic signature is a digital representation of a licensee or registrant's signature including, but not limited to, a digital scan of a physical signature.

(16) Engineering - The profession in which a knowledge of the mathematical, physical, engineering, and natural sciences gained by education, experience, and practice is applied with judgment to develop ways to utilize, economically, the materials and forces of nature for the benefit of mankind.

(17) Engineering Act - The Texas Engineering Practice Act, Texas Occupations Code Chapter 1001.

(18) ETAC/ABET - Engineering Technology Accreditation Commission of ABET.

(19) Firm - Any business entity that engages or offers to engage in the practice of professional engineering or land surveying in this state. The term includes but is not limited to companies, corporations, partnerships, or joint stock associations, and for engineering also includes sole practitioners and sole proprietorships.

(20) Good Standing - (License or Registration) - A license or registration that is current, eligible for renewal, and has no outstanding fees or payments.

(21) Gross negligence - Any deliberate conduct, or pattern of conduct, whether by act or omission that demonstrates a disregard or indifference to the rights, health, safety, welfare, and property of the public or clients. Gross negligence may result in financial loss, injury or damage to life or property, but such results need not occur for the establishment of such conduct.

(22) License - The legal authority permitting the holder to actively practice engineering or land surveying. Also, a certificate issued by the board showing such authority.

(23) License Holder - Any person whose license or registration to practice engineering or land surveying is current.

(24) Misconduct - The violation of any provision of the Texas Engineering Practice Act, the Professional Land Surveying Act, or board rules.

(25) NAFTA - North American Free Trade Agreement. NAFTA is related to the practice and licensure of engineering through mutual recognition of registered/licensed engineers by jurisdictions of Canada, Texas, and the United Mexican States.

(26) NCEES - National Council of Examiners for Engineering and Surveying.

(27) Person - Any individual, firm, partnership, corporation, association, governmental subdivision, or public or private organization of any character other than a governmental agency.

(28) Professional engineering - Professional service which may include consultation, investigation, evaluation, planning, designing, or direct supervision of construction, in connection with any public or private utilities, structures, buildings, machines, equipment, processes, works, or projects wherein the public welfare, or the safeguarding of life, health, and property is concerned or involved, when such professional service requires the application of engineering principles and the interpretation of engineering data.

(29) Professional Engineering Services - Services which meet the definition of the practice of engineering as defined in the Act, §1001.003, and which are required by statute or rule to be performed by or under the direct supervision of a licensed engineer. A service shall be conclusively considered a professional engineering service if it is delineated in that section; other services requiring a professional engineer by contract, or services where the adequate performance of that service requires an engineering education, training, or experience in the application of special knowledge or judgment of the mathemati-

cal, physical or engineering sciences to that service are also considered a professional engineering service.

(30) Professional Surveying - The practice of land, boundary, or property surveying or other similar professional practices.

(31) Recognized institution of higher education--An institution of higher education as defined in §61.003, Education Code; or in the United States, an institution recognized by one of the six regional accrediting associations, specifically, the New England Association of Schools and Colleges, the North Central Association Commission on Accreditation and School Improvement, the Northwest Association of Schools and Colleges, the Southern Association of Colleges and Schools, the Western Association of Schools and Colleges, or the Middle States Association of Colleges & Schools; or, outside the United States, an institution recognized by the Ministry of Education or the officially recognized government education agency of that country; or a program accredited by ABET.

(32) Registration - The legal authority permitting the holder to actively practice engineering or land surveying. Also, a certificate issued by the board showing such authority.

(33) Respondent - The person or party that is the subject of a complaint filed with the board.

(34) Responsible charge - Synonymous with the term "direct supervision"; used interchangeably with "direct supervision".

(35) Responsible supervision - An earlier term synonymous with the term "direct supervision;" the term is still valid and may be used interchangeably with "direct supervision" when necessary.

(36) Seal - An embossed, stamped, or electronic design authorized by the Board that authenticates, confirms, or attests that a person is authorized to offer and practice engineering or land surveying services to the public in the State of Texas and has legal consequence when applied.

(37) Sole Practitioner - A firm that consists of an individual license holder with no other employees.

(38) Supervision of Engineering Construction - As used in §1001.407 of the Act, includes the periodic observation of materials and completed work to determine general compliance with plans, specifications and design and planning concepts. Supervision of engineering construction does not include the construction means and methods; responsibility for the superintendence of construction processes, site conditions, operations, equipment, personnel; or the maintenance of a safe place to work or any safety in, on or about the site.

(39) Surveying Act - the Professional Land Surveying Practices Act, Texas Occupations Code Chapter 1071.

(40) Surveying Report - Survey drawing, written description, and/or separate narrative depicting the results of a land survey performed and conducted pursuant to this Act.

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

Filed with the Office of the Secretary of State on July 27, 2020.

TRD-202003045

Lance Kinney

Executive Director

Texas Board of Professional Engineers and Land Surveyors

Earliest possible date of adoption: September 6, 2020

For further information, please call: (512) 440-3080

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**SUBCHAPTER B. ADMINISTRATION AND
THE BOARD [ORGANIZATION OF THE BOARD
STAFF]**

22 TAC §§131.3, 131.5, 131.7, 131.9, 131.11, 131.15

STATUTORY AUTHORITY

The rules are proposed pursuant to Texas Occupations Code §§1001.101 and 1001.202, which authorize the Board to regulate engineering and land surveying and make and enforce all rules and regulations and bylaws consistent with the Act as necessary for the performance of its duties, the governance of its own proceedings, and the regulation of the practices of engineering and land surveying in this state. The proposed rules also comply with HB 1523.

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

§131.3. Headquarters of the Board.

The headquarters and administrative office of the Texas Board of Professional Engineers and Land Surveyors (board) is located at 1917 South Interstate 35, Austin, Texas 78741-3702.

§131.5. Board Seal.

The seal of the board shall be an embossed circular seal consisting of two concentric circles. The diameter of the inner circle shall be approximately 60% of the size of the outer circle which shall be the official seal of the State of Texas. The area between the two circles shall contain the wording "Texas Board of Professional Engineers and Land Surveyors." The executive director shall be the custodian of the seal. The seal may be reproduced in other sizes provided the dimensions remain proportionate.

§131.7. Organization of the Board.

(a) In accordance with Texas Occupations Code, Chapter 1001, the board shall consist of members appointed by the Governor with the advice and consent of the Senate. The board shall also have as a member the commissioner of the General Land Office or a licensed state land surveyor employee of the General Land Office designated by the commissioner as director of surveying who shall serve as an ex officio, nonvoting member of the board.

(b) The governor shall designate a member of the board as the presiding officer of the board to serve in that capacity at the will of the governor. The presiding officer shall be the Chair of the board.

(c) The terms of board members appointed by the Governor shall be six years in length and shall be staggered so that the terms of not more than one-third of the members shall expire in a single calendar year. The terms of two members who are either [practicing] licensed engineers or registered land surveyors and one member who is a representative of the public expire on August 31 of each odd-numbered year. Upon completion of a term, a member may continue to serve until a successor has been appointed. A member may be reappointed to successive terms at the discretion of the Governor.

(d) The board shall elect from its own membership a vice chair, secretary, and treasurer. These officers shall serve from September 1 through August 31 and shall be elected annually at a board meeting prior to September 1.

(e) The board as a whole may act as an executive committee.

(f) Five voting members of the board shall constitute a quorum.

(g) The board may transact official business only when in session with a quorum present and shall not be bound in any way by any statement or action on the part of any individual member except when such statement or action is in pursuance of specific instructions of the board. No order or decree shall be adopted by the board except in open meeting and in accordance with the Texas Government Code, Chapter 551.

§131.9. Officers of the Board.

(a) Chair of the Board. The presiding officer shall be the chair of the board. When present, the chair shall preside at all meetings. The chair shall appoint such committees required by statute or rule and may appoint any additional committees as needed. The chair shall perform all other duties usually pertaining to the office of chair and permitted by law[,] and shall have the authority to delegate any of those duties to the executive director. The chair shall have the authority to review the performance of the executive director and initiate alterations in the executive director's job requirements or employment status. The chair shall select and determine the agenda for meetings of the full board and may delegate that authority to the executive director.

(b) Vice Chair of the Board. The vice chair, in the absence of the chair, shall perform the duties of the chair as specified in subsection (a) of this section. In the event the office of the chair shall become vacant, the vice chair shall serve until a new presiding officer has been appointed by the governor.

(c) Pro Tem Chair of the Board. In the absence of the chair and vice chair from a regular or special meeting of the board, the remaining members, providing there is a quorum, shall elect a chair who shall serve until the conclusion of the meeting or until the arrival of the chair or vice chair.

(d) Secretary of the Board. The secretary of the board is charged with carrying out the duties prescribed in the Act, §1001.211 and §1001.308 and may delegate those duties prescribed in §1001.211 to the executive director.

(e) Treasurer of the Board. The treasurer of the board is charged with advising the board on budgetary and financial matters and carrying out any duties delegated by the board.

§131.11. Board Member Responsibilities and Duties.

(a) Each board member shall meet and maintain the qualifications for board membership as set by Texas Occupations Code Chapter 1001.[§1001.101 and §1001.102 of the Act.]

(b) Each board member [appointed after September 1, 2003] shall complete [attend a] board member training prior to attendance and participation in a board or committee meeting.

(c) A board member is subject to the provisions of §1001.106 of the Act relating to grounds for removal.

(d) In order to be reimbursed for travel, [for] other than travel to board and committee meetings, a board member shall have the approval of the chair or full board or executive director.

(e) Each member of the board shall receive per diem as provided by law for each day that the member engages in the business of the board and will be reimbursed for travel expenses incurred in accordance with the state of Texas and board's travel policies.

(f) A board member who participated in the investigation of a complaint or in informal settlement negotiations regarding the complaint:

(1) may not vote on the matter at a board meeting related to the complaint; and

(2) shall state at the meeting and record in the minutes why the member is prohibited from voting on the matter.

(g) Board members shall submit an activity report that shall document the board member's activities related to the board that have occurred since the previous activity report was submitted including activities that occurred in a meeting that was noticed and held in accordance with the open meeting requirements of Chapter 551 of the Texas Government Code.

§131.15. Committees.

(a) The board chair shall appoint the following standing committees [as stated in paragraphs (1) - (5) of this subsection], composed of four board members at least one of whom is a public member. A committee quorum shall consist of three members. Committee appointments shall be made by the chair for a term of up to two years but may be terminated at any point by the chair. Committee members may be re-appointed at the discretion of the chair. The board chair shall appoint a committee chair.

(1) General Issues Committee. The committee shall meet as required to evaluate issues and possibly develop proposed actions for the full board on issues of importance to the board and the professions [profession]. Such issues may [might] include engineering or land surveying ethics, professionalism in practice, legislation, board management, and engineering or land surveying business issues.

(2) Licensing and Registration Committee. The committee shall meet no less than twice each fiscal year to evaluate issues and possibly develop proposed actions for the full board on licensing and registration issues. The committee may participate in activities such as evaluating rules concerning licensing of engineers; licensing and registration of land surveyors; evaluating education and continuing education program requirements; conducting personal interviews of applicants; evaluating applications; participating in national and international engineering and land surveying licensing and registration activities on the board's behalf; providing general guidance to the executive director on licensing and registration issues; and evaluating any other issue indirectly or directly relating to engineering or land surveying licensing and registration.

(3) Compliance and Enforcement Committee. The committee shall meet as required to evaluate issues and possibly develop proposed actions for the full board on enforcement issues. The committee may participate in activities such as evaluating rules concerning enforcement of the Acts [Act]; reviewing the progress of enforcement activities [major enforcement eases or groups of eases]; suggesting sanctions for violations of the Acts [Act]; participation in national and international engineering and land surveying law enforcement activities on the board's behalf; providing general guidance to the executive director on enforcement issues; evaluating continuing education program requirements; and evaluating any other issue indirectly or directly relating to engineering or land surveying law enforcement.

(4) Policy Advisory Opinion Committee. The committee shall meet as required to review, prepare and recommend policy advisory opinions regarding the interpretation or application of the Engineering Act and to perform related activities pursuant to board approval. The committee shall follow the process and procedures for issuing advisory opinions as prescribed in Subchapter H [G] of this chapter (relating to Advisory Opinions).

(5) Legislative Issues Committee. The committee shall meet as needed to consider legislative matters that may affect the practice of engineering and land surveying in the state. Pursuant to the Chapter 556, Texas Government Code, the committee shall not lobby or strive to influence legislation regarding the practice of engineering but meet to consider board responses to pending legislation and assist

in answering related inquiries from the Texas Legislature, Governor or other state agency or governmental entity during the legislative session. [The committee shall report to the full board on actions and activities addressed on behalf of the board.]

(b) Nominating Committee. The board's chair shall appoint a nominating committee consisting of the chair and two board members to nominate candidates for the offices of vice chair, secretary, and treasurer. The nominating committee shall meet prior to the regular board meeting prior to September 1 of each year to allow election of officers at that meeting.

(c) Ad Hoc Committees. The board chair, full board, or a standing committee [and its committees] may appoint an ad hoc committee [temporary committees] to assist in resolving particular [engineering] issues.

[(1) The board's chair, board, and/or committee chair may appoint ad hoc committees composed of committee members, other board members, and other persons to address particular issues.]

(1) [(2)] The chair or committee chair shall establish a specific purpose and duration for each ad hoc committee. Ad hoc committees previously appointed may be reappointed in part or in whole for a specific purpose and duration.

(2) [(3)] Ad hoc committees shall be limited to investigating and evaluating issues assigned, and making a report to the full board or appropriate standing committee with recommendations concerning possible board positions, actions or inactions. The board or appropriate standing committee shall receive the report of each ad hoc committee publicly, and shall recommend appropriate action, if any, to the full board.

(d) Advisory Committees. The [chair or] board may appoint [convene the following] committees in an advisory capacity in accordance with §1001.216. [:]

[(1) Educational Advisory Committee. The educational advisory committee shall consist of the deans of the colleges or the department heads or other program administrator for those institutions without a college of engineering or the representatives for the deans or department heads and other invited representatives of the academic community. The committee shall meet as needed and submit any reports or recommendations to the Licensing Committee. The board chair may appoint one or more board members as liaisons to the advisory committee. If requested by the advisory committee, the executive director or staff may act as the secretary for the meeting.]

[(2) Industry Advisory Committee. The industry advisory committee shall consist of practicing engineers from various disciplines and functions in engineering including, but not limited to, consulting, manufacturing, regulatory, research, and utility service. The committee shall meet as needed and submit any reports or recommendations to the General Issues Committee. The board chair may appoint one or more board members as liaisons to the advisory committee. If requested by the advisory committee, the executive director or staff may act as the secretary for the meeting.]

[(3) Governmental Advisory Committee. The governmental advisory committee shall consist of representatives of various governmental agencies, organizations, or jurisdictions that employ professional engineers or use engineering services. The committee shall meet as needed and submit any reports or recommendations to the General Issues Committee. The board chair may appoint one or more board members as liaisons to the advisory committee. If requested by the advisory committee, the executive director or staff may act as the secretary for the meeting.]

(e) Committee actions. The actions of any committee [the ~~committees~~] are recommendations only and are not binding until ratification by the board at a regularly scheduled meeting or if authorized by rule.

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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Lance Kinney

Executive Director

Texas Board of Professional Engineers and Land Surveyors

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For further information, please call: (512) 440-3080



SUBCHAPTER C. BOARD STAFF [MEETINGS]

22 TAC §131.31, §131.37

STATUTORY AUTHORITY

The rules are proposed pursuant to Texas Occupations Code §§1001.101 and 1001.202, which authorize the Board to regulate engineering and land surveying and make and enforce all rules and regulations and bylaws consistent with the Act as necessary for the performance of its duties, the governance of its own proceedings, and the regulation of the practices of engineering and land surveying in this state. The proposed rules also comply with HB 1523.

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

§131.31. *Executive Director.*

(a) The executive director shall be employed by the board to be the administrator of the agency.

(b) The executive director shall be a licensed professional engineer or registered professional land surveyor, and shall faithfully execute all directives of the board [Texas Board of Professional Engineers] that are within the scope of the board's legal authority.

(c) - (d) (No change.)

§131.37. *State Contract Guidelines.*

Pursuant to Chapter 2261, Texas Government Code[, §2261.253], the executive director or his/her representative shall establish a written procedure to identify each contract that requires enhanced contract or performance monitoring and submit information on the contract to the Board.

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

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SUBCHAPTER D. MEETINGS [FISCAL MATTERS]

22 TAC §§131.41, 131.43, 131.45

STATUTORY AUTHORITY

The rules are proposed pursuant to Texas Occupations Code §§1001.101 and 1001.202, which authorize the Board to regulate engineering and land surveying and make and enforce all rules and regulations and bylaws consistent with the Act as necessary for the performance of its duties, the governance of its own proceedings, and the regulation of the practices of engineering and land surveying in this state. The proposed rules also comply with HB 1523.

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

§131.41. *Meetings* [~~Open To The Public~~].

All meetings of the board and standing committees shall be held in accordance with Chapter 551, Texas Government Code.

§131.43. *Public Participation.*

(a) (No change.)

(b) A person may address the board regarding any issue related to the jurisdiction of the board other than open complaints filed with the board pursuant to Subchapter F of the [Texas] Engineering [Practice] Act, matters concerning cases pending at the State Office of Administrative Hearings, or cases deemed confidential. A person wishing to address the board about any subject under the board's jurisdiction shall fill out a Public Comment form prior to the start of the meeting and submit the form to the chair.

(c) (No change.)

(d) The chair [~~or executive director~~] may impose a time limit for those wishing to address or make a presentation to the board. The allotted period for a person addressing the board may only be extended by board vote and may not be extended by another person delegating, ceding, passing or otherwise granting allotted comment time in lieu of addressing the board.

(e) - (f) (No change.)

§131.45. *Regular Board Meetings.*

The board shall hold a minimum of two regular meetings each calendar year. [~~Board meetings shall take place at the headquarters of the board or at other places as designated by the board.~~]

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

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SUBCHAPTER F. ADMINISTRATION

22 TAC §131.81

STATUTORY AUTHORITY

The rules are proposed pursuant to Texas Occupations Code §§1001.101 and 1001.202, which authorize the Board to regulate engineering and land surveying and make and enforce all rules and regulations and bylaws consistent with the Act as necessary for the performance of its duties, the governance of its own proceedings, and the regulation of the practices of engineering and land surveying in this state. The proposed rules also comply with HB 1523.

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

§131.81. *Definitions.*

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

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SUBCHAPTER G. ADMINISTRATION [ADVISORY OPINIONS]

22 TAC §131.85

STATUTORY AUTHORITY

The rules are proposed pursuant to Texas Occupations Code §§1001.101 and 1001.202, which authorize the Board to regulate engineering and land surveying and make and enforce all rules and regulations and bylaws consistent with the Act as necessary for the performance of its duties, the governance of its own proceedings, and the regulation of the practices of engineering and land surveying in this state. The proposed rules also comply with HB 1523.

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

§131.85. *Board Rules Procedures.*

(a) - (g) (No change.)

(h) The board may not adopt a rule related to the scope of practice of, the professional or technical standards for, or the standards of conduct and ethics for land surveyors before considering advice and recommendations from the surveying advisory committee described in §1001.216 of the Act.

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

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SUBCHAPTER H. ENGINEERING ADVISORY OPINIONS [ALTERNATIVE DISPUTE RESOLUTION]

22 TAC §131.101, §131.103

STATUTORY AUTHORITY

The rules are proposed pursuant to Texas Occupations Code §§1001.101 and 1001.202, which authorize the Board to regulate engineering and land surveying and make and enforce all rules and regulations and bylaws consistent with the Act as necessary for the performance of its duties, the governance of its own proceedings, and the regulation of the practices of engineering and land surveying in this state. The proposed rules also comply with HB 1523.

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

§131.101. *Subject of an Advisory Opinion.*

On its own initiative or at the request of any interested person, the board shall prepare a written advisory opinion about:

(1) an interpretation of the Engineering Act; or

(2) the application of the Engineering Act to a person in regard to a specified existing or hypothetical factual situation.

§131.103. *Request for an Advisory Opinion.*

(a) A request for an advisory opinion shall include, at a minimum, sufficient information in order for the board to provide a complete response to the request. The requestor must provide the following, as applicable:

(1) requestor contact information;[;]

(2) affected section(s) of the Engineering Act and/or board rules;[;]

(3) description of the situation;[;]

(4) reason engineering advisory opinion is requested;[;]

(5) parties or stakeholders that will be affected by the opinion, if known;[;] and

(6) any known, pending litigation involving the situation,

(b) (No change.)

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

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CHAPTER 134. LICENSING, REGISTRATION, AND CERTIFICATION FOR SURVEYORS

The Texas Board of Professional Engineers and Land Surveyors (Board) proposes new rules to 22 Texas Administrative Code, Chapter 134, specifically §§134.1, 134.3, 134.5, 134.11.

134.21, 134.23, 134.25, 134.27, 134.29, 134.31, 134.35, 134.37, 134.41, 134.43, 134.51, 134.53, 134.55, 134.61, 134.65, 134.67 - 134.69, 134.71, 134.73, 134.75, 134.81, 134.83, 134.87, 134.89, 134.91, 134.93, 134.95, and 134.97, regarding the licensure and registration process for professional land surveyors in Texas. These proposed changes are referred to as "proposed rules."

EXPLANATION OF AND JUSTIFICATION FOR THE RULES

The rules under 22 Texas Administrative Code Chapter 134 implement Texas Occupations Code, Chapter 1001, the Texas Engineering Practice Act, and Occupations Code, Chapter 1071, the Professional Land Surveying Practices Act.

The proposed rules implement necessary changes as required by House Bill (HB) 1523, 86th Legislature, Regular Session (2019), related to the merger of operations of the Texas Board of Professional Engineers and the Texas Board of Professional Land Surveying into the Texas Board of Professional Engineers and Land Surveyors (TBPELS).

As required by HB 1523, the operations of the two agencies have been merged into one, including the registration of Surveyors-in-Training (SIT) and Registered Professional Land Surveyors (RPLS), and the licensure of Licensed State Land Surveyors (LSLS). The previous agency rules (22 Texas Administrative Code, Chapter 661), related to registration of land surveyors, have been merged into Chapter 134 per the guidance of the Secretary of State. These rules have been formatted to be similar to the licensure rules for engineers (Chapter 133) and edits made for format and clarity.

SECTION-BY-SECTION SUMMARY

The proposed rules create a new section, §134.1, concerning the general process for obtaining an SIT designation. Texas Board of Professional Land Surveying (TBPLS) rule, 22 Texas Administrative Code §661.41, addresses all land surveyor license types. This new rule only addresses SIT and provides general information on the processing of applications to obtain this type of certification, thereby making it easier for someone interested in this type of certification to locate the rules that apply to this certification type.

The proposed rules create a new section, §134.3, concerning the requirements to obtain a SIT certification and general information concerning this certification. This includes the examination required, expiration of an SIT certification, and certification renewal process. This rule consolidates requirements for an SIT certification found in TBPLS rules §661.41 and §661.51, thereby making it easier to locate the rules applying to this certification type.

The proposed rules create a new section, §134.5, concerning Surveyor-in-Training experience requirements. Many of the SIT experience requirements found in TBPLS rule §661.50 have been moved to this new chapter that concerns certification of SITs. This new rule makes it easier to locate the rules applying to an SIT.

The proposed rules create a new section, §134.11, concerning types of surveyor registrations and licenses. It identifies the types of licenses and registrations. It states that applications that do not meet requirements will be denied.

The proposed rules create a new section, §134.21, concerning the application process for a standard registration as a professional land surveyor (RPLS). It streamlines the application

process and adds the requirement for fingerprinting for criminal background checks. It conforms with many of the application requirements for obtaining a professional engineer license.

The proposed rules create a new section, §134.23, concerning the application process for a former standard registration as a professional land surveyor (RPLS). It describes the application requirements needed to update information and verify qualifications to issue a new registration. It makes it easier for former standard registration holders to obtain a license, thereby removing many of the previous barriers to licensure.

The proposed rules create a new section, §134.25, concerning the application process for an applicant who holds an out-of-state registration. This new rule streamlines the process for obtaining a Texas license by consolidating many of the requirements found in §661.41 and §661.47 of the TBPLS rules concerning out-of-state applicants. This rule conforms with the requirements of out-of-state engineers applying for a Texas license.

The proposed rules create a new section, §134.27, concerning the application process for a Licensed State Land Surveyor (LSLS). The TBPLS surveyor rules did not describe the LSLS process as pointed out by the TBPLS 2019 Sunset Commission report. These rules document the current process and requirements utilized by the TBPLS and were developed in consultation with the General Land Office.

The proposed rules create a new section, §134.29, concerning the temporary license process for military spouses who are licensed or registered in another state. This section implements Senate Bill (SB) 1200, 86th Legislature, Regular Session (2019), which amends Texas Occupations Code, Chapter 55, to authorize a military spouse to engage in a business or occupation for which a license is required, without obtaining the applicable license, if the military spouse is currently licensed in good standing by another jurisdiction that has licensing requirements that are substantially equivalent to the licensing requirements in Texas. SB 1200 also authorizes a licensing agency to issue a license to a military spouse who meets such requirements. It conforms with the requirements of engineering rule §133.29, which was adopted in March 2020.

The proposed rules create a new section, §134.31, concerning educational requirements for applicants. Unlike TBPLS rule §661.41 that addressed the multiple requirements for applications, this rule makes it easier for applicants to find the education requirements by listing them in a separate rule.

The proposed rules create a new section, §134.35, concerning proof of educational requirements for applicants. Unlike TBPLS rule §661.41, which addressed the multiple requirements for applications, this rule makes it easier for applicants to find the necessary proof of educational qualifications by listing them in a separate rule.

The proposed rules create a new section, §134.37, requiring that educational documents for registration be in English. Unlike TBPLS rule §661.41, which addressed the multiple requirements for applications, this rule makes it easier for applicants to find the requirement that non-English documents supporting application be translated to English.

The proposed rules create a new section, §134.41, concerning supplementary experience records for applicants. Unlike TBPLS rule §661.4, which addressed the multiple requirements for applications, this rule makes it easier for applicants to find the re-

quirements for supplementary experience by listing them in a separate rule.

The proposed rules create a new section, §134.43, concerning the experience evaluation process for applicants. It consolidates TBPLS rules §§661.41, 661.50, and 661.53 by providing one rule that addresses the evaluation of supplementary experience.

The proposed rules create a new section, §134.51, concerning reference providers for applicants. In addition to the requirements of TBPLS rule §661.43, this rule adds the additional requirement that the reference must not receive compensation for providing a reference.

The proposed rules create a new section, §134.53, concerning reference statements for applicants. Although this rule is largely based on TBPLS rule, it provides a more detailed process for submitting a reference, states that there are repercussions if an applicant retaliates against a reference, and permits an NCEES record reference document to serve as a reference statement.

The proposed rules create a new section, §134.55, concerning references for applicants. It conforms with TBPLS rule §661.43.

The proposed rules create a new section, §134.61, concerning examinations and the general examination process for applicants. Unlike TBPLS rule §661.45, which addressed the multiple requirements for examinations, this rule makes it easier for applicants to find the process requirements for surveying exams.

The proposed rules create a new section, §134.65, concerning the examination on the Fundamentals of Surveying. It consolidates portions of TBPLS rules §661.41 and §661.45 by creating a rule that only addresses the Fundamentals of Surveying exam. This makes it easier for an applicant to locate the rule that addresses this exam because the information is contained in one rule.

The proposed rules create a new section, §134.67, concerning the examination on the Principles and Practice of Surveying. It consolidates portions of TBPLS rules §661.41 and §661.45 by creating a rule that only addresses the Principles and Practice of Surveying exam. In addition to the examination developed by the TBPELS, the proposed rules expand the examination options to include the Principles and Practice of Surveying exam offered by the National Council of Examiners for Engineering and Surveying (NCEES). This addition was noted by the TBPLS 2019 Sunset Commission report. After review of the various examination options, the Surveying Advisory Committee and the Board concurred to move forward with moving to this exam option. By creating a single rule that addresses the Principles and Practice of Surveying exam, it easier for an applicant to locate the rule.

The proposed rules create a new section, §134.68, concerning the examination required for licensure as a Licensed State Land Surveyor (LSLS). Unlike TBPLS rule §661.45, which addressed the multiple examinations, this rule makes it easier for applicants to find the requirements for LSLS exam by addressing the exam in a single rule. This rule was developed in consultation with the General Land Office.

The proposed rules create a new section, §134.69, concerning the process for waiver of examination requirements for the Fundamentals of Surveying. Waiver of exams is permitted for out-of-state land surveyors, as authorized by Texas Occupations Code §1071.259, provided they meet certain requirements

The proposed rules create a new section, §134.71, that states that a land surveyor registered in Texas may take the principles

and practice of surveying examination for record purposes only if her or she has not passed the exam.

The proposed rules create a new section, §134.73, concerning examination results and analysis. This language has been added to implement Texas Occupations Code §1001.273 for surveying examinations.

The proposed rules create a new section, §134.75, concerning examination irregularities. The rule sets out the process and penalties for violations of examination policies.

The proposed rules create a new section, §134.81, concerning the process for reviewing surveyor applications. The rule sets out the procedure and requirements for staff to process a surveyor application that was not previously described in TBPLS rules. This rule conforms with the engineering application processing rule §133.81.

The proposed rules create a new section, §134.83, concerning the process for the review and evaluation of surveyor applications. The rule sets out the procedure and requirements for staff to review and evaluate a surveyor application that was not previously described in TBPLS rules. This rule conforms with the engineering application processing rule §133.83.

The proposed rules create a new section, §134.87, concerning final actions that can be taken on surveyor applications. The rule sets out the procedure and requirements for staff to review and evaluate a surveyor application that were not previously described in TBPLS rules. This rule conforms with the engineering application processing rule §133.87.

The proposed rules create a new section, §134.89, concerning the processing of administratively withdrawn surveyor applications. The rule sets out the procedure and requirements for staff to review and evaluate a surveyor application that was not previously described in TBPLS rules. This rule conforms with the engineering application processing rule §133.89.

The proposed rules create a new section, §134.91, concerning the reconsideration of denied surveyor applications. This rule describes when a denial may be reconsidered or not reconsidered. The rule sets out the procedure and requirements for staff to review and evaluate a surveyor application that was not previously described in TBPLS rules. This rule conforms with the engineering application processing rule §133.91.

The proposed rules create a new section, §134.93, concerning the process for personal interviews of surveyor applicants and when it is available. The rule sets out the procedure and requirements that were not previously described in TBPLS rules. This rule conforms with the engineering application processing rule §133.93.

The proposed rules create a new section, §134.95, concerning the handling and storage of application files. The rule sets out the procedure and requirements for staff to store and handle surveyor application files that was not previously described in TBPLS rules. This rule conforms with the engineering application processing rule §133.95.

The proposed rules create a new section, §134.97, concerning the issuance of a surveyor registration. The rule sets out the procedure and requirements that were not previously described in TBPLS rules. This rule conforms with the engineering application processing rule §133.83.

FISCAL IMPACT ON STATE AND LOCAL GOVERNMENT

Dr. Lance Kinney, Ph.D., P.E., Executive Director for the Board, has determined that for each year of the first five years the proposed rules are in effect, there are no estimated additional costs or reductions in costs to state or local government as a result of enforcing or administering the proposed rules. The rules impose no additional costs. HB 1523 transferred regulatory authority from TBPLS to TBPELS, and these rules merely reflect that transfer of authority.

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

LOCAL EMPLOYMENT IMPACT STATEMENT

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

PUBLIC BENEFITS

Dr. Kinney has determined that for each year of the first five-year period the proposed rules are in effect, the public benefit will be the clear requirements for the efficient and effective registration and licensure of professional land surveyors by the Texas Board of Professional Engineers and Land Surveyors in accordance with HB 1523 and Texas Occupations Code chapters 1001 and 1071.

PROBABLE ECONOMIC COSTS TO PERSONS REQUIRED TO COMPLY WITH PROPOSAL

Dr. Kinney has determined that for each year of the first five-year period the proposed rules are in effect, the rules related to registration do not make substantive changes to the registration process and have no additional costs for registrants or the agency. The National Professional Surveying examination is more expensive than the current RPLS exam (\$150 for current exam; National exam is \$300) and will impact new RPLS applicants (<100 applicants annually).

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

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

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

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

GOVERNMENT GROWTH IMPACT STATEMENT

Pursuant to Government Code §2001.0221, the agency provides the following Government Growth Impact Statement for the proposed rules.

HB 1532 transferred the regulation of land surveying to the TBPELS, and these rules reflect a transfer of that regulatory

authority from the former Board of Professional Land Surveying to the TBPELS without any growth in government. Therefore, for each year of the first five years the proposed rules are in effect, the agency has determined the following:

1. The proposed rules do not create or eliminate a government program.
2. Implementation of the proposed rules does not require the creation of new employee positions or the elimination of existing employee positions.
3. Implementation of the proposed rules does not require an increase or decrease in future legislative appropriations to the agency.
4. The proposed rules do not require an increase or decrease in fees paid to the agency.
5. The proposed rules do not create a new regulation.
6. The proposed rules do not expand, limit, or repeal a regulation, except as provided by HB 1532, which transferred the regulation of land surveying to the TBPELS, and these rules reflect a transfer of that regulatory authority from the former Board of Professional Land Surveying to the TBPELS.
7. The proposed rules do not increase the number of individuals subject to the rule's applicability.
8. The proposed rules do not positively or adversely affect this state's economy.

TAKINGS IMPACT ASSESSMENT

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

ENVIRONMENTAL RULE ANALYSIS

The Board has determined that the proposed rules are not brought with the specific intent to protect the environment or reduce risks to human health from environmental exposure; thus, the Board asserts the proposed rules are not a "major environmental rule," as defined by Government Code §2001.0225. As a result, the Board asserts preparation of an environmental impact analysis, as provided by §2001.0225, is not required.

PUBLIC COMMENTS

Any comments or request for a public hearing may be submitted, no later than 30 days after the publication of this notice, to Lance Kinney, Ph.D., P.E., Executive Director, Texas Board of Professional Engineers, 1917 S. Interstate 35, Austin, Texas 78741, faxed to his attention at (512) 440-0417 or sent by email to rules@engineers.texas.gov.

SUBCHAPTER A. SURVEYOR-IN-TRAINING

22 TAC §§134.1, 134.3, 134.5

STATUTORY AUTHORITY

The rules are proposed pursuant to Texas Occupations Code §§1001.101 and 1001.202, which authorize the Board to regulate engineering and land surveying and make and enforce all rules and regulations and bylaws consistent with the Act and Texas Occupations Code §1071 as necessary for the perfor-

mance of its duties, the governance of its own proceedings, and the regulation of the practices of engineering and land surveying in this state. They are also proposed pursuant to Texas Occupations Code §1001.204, which authorizes the Board to assess fees under Texas Occupations Code chapter 1071 including, but not limited to, registration fees. No other codes, articles, or statutes are affected by this proposal.

§134.1. Surveyor-In-Training Designation.

The board shall receive, evaluate and process all applications for certification as a Surveyor-in-Training (SIT) received from individuals who meet the educational and experience requirements of §1071.253 of the Surveying Act. Once an application is approved and an applicant has successfully passed the examination on the fundamentals of surveying he or she will be issued a certification as a surveyor-in-training. This certification does not entitle an individual to practice as a registered professional land surveyor.

§134.3. Surveyor-In-Training Application And Certification.

(a) To be eligible become as a surveyor-in-training (SIT), an individual must:

(1) submit an SIT application in a format prescribed by the Board;

(2) submit an official transcript in accordance with Subchapter D of this chapter (relating to Education);

(3) submit experience information in accordance with §134.5 of this chapter (relating to Surveyor-In-Training Experience Requirements);

(4) submit a minimum of three reference statements conforming to §134.51 of this chapter (relating to Reference Providers); and

(5) pay the fee as established by the Board.

(b) Once the requirements of (a)(1) - (5) of this section have been received and approved, the applicant will be approved to take the Fundamentals of Surveying examination per §134.65 of this title (relating to Examination on the Fundamentals of Surveying).

(c) A certificate as a surveyor-in-training expires eight years from the date of issuance. Although the certificate has an expiration date, the records of the Board will indicate that an individual has passed the Fundamentals of Surveying examination and these records will be maintained in the file indefinitely and will be made available as requested by the individual or another licensing jurisdiction.

(d) The certificate may be renewed upon receipt of an application in a format prescribed by the Board, payment of the SIT certification fee established by the Board, and completion of 32 hours of acceptable continuing education per §138.17 of this title (related to Continuing Education).

(e) Effective September 1, 2019, official transcripts will be kept on file and an SIT may request its use when filing the registered professional land surveyor application.

(f) If the applicant for SIT certification does not submit all documents required within 90 days of the original application date, the application shall expire and the applicant must reapply and pay a new application fee.

§134.5. Surveyor-In-Training Experience Requirements.

The following standards are to be used in evaluating the experience required for the surveyor in training:

(1) All experience must be obtained under the direction and guidance of one or more Registered Professional Land Surveyors (RPLS).

(2) Experience is to be obtained in the area of boundary surveying and boundary determination only. Adequate documentation of the conditions of employment as well as the type of experience gained therein will be required.

(3) The applicant is solely responsible for the documentation necessary to verify the acceptable completion of the required experience. The Board will furnish a form, which will be completed by the applicant and signed by both the applicant and the designated RPLS for verification. This form will require the applicant to describe the specific experience that he or she has obtained.

(4) All experience to be counted toward certification as an SIT must be verified in writing by one or more RPLS with direct supervision or knowledge of the experience claimed per Subchapter E of this chapter (related to Experience).

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

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TRD-202003024

Lance Kinney

Executive Director

Texas Board of Professional Engineers and Land Surveyors

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For further information, please call: (512) 440-3080



SUBCHAPTER B. PROFESSIONAL SURVEYOR REGISTRATION

22 TAC §134.11

STATUTORY AUTHORITY

The rule is proposed pursuant to Texas Occupations Code §§1001.101 and 1001.202, which authorize the Board to regulate engineering and land surveying and make and enforce all rules and regulations and bylaws consistent with the Act and Texas Occupations Code §1071 as necessary for the performance of its duties, the governance of its own proceedings, and the regulation of the practices of engineering and land surveying in this state. It is also proposed pursuant to Texas Occupations Code §1001.204, which authorizes the Board to assess fees under Texas Occupations Code chapter 1071 including, but not limited to, registration fees. No other codes, articles, or statutes are affected by this proposal.

§134.11. Types of Surveyor License and Registration.

The board shall receive, evaluate and process all applications for registration as a Registered Professional Land Surveyor (RPLS) or Licensed State Land Surveyor (LSLS) received from individuals who assert through the application process that he or she meets the minimum requirements of the Surveying Act. The board shall deny a registration or license to any applicant found not to have met all requirements of the Surveying Act and board rules.

(1) Standard Registration. All initial surveying licenses or registrations issued by the board shall be considered standard licenses or registrations.

(2) Reciprocal Registration. An applicant who holds a surveying license or registration from another U.S. jurisdiction may apply via the reciprocal registration process set forth in §134.25 of this chapter.

(3) Temporary License or Registration. The board does not issue any temporary surveyor registration at this time.

(4) Provisional License or Registration. The board does not issue provisional surveyor registration at this 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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Lance Kinney

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SUBCHAPTER C. LAND SURVEYOR APPLICATION REQUIREMENTS

22 TAC §§134.21, 134.23, 134.25, 134.27, 134.29

STATUTORY AUTHORITY

The rules are proposed pursuant to Texas Occupations Code §§1001.101 and 1001.202, which authorize the Board to regulate engineering and land surveying and make and enforce all rules and regulations and bylaws consistent with the Act and Texas Occupations Code §1071 as necessary for the performance of its duties, the governance of its own proceedings, and the regulation of the practices of engineering and land surveying in this state. They are also proposed pursuant to Texas Occupations Code §1001.204, which authorizes the Board to assess fees under Texas Occupations Code chapter 1071 including, but not limited to, registration fees. No other codes, articles, or statutes are affected by this proposal.

§134.21. Application for Standard Registration.

(a) To be eligible for registration as a registered professional land surveyor (RPLS), an individual must submit a completed application.

(b) All applicants must hold a current Texas Surveyor-In-Training (SIT) certification and have passed the examination on the fundamentals of surveying before submitting an application for registration as an RPLS.

(c) Applicants must speak and write the English language. Proficiency in English may be evidenced by possession of an accredited degree taught exclusively in English, or passage of the Test of English as a Foreign Language (TOEFL) with a written score of at least 550, a computer based score of at least 200, or an internet-based score of at least 95, or other evidence such as significant academic or work experience in English, that is acceptable to the executive director.

(d) Applicants for a registration shall submit:

(1) an application in a format prescribed by the board including:

(A) his or her full, legal and complete name without abbreviations, nicknames, or other variations of the full legal name. If applicable, the applicant shall submit proof of a legal name change including but not limited to a marriage certificate, passport, current Driver's License issued by the State of Texas, court documents, or nationalization documents to substantiate other documentation submitted in the application; and

(B) his or her social security number, as required under the Texas Family Code, §231.302;

(2) current application fee as established by the board. Application fees shall be waived for qualifying military service members, military veterans, and military spouses in accordance with Texas Occupations Code Chapter 55;

(3) proof of educational credentials pursuant to Subchapter D of this chapter (relating to Education);

(4) a supplementary experience record that includes at least two years of surveying experience as required under §134.41 of this chapter (relating to Supplementary Experience Record);

(5) a minimum of three reference statements conforming to Subchapter F of this chapter (relating to Reference Documentation);

(6) documentation of passage of examination(s), which may include official verifications from the National Council of Examiners for Engineering and Surveying (NCEES) or other jurisdictions as required under §134.61(g) of this chapter (relating to Surveying Examinations), if applicable;

(7) verification of a current license from another jurisdiction, if applicable;

(8) scores of TOEFL, if applicable;

(9) information regarding any criminal history including any judgments, deferred judgments or pre-trial diversions for a misdemeanor or felony provided in a format prescribed by the board together with copies of any court orders or other legal documentation concerning the criminal charges and the resolution of those charges; and

(10) For applications submitted on or after September 1, 2020, documentation of submittal of fingerprints for criminal history record check as required by Texas Occupations Code §1001.272

(e) At the time the application is filed, an applicant may request in writing that any transcripts, reference statements, evaluations, experience records or other similar documentation previously submitted to the board be included in a current application; however, new or updated information may be required.

(f) The NCEES record may be accepted as verification of an original transcript, licenses held, examinations taken, experience record and reference documentation to meet the conditions of subsection (d)(3) - (7) of this section.

(g) Once an application is accepted for review, the fee shall not be returned, and the application and all submissions shall become a permanent part of the board records.

(h) An applicant who is a citizen of another country shall show sufficient documentation to the board to verify the immigration status for the determination of his or her eligibility for a professional license in accordance with the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

(i) Once an application under this section is accepted for review, the board will follow the procedures in §134.83 of this chapter (relating to Executive Director Review, Evaluation and Processing of Applications) to review and approve or deny the application. The board

may request additional information or require additional documentation to clarify an application and ensure eligibility as needed. Pursuant to Texas Occupations Code §1001.453, the board may review the license holder's status and take action if the license was obtained by fraud or error or if the license holder may pose a threat to the public's health, safety, or welfare.

§134.23. Applications from Former Standard Registration Holders.

(a) A former standard registration holder, whose original license has been expired for two or more years and who meets the current requirements for licensure, may apply for a new registration.

(b) A former standard registration holder applying for a registration under the current law and rules must have the documentation requested in §134.21 of this chapter (relating to Application for Standard Registration) recorded and on file with the board and may request in writing that any transcripts, reference statements, evaluations, supplementary experience records or other similar documentation previously submitted to the board be applied toward the new application. The applicant shall:

(1) submit a new application in a format prescribed by the board;

(2) pay the application fee established by the board. Application fees shall be waived for qualifying military service members, military veterans, and military spouses in accordance with Texas Occupations Code Chapter 55;

(3) submit an updated supplementary experience record that includes at least the last two years of surveying experience, which may include experience before the previous license expired;

(4) submit a minimum of three reference statements conforming to Subchapter F of this chapter (relating to Reference Documentation), in which a registered professional land surveyor shall verify at least two years of the updated supplementary experience record; and

(5) For applications submitted on or after September 1, 2020, documentation of submittal of fingerprints for criminal history record check as required by §1001.272 of the Act, unless previously submitted to the board.

(c) Once an application from a former standard registration holder is received, the board will follow the procedures in §134.83 of this chapter (relating to Executive Director Review, Evaluation and Processing of Applications) to review and approve or deny the application.

(d) Any license registration issued to a former standard registration holder shall be assigned a new serial number.

(e) Once an application under this section is accepted for review, the board will follow the procedures in §134.83 of this chapter to review and approve or deny the application. The board may request additional information or require additional documentation to clarify an application and ensure eligibility as needed. Pursuant to Texas Occupations Code §1001.453, the board may review the license holder's status and take action if the license was obtained by fraud or error or the license holder may pose a threat to the public's health, safety, or welfare.

§134.25. Application from Out-Of-State Registration Holders.

(a) An applicant who holds a license or registration as a professional land surveyor from another state or U.S. jurisdiction having registration or licensing requirements substantially equivalent to the requirements of Texas may apply for a standard license.

(b) The Board shall determine whether the licensing or registration standards of the governmental authority under which the reciprocal applicant is licensed or registered are substantially equivalent to those standards required in the State of Texas at the time of licensure by the reciprocal state.

(c) If the Board determines that such standards are not substantially equivalent, the Board may require the reciprocal applicant to take and pass an examination not to exceed four (4) hours as required for applicants under §1071.259 of the Surveying Act.

(d) To be eligible for registration as a registered professional land surveyor (RPLS), one must submit a completed application.

(e) Applicants must speak and write the English language. Proficiency in English may be evidenced by possession of an accredited degree taught exclusively in English, or passage of the Test of English as a Foreign Language (TOEFL) with a written score of at least 550, a computer based score of at least 200 or an internet based score of at least 95 or other evidence such as significant academic or work experience in English acceptable to the executive director.

(f) Applicants for a registration shall submit:

(1) an application in a format prescribed by the board and shall:

(A) list his or her full, legal and complete name without abbreviations, nicknames, or other variations of the full legal name. If applicable, the applicant shall submit proof of a legal name change including but not limited to a marriage certificate, passport, current Driver's License issued by the State of Texas, court documents, or nationalization documents to substantiate other documentation submitted in the application; and

(B) list social security number, as required under the Texas Family Code, §231.302;

(2) current application fee as established by the board. Application fees shall be waived for qualifying military service members, military veterans, and military spouses in accordance with Texas Occupations Code Chapter 55;

(3) proof of educational credentials pursuant to Subchapter D of this chapter (relating to Education);

(4) supplementary experience record as required under §134.41 of this chapter (relating to Supplementary Experience Record);

(5) reference statements as required under Subchapter F of this chapter (relating to Reference Documentation); and

(6) documentation of passage of examination(s), which may include official verifications from the National Council of Examiners for Engineering and Surveying (NCEES) or other jurisdictions as required under §134.61(g) of this chapter (relating to Surveying Examinations).

(7) verification of a current license from another jurisdiction;

(8) scores of TOEFL, if applicable;

(9) information regarding any criminal history including any judgments, deferred judgments or pre-trial diversions for a misdemeanor or felony provided in a format prescribed by the board together with copies of any court orders or other legal documentation concerning the criminal charges and the resolution of those charges; and

(10) For applications submitted on or after September 1, 2020, documentation of submittal of fingerprints for criminal history record check as required by Texas Occupations Code §1001.272

(g) The NCEES record may be accepted as verification of an original transcript, licenses held, examinations taken, experience record and reference documentation to meet the conditions of subsection (d)(3) - (7) of this section.

(h) Once an application is accepted for review, the fee shall not be returned, and the application and all submissions shall become a permanent part of the board records.

(i) An applicant who is a citizen of another country shall show sufficient documentation to the board to verify the immigration status for the determination of his or her eligibility for a professional license in accordance with the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

(j) Once an application under this section is accepted for review, the board will follow the procedures in §134.83 of this chapter (relating to Executive Director Review, Evaluation and Processing of Applications) to review and approve or deny the application. The board may request additional information or require additional documentation to clarify an application and ensure eligibility as needed. Pursuant to Texas Occupations Code §1001.453 the board may review the license holder's status and take action if the license was obtained by fraud or error or if the license holder may pose a threat to the public's health, safety, or welfare.

§134.27. Application for Licensed State Land Surveyor.

(a) An applicant who holds a registration as a registered professional land surveyor in Texas may apply for a license as licensed state land surveyor.

(b) Applicants for a license shall submit to the board:

(1) an application in a format prescribed by the board;

(2) current application fee as established by the board. Application fees shall be waived for qualifying military service members, military veterans, and military spouses in accordance with Texas Occupations Code Chapter 55;

(3) submit a minimum of three reference statements conforming to Subchapter F of this chapter (relating to Reference Documentation), at least one of which must be from a currently active Licensed State Land Surveyor in good standing; and

(4) verification from the General Land Office (GLO) that the applicant has completed the Licensed State Land Surveyor introduction program provided by the GLO.

(c) Draft Working Sketch and Report. Once the submissions described in subsection (b) of this section are reviewed and determined to be complete by the executive director, the applicant will complete a draft working sketch and report as provided by the board in conjunction with the GLO. The draft working sketch and report will be submitted to the board for review and evaluation. If a draft working sketch is determined to be incomplete or incorrect, the board will provide the applicant with information concerning the noted deficiencies and the applicant will have an opportunity to rectify the deficiencies. Once the draft working sketch and report is determined by the executive director to be complete and acceptable, the applicant will be approved to take the Licensed State Land Surveyor examination.

(d) Licensed State Land Surveyor Examination. An applicant must successfully complete and pass the Licensed State Land Surveyor examination as required by §134.68 of this chapter (relating to Licensed State Land Surveyor Examination).

(e) Oath: After the successful completion and passage of the LSLS examination and prior to the issuance of a license, the applicant must take and submit proof of the completion of the oath as required by §1071.255 of the Surveying Act.

(f) After the completion of the requirements listed above, the applicant will be issued a license as a licensed state land surveyor.

§134.29. Application for Temporary License for Military Spouses who are Licensed or Registered in Another State.

(a) In accordance with §55.0041, Occupations Code, a military spouse who is currently licensed or registered in good standing by a jurisdiction with licensing or registration requirements that are substantially equivalent to the licensing requirements in this state may be issued a temporary license or registration.

(b) To be eligible for the confirmation described in Occupations Code §55.0041(b)(3), the military spouse shall provide the board:

(1) notice on a completed board-approved form, as required by Occupations Code §55.0041(b)(1);

(2) sufficient documentation to verify that the military spouse is currently licensed or registered in another jurisdiction and has no restrictions, pending enforcement actions, or unpaid fees or penalties relating to the license or registration;

(3) proof of the military spouse's residency in this state; and

(4) a copy of the military spouse's identification card.

(c) The board will determine whether the licensing or registration requirements of another jurisdiction are substantially equivalent to the licensing or registration requirements set forth by the board. In determining substantial equivalency, the board will consider factors including education, examinations, experience, and enforcement history.

(d) The board may not charge a fee for the license or registration as set forth in §134.21 of this title (relating to Application for Standard License).

(e) Authority to engage in land surveying.

(1) An individual who receives confirmation from the board, as described in Occupations Code §55.0041(b)(3):

(A) may engage in the practice of land surveying only for the period during which the individual meets the requirements of Occupations Code §55.0041(d); and

(B) must immediately notify the board if the individual no longer meets the requirements of Occupations Code §55.0041(d).

(2) An individual is not required to undergo a criminal history background check to be eligible for the authority granted under this subsection.

(f) Temporary license.

(1) An individual who receives confirmation from the board, as described in Occupations Code §55.0041(b)(3), is eligible to receive a temporary registration to practice land surveying issued by the Board if the individual:

(A) submits a completed application on a board-approved form; and

(B) undergoes and successfully passes a criminal history background check.

(2) A registration issued under this subsection expires annually and may be renewed twice, but expires on the third anniversary of the date the board provided the confirmation described in Occupations Code §55.0041(b)(3) and may not be further renewed.

(g) An individual who engages in the practice of land surveying under the authority, license, or registration established by this section is subject to the enforcement authority granted under Occupations Code, Chapter 51, and the laws and regulations applicable to the practice of land surveying.

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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Lance Kinney

Executive Director

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SUBCHAPTER D. EDUCATION

22 TAC §§134.31, 134.35, 134.37

STATUTORY AUTHORITY

The rules are proposed pursuant to Texas Occupations Code §§1001.101 and 1001.202, which authorize the Board to regulate engineering and land surveying and make and enforce all rules and regulations and bylaws consistent with the Act and Texas Occupations Code §1071 as necessary for the performance of its duties, the governance of its own proceedings, and the regulation of the practices of engineering and land surveying in this state. They are also proposed pursuant to Texas Occupations Code §1001.204, which authorizes the Board to assess fees under Texas Occupations Code chapter 1071 including, but not limited to, registration fees. No other codes, articles, or statutes are affected by this proposal.

§134.31. Educational Requirement for Applicants.

(a) Applicants for certification as a surveyor-in-training shall have graduated from at least one of the educational programs or program combinations listed in §1071.253 of the Surveying Act.

(b) Applicants for registration as a registered professional land surveyor shall have graduated from at least one of the educational programs or degree program combinations listed in §1071.254 of the Surveying Act.

(c) The Board will accept degrees conferred by programs accredited or approved by the (ABET), Applied and Natural Science Accreditation Commission (ANSAC), and other recognized institutions of higher education as described in §131.2 of this title (relating to Definitions).

(d) Degrees not accredited per subsection (c) of this section must be evaluated at the expense of the applicant by an organization approved by the Board.

§134.35. Proof of Educational Qualifications-Accredited/Approved Programs.

(a) An applicant for certification or registration shall provide to the board an official transcript for each degree or coursework to be relied upon to meet the educational requirements for certification or registration.

(b) Transcript(s) shall include either grades or mark sheets and proof that the degree was conferred.

(c) To ensure security of transcripts, each transcript must be received directly from:

(1) the registrar of the institution from which the applicant graduated; or

(2) the National Council of Examiners for Engineering and Surveying (NCEES) or a board approved commercial evaluation service provided the transcripts were forwarded directly to the board from the registrar of the institution from which the applicant graduated.

(d) The applicant is responsible for ordering and paying for all transcripts.

(e) Additional academic information, including but not limited to grades and transfer credit, shall be submitted to the board at the request of the executive director.

§134.37. English Translation.

All documents supporting the application written in language other than English shall be accompanied by a certified English translation.

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

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SUBCHAPTER E. EXPERIENCE

22 TAC §134.41, §134.43

STATUTORY AUTHORITY

The rules are proposed pursuant to Texas Occupations Code §§1001.101 and 1001.202, which authorize the Board to regulate engineering and land surveying and make and enforce all rules and regulations and bylaws consistent with the Act and Texas Occupations Code §1071 as necessary for the performance of its duties, the governance of its own proceedings, and the regulation of the practices of engineering and land surveying in this state. They are also proposed pursuant to Texas Occupations Code §1001.204, which authorizes the Board to assess fees under Texas Occupations Code chapter 1071 including, but not limited to, registration fees. No other codes, articles, or statutes are affected by this proposal.

§134.41. Supplementary Experience Record.

Applicants shall submit a supplementary experience record to the board as a part of the application. The supplementary experience record is a written summary documenting all of the applicant's land surveying experience used to meet the requirements for registration. The NCEES record experience information may be accepted as all or part of a supplementary experience record.

(1) The supplementary experience record shall be written by the applicant and shall:

(A) provide an overall description of the nature and scope of the work with emphasis on detailed descriptions of the land surveying work;

(B) clearly describe the land surveying work that the applicant personally performed;

(C) delineate the role of the applicant in any group surveying activity; and

(D) include any relevant training or participation in surveying organizations or societies that contribute to the applicant's competence and readiness for registration.

(2) The supplementary experience record shall be divided into employment engagements that correspond to those listed in the application and shall be written in sufficient detail to allow a board reviewer to document the minimum amount of experience required and to allow a reference provider to recognize and verify the quality and quantity of the experience claimed. The record shall include the percentage of time engaged in boundary land surveying as opposed to other types of surveying.

(3) Experience that is unsupported by references may not be considered. All experience claimed to meet the minimum requirements for registration shall be verified by one or more currently licensed or registered professional land surveyors(s) pursuant to §134.51 of this chapter (relating to Reference Providers).

(4) Experience from part-time employment must be accounted for proportionally to a standard 40-hour work week.

(5) The supplementary experience record must cover at least the minimum amount of time needed by the applicant for issuance of a registration as required by §§1071.254 or 1071.259 of the Surveying Act.

(6) No credit will be considered for experience obtained in violation of the Surveying Act or any applicable prior Act governing the surveying profession.

§134.43. Experience Evaluation.

(a) The board shall evaluate the nature and quality of the experience found in the supplementary experience record or the NCEES record experience information and shall determine if the work is satisfactory to the board for the purpose of issuing a license to the applicant. The board shall evaluate the supplementary experience record for evidence of the applicant's competency to be placed in responsible charge of land surveying work of a similar character.

(b) The following standards are to be used in evaluating experience:

(1) All experience must be obtained under the direction and guidance of one or more registered professional land surveyors.

(2) Experience shall be obtained in the area of boundary surveying and boundary determination only.

(3) Experience to be counted toward registration shall be counted from the date the applicant passes the National Council of Examiners for Engineering and Surveying (NCEES) fundamentals of land surveying examination.

(4) The required experience is divided into two types of experience, which are as follows:

(A) Office experience. The required office experience will consist of a minimum of three months of acceptable experience within each of the following categories, herein referred to as "acceptable office experience" for a minimum of one year:

(i) Research of county records and records search;

(ii) Legal principles, boundary reconciliation, and deed sketches;

(iii) Computations/traverse accuracy analysis;

(iv) Documentation/description/monumentation/preparation of final surveys. All two years of the experience requirement may be obtained as office experience.

(B) Field experience. The remaining acceptable experience, if not within the previously listed office experience categories, must be within the categories following:

(i) Field accuracies and tolerances;

(ii) Field traverse notes;

(iii) Monument search based on deed sketches.

(c) In the review of surveying experience, the board may consider additional elements including:

(1) whether the experience was sufficiently complex and diverse, and of an increasing standard of quality and responsibility;

(2) whether the quality of the surveying work shows minimum technical competency;

(3) whether the experience was gained in accordance with the provisions of the Surveying Act and board rules;

(4) whether non-traditional surveying experience such as sales or military service provides sufficient depth of practice;

(5) whether short engagements have had an impact upon professional growth;

(6) whether the applicant intends to practice or offer surveying services in Texas;

(7) whether the experience was supplemented by training courses or participation in surveying organizations or societies that contribute to the applicant's competence and readiness for registration.

(d) Surveying experience may be considered satisfactory for the purpose of registration provided that:

(1) the experience is gained during an engagement longer than three months in duration;

(2) the experience, when taken as a whole, meets the minimum time;

(3) the experience is not anticipated and has actually been gained at the time of application; and

(4) the time granted for the experience claimed does not exceed the calendar time available for the periods of employment claimed.

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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Lance Kinney

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SUBCHAPTER F. REFERENCE DOCUMENTATION

22 TAC §§134.51, 134.53, 134.55

STATUTORY AUTHORITY

The rules are proposed pursuant to Texas Occupations Code §§1001.101 and 1001.202, which authorize the Board to regulate engineering and land surveying and make and enforce all rules and regulations and bylaws consistent with the Act and Texas Occupations Code §1071 as necessary for the performance of its duties, the governance of its own proceedings, and the regulation of the practices of engineering and land surveying in this state. They are also proposed pursuant to Texas Occupations Code §1001.204, which authorizes the Board to assess fees under Texas Occupations Code chapter 1071 including, but not limited to, registration fees. No other codes, articles, or statutes are affected by this proposal.

§134.51. Reference Providers.

(a) Applicants for registration shall provide reference statements to verify suitability for registration and all land surveying experience claimed to meet the minimum years of experience required. Reference statements will be used to verify the applicant's experience and to determine to the extent the experience is creditable land surveying experience. The NCEES record reference documentation may be accepted as reference statements as specified in this section.

(b) All reference providers shall be registered or licensed professional surveyors and have personal knowledge of the applicant's surveying experience and qualifications.

(c) No member of the Board will be accepted as a reference unless the Board member is the registered professional land surveyor with the most knowledge of the applicant's experience.

(d) Registered or licensed professional surveyors who provide reference statements and who are licensed or registered in a jurisdiction other than Texas shall include a copy of their pocket card or other verification to indicate that their license or registration is current and valid.

(e) Registered professional land surveyors who provide reference statements shall not be compensated.

(f) Reference statements on file with the board from previous applications may be used upon written request of the applicant and with the approval of the executive director. Additional references may be required.

(g) The board members and staff may, at their discretion, rely on any, all, or none of the reference statements provided in connection with an application for licensure.

§134.53. Reference Statements.

(a) The applicant shall make available to each reference provider, the board's reference statement form and a complete copy of the applicable portion(s) of the supplementary experience record.

(b) Persons providing reference statements verifying an applicant's land surveying experience shall:

(1) complete and sign the reference statement in a format prescribed by the board; and

(2) review, evaluate, and sign all applicable portions of the supplementary experience record(s). The reference provider's signature indicates that he has read the supplementary experience record(s), that the record(s) are correct to the best of his knowledge, and that the experience is relevant to registration. If the reference provider disagrees with or has comments or clarification to the information provided by the applicant, the reference provider should submit written comments or concerns to the board.

(3) For the purposes of this section, a reference statement and associated portions of the applicant's supplementary experience record submitted directly to the board through a secure method prescribed by the board will be considered "signed" as required in this subsection.

(c) The reference provider shall submit to the board both the reference statement and the supplementary experience record.

(d) For any reference statement to meet the requirements of the board, the reference statement must be secured. For a reference statement to be considered secure, the reference provider shall:

(1) place the completed reference statement and reviewed supplementary experience records in an envelope;

(2) secure the flap of the envelope to prevent tampering; and

(3) the reference provider shall return the sealed envelope to the applicant or transmit the documents directly to the board.

(e) Secured reference envelopes shall be submitted to the board by applicant or reference provider.

(f) Reference documents submitted directly to the board by the reference provider in a method prescribed by the board will meet the requirements of subsection (d) of this section.

(g) Evidence of retaliation by an applicant against a person who provides reference material for an application may be considered in the application process as described in §134.81 of this chapter (relating to Receipt and Processing of Applications by the Board.).

(h) The NCEES record reference documentation may be accepted in lieu of reference statements as specified in this section.

§134.55. Reference Communication.

Additional references may be required of the applicant when the executive director finds it necessary to adequately verify the applicant's experience. The board and/or staff may at their discretion communicate with any reference or seek additional information.

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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Lance Kinney

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SUBCHAPTER G. EXAMINATIONS

22 TAC §§134.61, 134.65, 134.67 - 134.69, 134.71, 134.73, 134.75

STATUTORY AUTHORITY

The rules are proposed pursuant to Texas Occupations Code §§1001.101 and 1001.202, which authorize the Board to regulate engineering and land surveying and make and enforce all rules and regulations and bylaws consistent with the Act and Texas Occupations Code §1071 as necessary for the performance of its duties, the governance of its own proceedings, and

the regulation of the practices of engineering and land surveying in this state. They are also proposed pursuant to Texas Occupations Code §1001.204, which authorizes the Board to assess fees under Texas Occupations Code chapter 1071 including, but not limited to, registration fees. No other codes, articles, or statutes are affected by this proposal.

§134.61. Surveying Examinations Required for a Registration to Practice as a Professional Surveyor.

(a) Applicants are required to take two written experience and knowledge examinations, furnished and graded by the NCEES or by the board.

(b) All examinations shall be in the English language.

(c) Experience and knowledge examinations may be a Fundamentals of Surveying examination and a Principles and Practice of Surveying examination prepared by the NCEES or equivalent as determined by the board.

(d) The board shall publish examination information which shall include at least the following:

(1) the places where the examinations shall be held;

(2) the dates of the examinations;

(3) the deadline date for an examinee to schedule an examination, if applicable;

(4) fees for each examination; and

(5) types of examinations offered.

(e) Examinations may be scheduled by timely submission of registration information in a format specified by the Board with the appropriate examination fee.

(f) Individuals who plan to take an examination must have their registration completed by the close of regular business on the date established by the applicable examination schedule.

(g) Applicants providing an official verification from NCEES or an NCEES member board certifying that they have passed the Fundamentals of Surveying and/or Principles and Practices of Surveying examination(s) in that state shall not be required to take the examination(s) again.

(h) Examination registration fees may be collected by the board or a contracted exam administrator and shall be refunded or transferred to future examination administrations in accordance with established board or exam administrator policy and if approved by the executive director.

(i) Examination candidates who have been called into active U.S. military duty or who are re-assigned military personnel and will not be available to sit for an examination may request an extension of the approved examination period defined in §134.67 of this chapter (relating to Examination on the Principles and Practice of Surveying). Such candidates shall submit adequate documentation, including copies of orders, and a request to extend the approved examination period to the board. The candidate shall notify the board of their availability to resume the examination period within 60 days of release from active duty or when they are deployed to a location that provides a board approved examination.

(j) All examinations shall be administered to applicants with disabilities in compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.), and its subsequent amendments. Special accommodations can be provided for examinees with physical or mental impairments that substantially limit life activities.

(1) Any individual with a disability who wishes to request special accommodations must submit an official request and supporting medical documentation that has been generated by an appropriate licensed health care professional in a format specified by the contracted exam administrator.

(2) The request must be submitted prior to the exam registration deadline established by the contracted exam administrator.

(3) The board or the contracted exam administrator may request additional documentation to substantiate a request for special accommodations.

(4) The requestor will be notified of approval of the request or reason for denial of the request by the board or contracted exam administrator.

(k) Pursuant to Texas Occupations Code §54.002, if an examination candidate's religious beliefs prevent the candidate from taking an examination on a religious holy day that conflicts with the normally scheduled examination date, the candidate shall submit a request to the contracted exam administrator and the board to take the examination on an alternate date.

(l) Upon successful passage of the experience and knowledge examinations an applicant shall be considered to have met the examination requirements for registration as a registered professional land surveyor in Texas.

§134.65. Examination on the Fundamentals of Surveying.

(a) An applicant who has met the requirements set forth in §134.3 of this chapter (relating to Surveyor-In-Training Application And Certification) and §1071.253 of the Surveying Act, and who has been approved by the executive director, shall be eligible to sit for the Fundamentals of Surveying examination.

(b) The board shall utilize the national fundamentals of surveying examination developed and administered by NCEES to meet this requirement.

(c) The examination on the fundamentals of surveying shall be offered according to the schedule determined by the NCEES.

§134.67. Examination on the Principles and Practice of Surveying.

(a) The examination on the principles and practice of surveying is open only to applicants who have received board approval to take the exam and Texas registered professional land surveyors who wish to take the examination for record purposes.

(b) An applicant approved to take the examination on the principles and practice of surveying:

(1) shall be advised of the date he or she is eligible;

(2) shall be solely responsible for timely scheduling for the examination and any payment of examination fees;

(3) shall have no more than three examination attempts and those attempts must be completed within a four-year period starting with the date of the first exam taken by the applicant. No extensions shall be granted except as provided for in §134.61(i) of this chapter (relating to Surveying Examinations Required for a License to Practice as a Professional Surveyor); and

(4) shall have no more than eight years from the date of approval to complete the allowed exam attempts.

(c) For the purposes of this section, exam attempt means a unique administration of an examination or exam component for which attendance is documented.

(d) An applicant who does not pass the examination on the principles and practice of surveying within the approved examination period described in subsection (b) of this section is considered not approved and may not re-apply for approval until he or she has obtained at least one (1) year of additional surveying experience as described in Subchapter E of this chapter (relating to Experience) or until the applicant has completed at least six (6) additional semester hours of formal college level classroom courses relevant to land surveying. The time period to obtain additional surveying experience or enroll in additional college courses commences on the date of the last exam attempt or when the approved examination period expired. Applicants meeting the additional experience or education requirements must apply in accordance with §134.21 of this chapter (relating to Application for Standard Registration) and receive approval for additional exam attempts.

(e) The examination on the principles and practice of surveying shall be offered according to the schedule determined by the NCEES or by the board.

(f) The principles and practice of surveying exam shall be constructed according to §1071.256 of the Surveying Act. The examination shall be written and so designed to aid the Board in determining the applicant's knowledge of land surveying, mathematics, land surveying laws, and his/her general fitness to practice the profession as outlined in the Surveying Act.

(g) The board may develop an examination to meet the requirements of this section.

(h) Starting January 1, 2021, the national NCEES Principles and Practice of Surveying examination, in conjunction with a state-specific Texas Land Surveying examination, may be used to meet the requirements of this section.

(i) The state-specific Texas Land Surveying examination shall be developed by the board to supplement the NCEES Principles and Practice of Surveying examination and cover any topic areas specific to the professional practice of land surveying in Texas that are not covered by the NCEES Principles and Practice of Surveying examination. The state-specific Texas Land Surveying examination shall not exceed four hours in duration.

§134.68. Licensed State Land Surveyor Examination.

(a) The Licensed State Land Surveyor examination is open only to applicants who have received board approval to take it.

(b) An applicant approved to take the licensed state land surveyor examination:

(1) shall be advised of the date he or she is eligible; and

(2) shall be solely responsible for timely scheduling for the examination and any payment of examination fees.

(c) For the purposes of this section, exam attempt means a unique administration of an examination for which attendance is documented.

(d) The licensed state land surveyor examination shall be offered according to the schedule determined by the board.

(e) The licensed state land surveyor examination shall be constructed according to §1071.256 of the Surveying Act. The exam shall be written and so designed to test the applicant's knowledge of the history, files, and functions of the General Land Office, survey construction, legal aspects pertaining to state interest in vacancies, excesses, and unpatented lands, and familiarity with other state interests in surface and subsurface rights as covered by existing law.

(f) The licensed state land surveyor examination consists of two four-hour sections and each part graded independently. An appli-

cant is required to pass both sections of the examination in the same exam attempt. If an applicant does not pass both parts, the exam is not passed and the examinee may register for and attempt the examination again.

(g) The board shall develop an examination to meet the requirements of this section (relating to the licensed state land surveying examination).

§134.69. Waiver of Examinations.

(a) Examinations are considered an integral part of the licensing process; all applicants are expected to have passed the examinations or to offer sufficient evidence of their qualifications in the absence of passage of the examinations. The board may waive the examinations on the fundamentals of surveying for applicants who:

(1) do not pose a threat to the public health, safety, or welfare;

(2) request a waiver in writing at the time the application is filed; and

(3) meet the requirements of subsections (b) of this section.

(b) Waiver of Fundamentals of Surveying Examination. Applications for a waiver of the fundamentals of surveying examination will only be accepted from Out-of-State Registration Holders.

(1) Applicants must meet the requirements for application as an Out-of-State Registration Holder per §134.25 of this chapter (relating to Application from Out-Of-State Registration Holders);

(2) The applicant has at least 4 years of creditable surveying experience post licensure or registration as a licensed or registered land surveyor in another state or jurisdiction.

§134.71. Examination for Record Purposes.

A land surveyor currently registered in Texas may take the examination on the principles and practice of surveying for record purposes. Unless required to do so by the Board, an individual who has passed an examination may not re-take the examination.

§134.73. Examination Results and Analysis.

(a) For each examinee that has completed the examination on the fundamentals of surveying or the examination on the principles and practice of surveying, the board or NCEES shall provide a numerical score, if applicable, and an indication of whether the person passed or failed the examination.

(b) For those exams or exam components with numerical scores, the passing score is 70.

(c) In accordance with Texas Occupations Code §1001.273, the board or NCEES will provide a written analysis furnished by the NCEES to anyone who has failed either the examination on the fundamentals of surveying or the examination on the principles and practice of surveying.

(d) Once the board has provided a written analysis of an examination, no further review or re-grading shall be available for the examination except as provided in subsection (e) of this section. However, the executive director may, at his or her discretion, review the administrative portions of an examination answer sheet to resolve administrative uncertainties and/or determine the manner in which an examination should be scored.

(e) An examinee may request manual verification of grading of the examination on the principles and practice of surveying results only as permitted by the uniform examination procedures set out by NCEES or by the board:

(1) only at the date(s) and time(s) specified by NCEES in its notification to the examinee of his or her failure of the examination; and

(2) provided that any costs associated with manual verification by NCEES will be paid by the examinee.

§134.75. Examination Irregularities.

(a) The examinations will be administered in accordance with the NCEES or the board policies and procedures. An examinee who does not abide by the NCEES or the board policies and procedures will be subject to dismissal from the remainder of the examination. Cheating on examinations will not be tolerated. Examination proctors who observe that an examinee is giving assistance to or receiving assistance from another person, compromising the integrity of the examination, or participating in any other form of cheating or violation of exam policies or procedures during an examination may require the examinee to surrender all examination materials. The examinee involved may be required to leave the room and may not be permitted to return. Evidence of cheating found after the examination shall also be a cause for action. The executive director shall be informed of such instances of suspected cheating at the earliest possible opportunity and will determine appropriate action.

(b) If the executive director determines that sufficient evidence exists of an examination irregularity related to an examinee, an examinee has knowingly violated NCEES or the board policies and procedures, or an examinee cheated, the examinee may have his or her exam results invalidated, and may be barred from taking any examination in Texas for a period of up to two years. Any application for licensure pending or approved for examination may be denied and will be evaluated or re-evaluated on that basis. Any examination taken and passed while barred from taking an examination in Texas will not be acceptable for licensure purposes in Texas.

(c) A registered professional land surveyor or licensed state land surveyor suspected of cheating may be charged with violating Texas Occupations Code §1001.452 and applicable board rules.

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

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Lance Kinney

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SUBCHAPTER H. REVIEW PROCESS OF APPLICATIONS AND REGISTRATION ISSUANCE

**22 TAC §§134.81, 134.83, 134.87, 134.89, 134.91, 134.93,
134.95, 134.97**

STATUTORY AUTHORITY

The rules are proposed pursuant to Texas Occupations Code §§1001.101 and 1001.202, which authorize the Board to regulate engineering and land surveying and make and enforce all rules and regulations and bylaws consistent with the Act and

Texas Occupations Code §1071 as necessary for the performance of its duties, the governance of its own proceedings, and the regulation of the practices of engineering and land surveying in this state. They are also proposed pursuant to Texas Occupations Code §1001.204, which authorizes the Board to assess fees under Texas Occupations Code chapter 1071 including, but not limited to, registration fees. No other codes, articles, or statutes are affected by this proposal.

§134.81. Receipt and Processing of Applications by the Board.

(a) Upon receipt of an application for registration and application fee at the board office, the board shall initiate a review of the credentials submitted. Applicants who meet the registration requirements shall be issued a registration. Applicants who fail to meet one or more of the registration requirements shall be denied a registration.

(b) Once an application and fee is received by the board, no refunds will be granted. By submitting an application and fee, the applicant attests that he or she has reviewed the education, experience, reference, and examination requirements for registration as prescribed in this chapter and that he or she is qualified for a registration based on these requirements.

(c) Once an application has entered the review process as described in §134.83 of this chapter (relating to Executive Director Review, Evaluation and Processing of Applications), the executive director may determine that the application has been so altered by the addition of supplemental information that the description of the applicant's qualifications has been substantially revised. If the executive director determines that an application is substantially revised, the application will be treated as a new application and reviewed under the rules in place on the date of the determination. The executive director will provide an applicant with written notice if an application is determined to be substantially revised. If the applicant disagrees with a determination by the Executive Director, the applicant may make an appeal to the Licensing Committee.

(d) Once an application has been reviewed and before a registration has been issued or denied, the board will not accept a new or amended application from the applicant. This does not prohibit the executive director, a board member, or the board from requesting, when they deem necessary, additional information from an applicant regarding his or her application.

(e) In the event that information bearing on the suitability of an applicant is discovered after submission of an application but prior to issuance of a registration, the board may rescind or alter any previous decision, or hold the application in abeyance, or may deny an application until the suitability of the applicant is adequately established.

(f) An applicant may request an application to be withdrawn from consideration provided that the application has not been approved for registration subject to passage of an examination. All requests for withdrawal must be submitted to the board in writing.

(g) An applicant may only have one pending application on file with the board at any time.

(h) Pursuant to Chapter 55, Texas Occupations Code, an application for registration from a military service member, military veteran or military spouse shall be processed and reviewed as soon as practicable in accordance with subsection (a) of this section. All other applications will be processed in the order they were received.

§134.83. Executive Director Review, Evaluation and Processing of Applications.

All references to the executive director in this section shall allow for the delegation of authority by the executive director to other staff members.

An application for registration shall be handled in the following manner and order:

(1) The application is received at the board office.

(2) The executive director shall review the application for completeness.

(3) The executive director shall:

(A) accept the application as complete for processing and evaluating; or

(B) accept the application and notify the applicant at the earliest possible time of deficient information and give the applicant 60 calendar days to complete the application. The executive director or designee may grant the applicant an additional 30-day period to submit any information identified as necessary to complete the application. If the applicant does not submit all documents required in the time allowed for such submittals, the application shall be administratively withdrawn and further processing performed in accordance with §134.89 of this chapter (relating to Processing of Administratively Withdrawn Applications).

(4) Once an application is complete, the executive director shall review and evaluate the qualifications found in the application and determine whether the applicant should interview with the licensing and registration committee or whether the application should be:

(A) approved;

(B) denied; or

(C) referred to the Licensing and Registration Committee in accordance with §134.93 of this chapter (relating to Personal Interviews of Applicants).

(5) The executive director may approve the application without further board review unless the application is accompanied by an unfavorable recommendation by one or more reference providers.

(6) The executive director may deny an application for registration without further board review if the applicant does not:

(A) have sufficient years of experience to qualify for registration;

(B) have an education acceptable to the board as prescribed in §134.31 of this chapter (relating to Educational Requirement for Applicants);

(C) pass an examination within the time allotted; or

(D) complete the application and it becomes administratively withdrawn for more than six months.

(7) An application for registration that cannot be approved or denied by the executive director pursuant to paragraphs (5) and (6) of this section shall be referred to the Licensing and Registration Committee in accordance with §134.93 of this chapter (relating to Personal Interviews of Applicants)

§134.87. Final Action on Applications.

(a) Upon approval of an application by the executive director, the licensing and registration committee, or the board in a manner provided in this subchapter, the executive director shall:

(1) issue a registration subject to the applicant's taking and passing the examination on the principles and practice of surveying according to §134.67 of this chapter (relating to Examination on the Principles and Practice of Surveying); or

(2) issue a registration to an applicant who has passed the examination on the principles and practice of surveying.

(b) The board shall deny an application if any of the following occurs:

(1) the application has been administratively withdrawn for a period of six months;

(2) a majority of the full board voted to deny an application on the basis that the applicant does not meet the requirements of the Surveying Act and board rules; or

(3) the applicant did not pass the examination on the principles and practice of surveying in the prescribed time.

(c) The board by vote shall confirm the action taken on a registration at its next regularly scheduled meeting.

(d) The executive director shall advise the applicant in writing of any decision of the executive director, the licensing and registration committee, or the board, as applicable.

§134.89. Processing of Administratively Withdrawn Applications.

(a) To reactivate an administratively withdrawn application, the applicant must submit:

(1) a reactivation fee as established by the board;

(2) a new application form complete with signatures;

(3) updated supplementary experience records for the time period since the application was first submitted; and

(4) documentation of submittal of fingerprints for criminal history record check as required by Texas Occupations Code §1001.272, unless previously submitted to the board.

(b) If the application has been administratively withdrawn for a period of six months, the application shall be denied.

§134.91. Reconsideration of Denied Applications.

(a) Reconsideration is not available to persons whose application is denied because of the failure to pass the examination on the principles and practice of surveying.

(b) If the application is denied because of the merits of the application, the completeness or incompleteness of the application, the failure to demonstrate an acceptable education, or the failure to claim the required creditable experience, then the applicant may initiate a request that the application be reconsidered provided:

(1) the request is in writing;

(2) the request includes additional information bearing on the deficiency of the original application;

(3) the request is received at the board office by the close of business on or before the 60th calendar day from the date of the letter notifying the applicant of denial; and

(4) no previous reconsideration has been given during this application.

(c) If a valid request for reconsideration is received, the application shall repeat the process of application review. Applicants whose applications or requests for an examination waiver are denied under reconsideration may request a personal interview.

§134.93. Personal Interviews of Applicants.

(a) A personal interview with the Licensing and Registration Committee of the board may be scheduled by the executive director to:

(1) obtain additional information or clarify submitted information as requested by the board; or

(2) reconsider a denied application resulting from §134.91 of this chapter (relating to Reconsideration of Denied Applications) at

the applicant's request, provided that a written request has been submitted and received at the board's office by the close of business on or before the 60th calendar day from the date of the notification of denial.

(b) The personal interview is not to be construed as a hearing, but is held to obtain additional information in support of an application; and

(c) The executive director may excuse and reschedule an applicant for a personal interview for cause. The executive director may also withdraw an invitation or permission for a personal interview including a previous failure to appear.

(d) The Licensing and Registration Committee or the board's designated representative shall make recommendations to the full board at the next available board meeting to approve or deny an application.

(e) The Licensing and Registration Committee may request additional information or require additional documentation to clarify an application and ensure eligibility.

(f) Another personal interview with the full board may be scheduled with a written request in accordance with subsection (a)(2) of this section. This interview with the full board shall constitute the last administrative appeal available to the applicant.

§134.95 Application Files.

(a) Images of applications that have been through the complete administrative process for approval or denial shall be stored digitally and/or microfilmed.

(b) One copy of the records shall be kept in the board office file and one copy shall be kept in the permanent State Archive file.

(c) All documents incidental to the complete application may be retained at the discretion of the board.

§134.97 Issuance Of Registration.

(a) A registration as a registered professional land surveyor shall be issued upon the approval of the application pursuant to §134.87(a) of this chapter (relating to Final Action on Applications).

(b) The new registration holder shall be assigned a serial number issued consecutively in the order of approval.

(c) The executive director shall notify the new registration holder in writing of:

- (1) the registration issuance;
- (2) the registration serial number;
- (3) the instructions to obtain a seal; and
- (4) the instructions to return a seal imprint and a recent, wallet-size, portrait photograph.

(d) Within 60 days from the written notice from the executive director of registration issuance, the new registration holder shall:

- (1) obtain a seal(s);
- (2) place the seal imprint(s) on the form provided by the board and return it to the board office; and
- (3) furnish a wallet-size portrait photograph for the board's files.

(e) Failure to comply with subsection (d) of this section is a violation of board rules and shall be subject to sanctions.

(f) The printed registration certificate shall bear the signature of the chair and the secretary of the board, bear the seal of the board, and bear the full name and registration number of the registration holder.

(g) The printed registration certificate shall be uniform and of a design approved by the board. Any new designs for a printed registration certificate shall be made available to all registration holders upon request.

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

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CHAPTER 136. SURVEYING FIRM REGISTRATION

22 TAC §§136.1, 136.3, 136.5

The Texas Board of Professional Engineers and Land Surveyors (Board) proposes new rules to 22 Texas Administrative Code, Chapter 136, specifically §§136.1, 136.3, and 136.5 regarding the registration process for professional land surveying firms in Texas. These proposed changes are referred to as "proposed rules."

EXPLANATION OF AND JUSTIFICATION FOR THE RULES

The rules under 22 Texas Administrative Code Chapter 136 implement Texas Occupations Code, Chapter 1001, the Texas Engineering Practice Act, and Occupations Code, Chapter 1071, the Professional Land Surveying Practices Act.

The proposed rules implement necessary changes as required by House Bill (HB) 1523, 86th Legislature, Regular Session (2019), related to the merger of operations of the Texas Board of Professional Engineers and the Texas Board of Professional Land Surveying (TBPLS) into the Texas Board of Professional Engineers and Land Surveyors (TBPELS).

As required by HB 1523, the operations of the two agencies have been merged into one, including the registration of surveying firms. The previous agency rules (22 Texas Administrative Code, Chapter 661), related to registration of land surveying firms, have been merged into Chapter 136 per the guidance of the Secretary of State. These rules have been formatted to be similar to the licensure rules for engineers (Chapter 135) and edits made for format and clarity.

SECTION-BY-SECTION SUMMARY

The proposed rules create a new §136.1 concerning the Board's general authority to register surveying firms and its authority to deny a firm registration if board requirements are not met in conformance with TBPLS rule §661.55.

The proposed rules create a new §136.3 concerning the application process to register surveying firms. Like TBPLS rule §661.55, it provides the details for the application process.

The proposed rules create a new §136.5 concerning the renewal of surveying firms. This rule directs firm registrants to Chapter 138 for guidance on the firm renewal process and requirements for land surveying firms.

FISCAL IMPACT ON STATE AND LOCAL GOVERNMENT

Dr. Lance Kinney, Ph.D., P.E., Executive Director for the Board, has determined that for each year of the first five years the proposed rules are in effect, there are no estimated additional costs or reductions in costs to state or local government as a result of enforcing or administering the proposed rules. These proposed rules impose no additional costs. HB 1523 transferred regulatory authority from TBPLS to TBPELS, and these rules merely reflect the transfer of authority.

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

LOCAL EMPLOYMENT IMPACT STATEMENT

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

PUBLIC BENEFITS

Dr. Kinney has determined that for each year of the first five-year period the proposed rules are in effect, the public benefit will be clear requirements for the efficient and effective registration of land surveying firms by TBPELS in accordance with HB 1523 and Texas Occupations Code chapters 1001 and 1071.

PROBABLE ECONOMIC COSTS TO PERSONS REQUIRED TO COMPLY WITH PROPOSAL

Dr. Kinney has determined that for each year of the first five-year period the proposed rules are in effect, the rules related to registration do not make substantive changes to the firm registration process and have no additional costs for registrants or the agency.

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

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

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

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

GOVERNMENT GROWTH IMPACT STATEMENT

Pursuant to Government Code §2001.0221, the agency provides the following Government Growth Impact Statement for the proposed rules.

HB 1532 transferred the regulation of land surveying to TBPELS, and these rules reflect a transfer of that regulatory authority from the former Texas Board of Professional Engineers to the TBPELS without any growth in government. Therefore, for each year of the first five years the proposed rules are in effect, the agency has determined the following:

1. The proposed rules do not create or eliminate a government program.
2. Implementation of the proposed rules does not require the creation of new employee positions or the elimination of existing employee positions.
3. Implementation of the proposed rules does not require an increase or decrease in future legislative appropriations to the agency.
4. The proposed rules do not require an increase or decrease in fees paid to the agency.
5. The proposed rules do not create a new regulation.
6. The proposed rules do not increase the number of individuals subject to the rules' applicability.
7. The proposed rules do not positively or adversely affect this state's economy.

TAKINGS IMPACT ASSESSMENT

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

ENVIRONMENTAL RULE ANALYSIS

The Board has determined that the proposed rules are not brought with the specific intent to protect the environment or reduce risks to human health from environmental exposure; thus, the Board asserts the proposed rules are not a "major environmental rule," as defined by Government Code §2001.0225. As a result, the Board asserts preparation of an environmental impact analysis, as provided by §2001.0225, is not required.

PUBLIC COMMENTS

Any comments or request for a public hearing may be submitted, no later than 30 days after the publication of this notice, to Lance Kinney, Ph.D., P.E., Executive Director, Texas Board of Professional Engineers, 1917 S. Interstate 35, Austin, Texas 78741, faxed to his attention at (512) 440-0417 or sent by email to rules@engineers.texas.gov.

STATUTORY AUTHORITY

The new rules are proposed pursuant to Texas Occupations Code §§1001.101 and 1001.202, which authorize the Board to regulate engineering and land surveying and make and enforce all rules and regulations and bylaws consistent with the Act and Texas Occupations Code §1071 as necessary for the performance of its duties, the governance of its own proceedings, and the regulation of the practices of engineering and land surveying in this state. They are also proposed pursuant to Texas Occupations Code §1001.204, which authorizes the Board to assess fees under Texas Occupations Code chapter 1071 including, but not limited to, registration fees.

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

§136.1. Authority.

The board shall receive, evaluate, and process all applications for a firm registration issued under the authority of the Surveying Act. Applications for firm registration shall be accepted from all firms offering to engage or engaging in the practice of professional land surveying for

the public in Texas. For the purposes of this section, the term "public" includes but is not limited to political subdivisions of the state, business entities, and individuals. The board has the authority under the Surveying Act to issue an annual firm registration to applicants that, subsequent to review and evaluation, are found to have met all requirements of the Surveying Act and board rules. The board has the authority under the Surveying Act to deny a firm registration to any applicant found not to have met all requirements of the Surveying Act and board rules.

§136.3. Application for a Certificate of Registration.

(a) The board may issue a firm registration only to applicant firms having submitted information to meet the requirements set forth in §1071.352 of the Surveying Act and this section.

(b) The authorized official of the firm shall complete the form furnished by the board including, but not limited to, the following information listed in paragraphs (1) - (7) of this subsection:

(1) the name, address, and telephone number of the firm offering to engage or engaging in the practice of professional land surveying for the public in Texas;

(2) the name, position, address, and telephone numbers of each officer or director;

(3) the name, address, and current active Texas registered professional land surveyor registration number of each land surveyor employee performing land surveying for the public in Texas on behalf of the firm;

(4) the name, location, and telephone numbers of each subsidiary or branch office offering to engage or engaging in the practice of professional engineering for the public in Texas, if any;

(5) the federal employer identification number (EIN) for the firm;

(6) a signed statement attesting to the correctness and completeness of the application; and

(7) a registration fee as established by the board.

(c) The application fee will not be refunded.

§136.5. Renewal and Good Standing.

To maintain a certificate of registration in good standing, a firm shall abide by the compliance rules as prescribed in Chapter 138, Subchapter D of this title (relating to Firm and Governmental Entity Compliance).

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 21, 2020.

TRD-202002991

Lance Kinney

Executive Director

Texas Board of Professional Engineers and Land Surveyors

Earliest possible date of adoption: September 6, 2020

For further information, please call: (512) 440-3080



CHAPTER 139. ENFORCEMENT

The Texas Board of Professional Engineers and Land Surveyors (Board) proposes amendments to 22 Texas Administrative Code, Chapter 139, specifically §§139.1, 139.11, 139.13, 139.17, 139.19, 139.21, 139.23, 139.31, 139.33, 139.41,

139.43, 139.45, 139.47, 139.49, 139.51, and 139.63, regarding the enforcement processes and procedures of the agency. These proposed changes are referred to as "proposed rules."

EXPLANATION OF AND JUSTIFICATION FOR THE RULES

The rules under 22 Texas Administrative Code Chapter 139 implement Texas Occupations Code, Chapter 1001, the Texas Engineering Practice Act.

The proposed rules implement necessary changes as required by House Bill (HB) 1523, 86th Legislature, Regular Session (2019), related to the merger of operations of the Texas Board of Professional Engineers and the Texas Board of Professional Land Surveying into the Texas Board of Professional Engineers and Land Surveyors (TBPELS).

As required by HB 1523, the operations of the two agencies have been merged into one and the associated rules regarding enforcement processes and procedures of the agency have been merged into Chapter 139 per the guidance of the Secretary of State. These rules reflect language that has been expanded to include registered land surveyors within the scope of the current enforcement processes, the regulation of land surveying, and other changes incorporated due to the merger.

SECTION-BY-SECTION SUMMARY

The proposed rules amend §139.1 by adding references to land surveying and the Professional Land Surveying Practices Act to reflect the merger.

The proposed rules amend §139.11 by adding references to land surveying registration and the Professional Land Surveying Practices Act to reflect the merger.

The proposed rules amend §139.13 by updating the agency website address and complaint email address.

The proposed rules amend §139.17 by adding references to the Professional Land Surveying Practices Act to reflect the merger.

The proposed rules amend §139.19 by adding references to the Professional Land Surveying Practices Act to reflect the merger and stating that board rule violations are also grounds for enforcement actions.

The proposed rules amend §139.21 by adding references to land surveyors and the Professional Land Surveying Practices Act to reflect the merger.

The proposed rules amend §139.23 by adding references to land surveyors to reflect the merger.

The proposed rules amend §139.31 by adding references to land surveying registration and the Professional Land Surveying Practices Act to reflect the merger. The title of the rule is changed to reflect that board rule violations are also a basis for enforcement actions.

The proposed rules amend §139.33 to change the term Informal Conference to Informal Settlement Conference.

The proposed rules amend §139.41 by adding references to land surveying registration and changing a statutory citation to conform with changes to Occupations Code 1001 by HB 1523.

The proposed rules amend §139.43 by adding references to land surveying registration.

The proposed rules amend §139.45 by adding references to land surveying registration and the Professional Land Surveying Practices Act to reflect the merger.

The proposed rules amend §139.47 by adding references to land surveying registration.

The proposed rules amend §139.49 by adding references to land surveying registration.

The proposed rules amend §139.51 by adding references to land surveying registration.

The proposed rules amend §139.63 by modifying language related to extensions of time related to enforcement actions to conform with the Administrative Procedures Act, Government Code 2001.

FISCAL IMPACT ON STATE AND LOCAL GOVERNMENT

Dr. Lance Kinney, Ph.D., P.E., Executive Director for the Board, has determined that for each year of the first five years the proposed rules are in effect, there are no estimated additional costs or reductions in costs to state or local government as a result of enforcing or administering the proposed rule. HB 1523 transferred regulatory authority from TBPLS to TBPELS, and these rules merely reflect that transfer of authority.

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

LOCAL EMPLOYMENT IMPACT STATEMENT

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

PUBLIC BENEFITS

Dr. Kinney has determined that for each year of the first five-year period the proposed rules are in effect, the public benefit will be the efficient and effective merger and operations of the Texas Board of Professional Engineers and Land Surveyors per HB 1523 and clarified rule language.

PROBABLE ECONOMIC COSTS TO PERSONS REQUIRED TO COMPLY WITH PROPOSAL

Dr. Kinney has determined that for each year of the first five-year period the proposed rules are in effect, there are no anticipated economic costs to persons who are required to comply with the proposed rules because the changes are related to agency operations as set forth in HB 1523, Occupations Code 1001 and 1071.

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

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

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

The proposed rules do not have a fiscal note that imposes a cost on regulated persons, including another state agency, a special district, or a local government. Therefore, the agency is

not required to take any further action under Government Code §2001.0045.

GOVERNMENT GROWTH IMPACT STATEMENT

Pursuant to Government Code §2001.0221, the agency provides the following Government Growth Impact Statement for the proposed rules. HB 1532 transferred the regulation of land surveying to the TBPELS, and these rules reflect a transfer of that regulatory authority from the former Board of Professional Land Surveying to the TBPELS without any growth in government. Therefore, for each year of the first five years the proposed rules are in effect, the agency has determined the following:

1. The proposed rules do not create or eliminate a government program.
2. Implementation of the proposed rules do not require the creation of new employee positions or the elimination of existing employee positions.
3. Implementation of the proposed rules do not require an increase or decrease in future legislative appropriations to the agency.
4. The proposed rules do not require an increase or decrease in fees paid to the agency.
5. The proposed rules do not create a new regulation.
6. The proposed rules do not expand, limit, or repeal a regulation, except as provided by HB 1532, which transferred the regulation of land surveying to the TBPELS, and these rules reflect a transfer of that regulatory authority from the former Board of Professional Land Surveying to the TBPELS
7. The proposed rules do not increase the number of individuals subject to the rule's applicability.
8. The proposed rules do not positively or adversely affect this state's economy.

TAKINGS IMPACT ASSESSMENT

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

ENVIRONMENTAL RULE ANALYSIS

The Board has determined that the proposed rules are not brought with the specific intent to protect the environment or reduce risks to human health from environmental exposure; thus, the Board asserts the proposed rules are not a "major environmental rule," as defined by Government Code §2001.0225. As a result, the Board asserts preparation of an environmental impact analysis, as provided by §2001.0225, is not required.

PUBLIC COMMENTS

Any comments or request for a public hearing may be submitted, no later than 30 days after the publication of this notice, to Lance Kinney, Ph.D., P.E., Executive Director, Texas Board of Professional Engineers, 1917 S. Interstate 35, Austin, Texas 78741, faxed to his attention at (512) 440-0417 or sent by email to rules@engineers.texas.gov.

SUBCHAPTER A. ENFORCEMENT AUTHORITY

22 TAC §139.1

STATUTORY AUTHORITY

The rules are proposed pursuant to Texas Occupations Code §§1001.101 and 1001.202, which authorize the Board to regulate engineering and land surveying and make and enforce all rules and regulations and bylaws consistent with the Act as necessary for the performance of its duties, the governance of its own proceedings, and the regulation of the practices of engineering and land surveying in this state. The proposed rules also comply with HB 1523.

No other rules are affected by this rulemaking.

§139.1. General.

The board will conduct inquiries into situations which allegedly violate the requirements of the Engineering or Surveying Acts [Texas Engineering Practice Act (Aet)] and board rules concerning the practice of engineering or land surveying;[;] representations which imply the legal capacity to offer or perform engineering or land surveying services for the public;[;] and situations which are considered by the board to pose or have caused harm to the public. Situations that represent a repeat offense, a danger or nuisance to the public, or that cannot be reasonably resolved through voluntary compliance, will be disposed of by administrative, civil, or criminal proceedings as authorized by law.

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

Filed with the Office of the Secretary of State on July 22, 2020.

TRD-202003011

Lance Kinney

Executive Director

Texas Board of Professional Engineers and Land Surveyors

Earliest possible date of adoption: September 6, 2020

For further information, please call: (512) 440-3080



SUBCHAPTER B. COMPLAINT PROCESS AND PROCEDURES

22 TAC §§139.11, 139.13, 139.17, 139.19, 139.21, 139.23

STATUTORY AUTHORITY

The rules are proposed pursuant to Texas Occupations Code §§1001.101 and 1001.202, which authorize the Board to regulate engineering and land surveying and make and enforce all rules and regulations and bylaws consistent with the Act as necessary for the performance of its duties, the governance of its own proceedings, and the regulation of the practices of engineering and land surveying in this state. The proposed rules also comply with HB 1523.

No other rules are affected by this rulemaking.

§139.11. Complaints - General.

(a) The board shall initiate or receive and investigate a complaint against a license or registration holder or other person who may have violated the Act or board rules.

(b) (No change.)

(c) The provisions of the Acts [Aet] and the provisions of the Administrative Procedure Act, Chapter 2001, Texas Government Code, shall apply to the conduct of all investigations and administrative actions in the board's processing of a complaint. In addition, the board may promulgate other procedural rules consistent with the Acts [Aet] or Chapter 2001, Texas Government Code.

§139.13. Filing a Complaint.

(a) A person who wishes to make a complaint with the board may obtain assistance, filing information, or contact the board by:

(1) visiting the board website at <http://pels.texas.gov> [<http://engineers.texas.gov>];

(2) sending electronic mail to complaints@pels.texas.gov [peboard@engineers.texas.gov];

(3) sending written correspondence to: 1917 S. Interstate 35, Austin, Texas 78741-3702;

(4) sending fax to (512) 440-5715;

(5) telephoning the board office at (512) 440-7723; or

(6) visiting the board office located at 1917 S. Interstate 35, Austin, Texas.

(b) - (f) (No change.)

(g) Anonymous complaints will be received but will not be investigated unless sufficient information and evidence exists to demonstrate harm or potential harm to the public or violation of Acts [Aet] or board rules. Anonymous complaints that do not contain sufficient evidence and information to initiate an investigation will be logged and filed for information purposes only.

§139.17. Investigating a Complaint.

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

(c) Upon determination that sufficient evidence exists to indicate that a violation of law or rules may have occurred, the executive director shall notify the person or entity by personal service or by certified or registered mail of the alleged violation. The respondent will be afforded the opportunity to respond to the complaint to show that the actions which precipitated the complaint are not in violation of the Acts [Aet] or board rules.

(d) (No change.)

(e) If the board staff intends to dismiss the complaint because the investigation of the complaint does not produce sufficient evidence to substantiate a violation of the Acts [Aet] or board rules, the board staff will inform the complainant of the rationale for the determination prior to reporting the dismissal to the board.

(f) - (g) (No change.)

§139.19. Final Resolution of Complaint.

(a) Upon the completion of an investigation, the board staff shall present to the executive director a report of investigation and recommendation of final resolution of the complaint. If sufficient evidence and documentation exists to substantiate one or more violations of the Act or board rules has occurred, the board shall proceed as prescribed in §139.31 of this chapter (relating to Enforcement Actions for Violations of the Acts and Board Rules [Aet]). These actions may include, but are not limited to, one or more of the following:

(1) enter into an agreement of voluntary compliance;

(2) agree to informal Consent Order or Agreed Board Order that may include an administrative penalty and/or compliance requirements;

(3) agree to mediation and alternative dispute resolution prescribed in §131.113 of this title (relating to Mediation and Alternative Dispute Resolution);

(4) referral of injunctive or criminal actions to the proper authorities;

(5) referral to the State Office of Administrative Hearings; or

(6) other action as provided by law.

(b) If sufficient evidence and documentation does not exist to substantiate that one or more violations of the Acts [~~Aet~~] or board rules has occurred and disciplinary action is not warranted, the board staff shall recommend to dismiss the complaint and report the dismissal to the board.

§139.21. Reporting Complaint Status to the Board.

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

(c) If the executive director determines that the complaint filed is frivolous or without merit, the case information will be classified as confidential and as such the information is not subject to discovery, subpoena, and or other disclosure. The board shall approve this action upon acceptance of the report and the case will then be closed. Closed cases will not be reconsidered for classification under this rule.

(1) A "frivolous complaint" means a complaint that the executive director has determined:

- (A) was made for the purpose of harassment; and
- (B) does not demonstrate harm to any person.

(2) A complaint that is determined by the executive director to be "without merit" would include situations where a:

(A) professional engineer, professional land surveyor, individual, or firm has been determined to not be responsible or connected in any way with the alleged violative action in the complaint, as it relates to a violation of the Engineering or Surveying Acts and/or [~~Practice Act and or~~] board rules; or^[5]

(B) case has been determined to be outside the jurisdiction of the board; or^[5]

(C) case has been determined to have been administratively opened in error.

§139.23. Technical Consultants.

(a) The executive director may employ or contract with or gain technical advice from technical consultants, including, but not limited to, advisors, consultants, engineers, land surveyors, and other persons to provide technical assistance in investigations and disciplinary proceedings. In the course of performing the person's official duties for the board, technical consultants are immune from civil liability and may not be subject to a suit for damages for any investigation, report, recommendation, statement, evaluation, finding made, or other action taken, except for when an action involves fraud, conspiracy, or malice.

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

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

Filed with the Office of the Secretary of State on July 22, 2020.

TRD-202003012

Lance Kinney

Executive Director

Texas Board of Professional Engineers and Land Surveyors

Earliest possible date of adoption: September 6, 2020

For further information, please call: (512) 440-3080



SUBCHAPTER C. ENFORCEMENT PROCEEDINGS

22 TAC §139.31, §139.33

STATUTORY AUTHORITY

The rules are proposed pursuant to Texas Occupations Code §§1001.101 and 1001.202, which authorize the Board to regulate engineering and land surveying and make and enforce all rules and regulations and bylaws consistent with the Act as necessary for the performance of its duties, the governance of its own proceedings, and the regulation of the practices of engineering and land surveying in this state. The proposed rules also comply with HB 1523.

No other rules are affected by this rulemaking.

§139.31. Enforcement Actions for Violations of the Acts or Board Rules [~~Aet~~].

(a) Under the authority and provisions of the Engineering Act and the Land Surveying Act [§1001.201, §1001.202, and Subchapters J, K, and L of the Texas Engineering Practice Act (Aet)], the board shall take action against a person or entity, upon determination that censure is warranted, for a violation of the Acts and/or board rules. An action may be composed of one or more of the following:

- (1) revocation of a license or registration;
- (2) suspension of a license or registration;
- (3) probation of a suspended license or registration;
- (4) refusal to renew a license or registration;
- (5) issuance of a formal or informal reprimand;
- (6) cease and desist order;
- (7) voluntary compliance agreement;
- (8) emergency suspension; or
- (9) assessment of an administrative penalty [~~under Subchapter K of the Aet~~].

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

§139.33. Informal Settlement Conferences [~~Proceedings~~].

If, after evaluation of the respondent's response a violation appears evident, the executive director shall initiate enforcement action. Before proceeding with the formal contested case hearing process, the respondent shall have an opportunity to resolve the allegations informally.

(1) The executive director may also offer the respondent a Consent Order that will be presented to the board for acceptance or rejection. If the respondent declines such an offer, or if the board rejects it, the procedures in paragraphs (2) or (3) of this section will be followed.

(2) The respondent may request an informal settlement conference to present additional evidence and discuss details of the allegation. Upon receipt of such a request the executive director shall

schedule a conference at the board office or other location, and shall appoint an informal settlement conference committee composed of one board member or board representative, the executive director or executive director's designee, and legal counsel; the committee may meet and act provided that no more than one committee member is absent. Other persons designated by the respondent or the executive director may be present as resources or as legal counsel to respondent. The informal settlement conference committee shall hear the details of the allegations and shall recommend:

(A) dismissal;

(B) a proposal for an Agreed Board Order for disciplinary actions that will be presented to the board for acceptance or rejection; or

(C) scheduling of a formal hearing.

(3) Any board action under this subsection which is not informally disposed by Agreed or Consent Order, will be considered a contested case and will be handled in accordance with applicable law and board rules.

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

Filed with the Office of the Secretary of State on July 22, 2020.

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Lance Kinney

Executive Director

Texas Board of Professional Engineers and Land Surveyors

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For further information, please call: (512) 440-3080



SUBCHAPTER D. SPECIAL DISCIPLINARY PROVISIONS FOR LICENSE HOLDERS

22 TAC §§139.41, 139.43, 139.45, 139.47, 139.49, 139.51

STATUTORY AUTHORITY

The rules are proposed pursuant to Texas Occupations Code §§1001.101 and 1001.202, which authorize the Board to regulate engineering and land surveying and make and enforce all rules and regulations and bylaws consistent with the Act as necessary for the performance of its duties, the governance of its own proceedings, and the regulation of the practices of engineering and land surveying in this state. The proposed rules also comply with HB 1523.

No other rules are affected by this rulemaking.

§139.41. License or Registration Holder with Renewable, Expired License or Registration.

A license or registration holder whose license or registration has expired for nonpayment of renewal fees continues to be subject to all provisions of the Acts [Aet] and board rules governing license holders until the license is revoked by the board or becomes non-renewable under §1001.276 [§1001.353(d) of the Aet].

§139.43. License or Registration Holder with Criminal Convictions.

(a) The board shall follow the requirements of Chapter 53, Texas Occupations Code, and shall revoke the license or registration of any license or registration holder incarcerated [after licensure as a professional engineer] as a result of:

(1) a felony conviction;[⁵]

(2) violation of felony probation or parole;[⁵] or

(3) revocation of mandatory supervision.

(b) The board, after it considers the factors provided in Texas Occupations Code §53.022 and §53.023, may take any of the actions set out in §139.31 of this chapter (relating to Enforcement Actions for Violations of the Acts or Board Rules) when a license or registration holder is convicted of a misdemeanor or a felony without incarceration if the crime directly relates to the license holder's duties and responsibilities as a professional engineer or professional land surveyor.

(c) Any license or registration holder whose license or registration has been revoked under the provisions of this subsection may apply for a new license or registration upon release from incarceration, but the application shall be subject to additional scrutiny relating to the incarceration. Such scrutiny shall be in accordance with Chapter 53, Texas Occupations Code.

§139.45. Restitution.

In addition to or in lieu of an administrative penalty, the board may order a license or registration holder to pay restitution to a consumer as a result of an agreement resulting from an informal settlement conference. The amount of the restitution may not exceed the amount paid by the consumer to the person for a service regulated by the Acts [Aet].

§139.47. Probation.

As part of a disciplinary action for violating the Acts [Aet] and board rules including, but not limited to, negligence, incompetence, or endangerment to the public, the board may prescribe conditions of probation for each probated suspension on a case-by-case basis depending on the severity of the violation that will include reporting requirements, restrictions on practice, and/or continuing education requirements as applicable as described in this section [subsection].

(1) The board will determine the reporting requirements for each probated suspension and will include a list of board probation requirements and schedule for completion of those requirements in which the board may require the license or registration holder to submit documentation including, but not limited to, client lists, job assignments, designs, proof of continuing education participation, restricted practice reports, and other documents concerning the practice of engineering or land surveying to demonstrate compliance with the conditions of probation. As a condition of probation, the license or registration holder shall accept that schedule deadlines are final and no extensions or revision shall be granted, unless approved by the board.

(2) The board [Board] will receive and date stamp documentation on the day received and track compliance with probation requirements for each probated suspension. The board shall honor postmarks for date of submittal; however, if not received by the required deadline, the license holder shall have the burden of proof to demonstrate documentation was submitted by the schedule deadline.

(3) As a condition of probation, the board may restrict the area of practice of the license or registration holder. The board may require the license or registration holder to practice under the supervision and mentorship of another professional engineer when performing engineering or another professional land surveyor when performing land surveying in the restricted [prescribed] areas of practice.

(4) As a condition of probation, the board may require the license or registration holder to obtain additional continuing education in addition to the minimum requirements of §137.17 of this title (relating to Investigating a Complaint) and may prescribe formal classroom study, workshops, seminars, and other specific forms of continuing education.

(5) Failure to comply with probation requirements shall result in lifting of probation and suspending of the [engineering] license or registration for the remainder of the suspension period.

§139.49. License or Registration Suspension/Revocation Based on Status Review.

(a) The board may review the status of a license or registration holder the board believes:

(1) may have been issued a license or registration through fraud or error; or

(2) may constitute a threat to the public health, safety, or welfare.

(b) The board may, as set out in §139.31 of this chapter (relating to Enforcement Actions for Violations of the Acts or Board Rules [Aet]), suspend or revoke a license or registration held by a person whose status is reviewed under this section.

§139.51. License or Registration Suspension Based on Delinquent Child Support.

Pursuant to Texas Family Code, Chapter 232, on receipt of a final order by the OAG (Office of the Attorney General) regarding delinquent child support, the board must suspend a professional engineer license or professional land surveyor registration until the OAG notifies the Board that the obligor has paid the child support, established a repayment schedule, has been granted an exception as part of a court-supervised plan, or successfully contested the denial of licensure.

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 22, 2020.

TRD-202003014

Lance Kinney

Executive Director

Texas Board of Professional Engineers and Land Surveyors

Earliest possible date of adoption: September 6, 2020

For further information, please call: (512) 440-3080



SUBCHAPTER E. HEARINGS

22 TAC §139.63

STATUTORY AUTHORITY

The rule is proposed pursuant to Texas Occupations Code §§1001.101 and 1001.202, which authorize the Board to regulate engineering and land surveying and make and enforce all rules and regulations and bylaws consistent with the Act as necessary for the performance of its duties, the governance of its own proceedings, and the regulation of the practices of engineering and land surveying in this state. The proposed rules also comply with HB 1523. The proposed rule §139.63, Extension of Time, is authorized by Texas Government Code §§2001.142(e) and 2001.147.

No other rules are affected by this rulemaking.

§139.63. Extensions of Time.

(a) The board has authorized the Executive Director to act for the agency, on the Executive Director's own initiative or in response to a motion, to grant or deny an extension of time under the Administrative Procedures Act, §2001.142(e) (Sworn Motion) and under the

Administrative Procedures Act, §2001.146(e) (Extending Deadline to File Motion For Rehearing). [The Executive Director may enter into an agreement with parties to a contested case to modify time limits as provided under the APA, Texas Government Code §2001.147.]

(b) Under §2001.147 of the Administrative Procedures Act, the board may approve an agreement of the parties to modify the times prescribed by the Administrative Procedures Act, §2001.143 (Time When Order Must Be Signed) and Administrative Procedures Act, §2001.146 (Extending the Deadline to File a Motion For Rehearing).

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 22, 2020.

TRD-202003015

Lance Kinney

Executive Director

Texas Board of Professional Engineers and Land Surveyors

Earliest possible date of adoption: September 6, 2020

For further information, please call: (512) 440-3080



PART 36. COUNCIL ON SEX OFFENDER TREATMENT

CHAPTER 810. COUNCIL ON SEX OFFENDER TREATMENT

SUBCHAPTER A. LICENSED SEX OFFENDER TREATMENT PROVIDERS

22 TAC §810.4

The Council on Sex Offender Treatment (Council) proposes an amendment to Title 22, Texas Administrative Code, §810.4, concerning License Issuance and/or Renewal, in order to provide licensed sex offender treatment providers with the flexibility to obtain additional online continuing education hours for renewal requirements.

BACKGROUND AND PURPOSE

The Council is required to adopt rules for procedures and eligibility and other requirements for renewal of a sex offender treatment provider license, including requirements related to continuing education.

At its regularly scheduled meeting on June 12, 2020, the Council approved the amendment to §810.4(7) to increase the maximum number of allowable online continuing education hours for license renewal from six hours to 12 hours. Online hours accrued to satisfy the continuing education ethics requirement do not count toward the maximum of 12 online hours.

SECTION-BY-SECTION SUMMARY

The proposed amendment to §810.4(7) increases the maximum number of online continuing education hours for license renewal from six hours to 12 hours. There are no further changes to §810.4.

FISCAL NOTE

Council staff has determined that for each year of the first five years the proposed rule will be in effect, there will be no fiscal

implications to state or local governments as a result of the proposed rule changes.

GOVERNMENT GROWTH IMPACT STATEMENT

As required by Texas Government Code, §2001.0221, relating to government growth impact statements, Council staff has determined that during the first five years the rule will be in effect, the proposed rule neither creates nor eliminates a government program; implementation of the proposed rule requires neither the creation of new employee positions nor the elimination of existing employee positions; implementation of the proposed rule requires neither an increase nor decrease in future legislative appropriations to the agency; the proposed rule requires neither an increase nor decrease in fees paid to the agency; the proposed rule neither expands, limits, nor repeals an existing regulation; the proposed rule neither increases nor decreases the number of individuals subject to the rule's applicability; and the proposed rule neither positively nor adversely affects this state's economy.

SMALL BUSINESS, MICRO-BUSINESS AND RURAL ECONOMIC IMPACT ANALYSIS

Council staff has also determined there will be no adverse economic effect on small businesses, micro-businesses or rural communities required to comply with the section as proposed. This was determined by interpretation of the rules that small businesses and micro-businesses or rural communities will not be required to alter their business practices to comply with the section. The rule does not impose any additional costs on small businesses, micro-businesses, or rural communities required to comply with the rule.

IMPACT ON LOCAL EMPLOYMENT

The proposal will not affect a local economy. There is no anticipated negative impact on local employment.

COSTS TO REGULATED PERSONS

Texas Government Code, §2001.0045 does not apply to this rule because the rule does not impose a fee on regulated persons.

PUBLIC BENEFIT AND COSTS

In addition, Council staff has also determined that for each year of the first five years the section is in effect, the public will benefit from adoption of the section. The public benefit anticipated as a result of enforcing or administering the section is to continue to ensure public health and safety through the effective licensing and regulation of sex offender treatment providers.

Council staff has determined that there are no anticipated economic costs to persons who are required to comply with the rule as proposed.

REGULATORY ANALYSIS

Council staff has determined this proposal is not a "major environmental rule" as defined by Texas Government Code, §2001.0225. "Major environmental rule" is defined to mean a rule the specific intent of which is to protect the environment or reduce risk to human health from environmental exposure and that may adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment or the public health and safety of a state or a sector of the state. This proposal is not specifically intended to protect the environment or reduce risks to human health from environmental exposure.

TAKINGS IMPACT ASSESSMENT

Council staff has determined the proposed rule does not restrict or limit an owner's right to his or her property that would otherwise exist in the absence of government action and, therefore, does not constitute a taking under Texas Government Code, §2007.043.

PUBLIC COMMENT

Comments on the proposed rule may be submitted to Sarah Faszholz, Interim Executive Director, Council on Sex Offender Treatment, Mail Code 1982, P.O. Box 149347, Austin, Texas 78714-9347 or by email to csot@hhsc.state.tx.us. When emailing comments, please indicate "Comments on Proposed Rule" in the subject line.

To be considered, comments must be submitted no later than 31 days following publication of the proposal in the *Texas Register*. If the last day to submit comments falls on a weekend or a holiday, comments must be postmarked, shipped, or emailed before midnight on the following business day to be considered.

STATUTORY AUTHORITY

The amendment is authorized by Texas Occupations Code, §110.158, which authorizes the Council to adopt rules necessary for the performance of its duties; and §110.302, which requires the Council to adopt licensing requirements for sex offender treatment providers.

The rule implements Occupations Code, Chapter 110.

§810.4. License Issuance and/or Renewal.

All new initial licenses shall expire on the last day of the licensee's birth month. The initial licensing period shall be at least 13 months and no more than 24 months. Subsequent licensing periods will be 24 months. In order to maintain eligibility for the licensure as a sex offender treatment provider, the mental health or medical license of each renewal shall be current and active. All renewal applicants shall comply with the following:

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

(7) Licensees shall request pre-approval from the council for all online courses and courses taken at an institution of higher learning. All renewal applicants may count a maximum of 12 [6] online hours per biennial renewal period, not including ethics [ethic] hours.

(8) - (11) (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 27, 2020.

TRD-202003043

Aaron Pierce, PhD, LPC, LSOTP-S

Chair

Council on Sex Offender Treatment

Earliest possible date of adoption: September 6, 2020

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



TITLE 25. HEALTH SERVICES

PART 1. DEPARTMENT OF STATE HEALTH SERVICES

CHAPTER 37. MATERNAL AND INFANT HEALTH SERVICES

SUBCHAPTER S. NEWBORN HEARING SCREENING

The Executive Commissioner of the Texas Health and Human Services Commission (HHSC), on behalf of the Department of State Health Services (DSHS), proposes the repeal of §§37.501 - 37.507, and new §§37.501 - 37.509, concerning Newborn Hearing Screening.

BACKGROUND AND PURPOSE

The purpose of the proposal is to repeal the rules in Chapter 37, Subchapter S, and replace with new rules. The repeal and replace is necessary to comply with amendments to Texas Health and Safety Code Chapter 47, Hearing Loss in Newborns, made by House Bill 2255 and Senate Bill 1404 passed during the 86th Legislature, Regular Session, 2019. This proposal also serves as the four-year review of rules required by Texas Government Code §2001.039.

DSHS administers the Newborn Hearing Screening Program and provides guidance for performing point-of-care hearing screening required for all newborns in the state. The proposed new rules are structured to refine roles and responsibilities, update definitions, emphasize required reporting, and clarify the purpose of consent. The proposed new rules will also implement new legislative mandates. Referrals to the primary statewide resource center at the Texas School for the Deaf will be required for infants who are suspected or confirmed to be deaf or hard of hearing, and DSHS will make educational resources available for parents.

SECTION-BY-SECTION SUMMARY

Proposed new §37.501 describes the purpose and application of the Texas Health and Safety Code Chapter 47 to ensure all babies born in Texas receive a hearing screening, intervention, and referrals to services if they are suspected or diagnosed as deaf or hard of hearing.

Proposed new §37.502 provides definitions of terms used within the subchapter.

Proposed new §37.503 describes the process of screening and consent to release individually identifying information.

Proposed new §37.504 describes the process of required reporting using the DSHS's Texas Early Hearing Detection and Intervention Management Information System.

Proposed new §37.505 describes the birthing facility screening provider responsibilities.

Proposed new §37.506 describes the follow-up screening provider responsibilities.

Proposed new §37.507 describes the diagnostic evaluation provider responsibilities.

Proposed new §37.508 describes DSHS responsibilities.

Proposed new §37.509 describes the authorized newborn hearing screening services.

FISCAL NOTE

Donna Sheppard, Chief Financial Officer, has determined that for each year of the first five years that the rules will be in effect, enforcing or administering the rules do not have foreseeable im-

plications relating to costs or revenues of state or local governments.

GOVERNMENT GROWTH IMPACT STATEMENT

DSHS has determined that during the first five years that the rules will be in effect:

- (1) the proposed rules will not create or eliminate a government program;
- (2) implementation of the proposed rules will not affect the number of DSHS employee positions;
- (3) implementation of the proposed rules will result in no assumed change in future legislative appropriations;
- (4) the proposed rules will not affect fees paid to DSHS;
- (5) the proposed rules will create new rules;
- (6) the proposed rules will repeal existing rules;
- (7) the proposed rules will not change the number of individuals subject to the rules; and
- (8) the proposed rules will not affect the state's economy.

SMALL BUSINESS, MICRO-BUSINESS, AND RURAL COMMUNITY IMPACT ANALYSIS

Donna Sheppard has also determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities.

LOCAL EMPLOYMENT IMPACT

The proposed rules will not affect a local economy.

COSTS TO REGULATED PERSONS

Texas Government Code §2001.0045 does not apply to these rules because the rules are necessary to protect the health, safety, and welfare of the residents of Texas and the rules do not impose a cost on regulated persons.

PUBLIC BENEFIT AND COSTS

Manda Hall, M.D., Community Health Improvement Associate Commissioner, has determined that for each year of the first five years the rules are in effect, the public benefit will ensure all babies born in Texas receive a hearing screening and receive proper intervention and referrals to services as early as possible, if suspected or diagnosed as deaf or hard of hearing.

Donna Sheppard has also determined that for the first five years the rules are in effect, there are no anticipated economic costs to persons who are required to comply with the proposed rules, because programs are already required to make referrals to early childhood intervention and DSHS educational materials are distributed free of charge.

TAKINGS IMPACT ASSESSMENT

DSHS has determined that the proposal does not restrict or limit an owner's right to his or her property that would otherwise exist in the absence of government action and, therefore, does not constitute a taking under Texas Government Code §2007.043.

PUBLIC COMMENT

Written comments on the proposal may be submitted to DSHS, Newborn Screening Unit, TEHDI Program Mail Code 1918, P.O. Box 149347, Austin, Texas 78714-9347, by email to TEHDI@dshs.texas.gov, or by fax to (512) 776-7593.

To be considered, comments must be submitted no later than 31 days after the date of this issue of the *Texas Register*. Comments must be: (1) postmarked or shipped before the last day of the comment period; (2) hand-delivered before 5:00 p.m. on the last working day of the comment period; or (3) faxed or emailed before midnight on the last day of the comment period. If the last day to submit comments falls on a holiday, comments must be postmarked, shipped, or emailed before midnight on the following business day to be accepted. When faxing or emailing comments, please indicate "Comments on Proposed Rule 19R073" in the subject line.

25 TAC §§37.501 - 37.507

STATUTORY AUTHORITY

The repeals are authorized by Texas Government Code §2001.039, which authorizes a state agency to periodically review its existing rules. The new sections and repeals are authorized by Texas Government Code §531.0055, Texas Health and Safety Code §1001.075, and Texas Health and Safety Code §47.010, which authorizes the Executive Commissioner of HHSC to adopt rules necessary for the operation and provision of health and human services by DSHS, and for the administration of Texas Health and Safety Code, Chapter 1001.

The repeals affect Texas Government Code §531.0055 and Texas Health and Safety Code, Chapter 47, Hearing Loss in Newborns.

§37.501. *Purpose.*

§37.502. *Definitions.*

§37.503. *Confidentiality and General Access to Data.*

§37.504. *Information Management and Tracking System.*

§37.505. *Screens, Follow-up, and Reporting.*

§37.506. *Program Protocols and Certification.*

§37.507. *Authorized Newborn Hearing Services.*

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 22, 2020.

TRD-202003000

Barbara L. Klein

General Counsel

Department of State Health Services

Earliest possible date of adoption: September 6, 2020

For further information, please call: (512) 776-7726



25 TAC §§37.501 - 37.509

STATUTORY AUTHORITY

The new sections are authorized by Texas Government Code §2001.039, which authorizes a state agency to periodically review its existing rules. The new sections and repeals are authorized by Texas Government Code §531.0055, Texas Health and Safety Code §1001.075, and Texas Health and Safety Code §47.010, which authorizes the Executive Commissioner of HHSC to adopt rules necessary for the operation and provision of health and human services by DSHS, and for the administration of Texas Health and Safety Code, Chapter 1001.

The new sections affect Texas Government Code §531.0055 and Texas Health and Safety Code, Chapter 47, Hearing Loss in Newborns.

§37.501. *Purpose.*

The purpose of this subchapter is to describe the newborn hearing screening process administered by the Department of State Health Services pursuant to Texas Health and Safety Code Chapter 47 to ensure all babies born in Texas receive a hearing screening, proper intervention, and referrals to services if they are suspected or diagnosed as deaf or hard of hearing.

§37.502. *Definitions.*

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

(1) Birth facility:

(A) a hospital licensed under Texas Health and Safety Code Chapter 241 that offers obstetrical services;

(B) a birthing center licensed under Texas Health and Safety Code Chapter 244;

(C) a children's hospital licensed under Texas Health and Safety Code Chapter 241 that offers obstetrical or neonatal intensive care unit services or both; or

(D) a facility maintained or operated by this state or an agency of this state that provides obstetrical services.

(2) Case level information--Demographic information, hearing outcome results, and care coordination efforts.

(3) Consent--Permission related to the release of individually identifying information that may be disclosed to the department or resource center.

(4) Consent form (form)--A form that contains required language prescribed by the department found at <https://www.dshs.texas.gov/tehd> to capture consent, as defined in this subchapter.

(5) Department--The Department of State Health Services.

(6) ECI--Early Childhood Intervention. The early intervention services described in Part C Early Childhood Intervention, Individuals with Disabilities Education Act, 20 United States Code §§1431-1443.

(7) Follow-up care--Additional screening, diagnostic audiological evaluation, or intervention services to include medical and therapeutic treatment services for newborns or infants who do not pass the initial hearing screening.

(8) Healthcare provider--Any licensed professional along the hearing continuum, including:

(A) a registered nurse recognized as an advanced practice registered nurse by the Texas Board of Nursing or a physician assistant licensed by the Texas Physician Assistant Board;

(B) a midwife, as defined by Texas Occupations Code §203.002, including a nurse midwife described by Texas Occupations Code §301.152;

(C) a physician who is licensed to practice medicine by the Texas Medical Board; or

(D) a licensed audiologist, as defined by Texas Occupations Code Chapter 401.

(9) Hearing loss--A hearing threshold averaging 15 dB hearing level or greater in the frequency region important for speech recognition and comprehension in one or both ears that is confirmed by a diagnostic audiological evaluation.

(10) Hearing screening--The initial physiologic measurement of hearing to identify an increased risk for hearing loss before birthing facility discharge.

(11) Individually identifying information--Confidential information that identifies the parent or newborn.

(12) Infant--A child who is at least 30 days old but who is younger than 24 months old.

(13) Newborn--A child younger than 30 days old.

(14) Parent--A natural parent, stepparent, adoptive parent, legal guardian, or other legal custodian of a child.

(15) Protocols--Guidelines or procedures based on the latest Joint Committee on Infant Hearing position statement, found at <http://www.jcih.org/posstatemts.htm>, as updated, used by programs to conduct newborn hearing screening.

(16) Resource center--Primary statewide resource center as defined by Texas Education Code §30.051.

(17) TEHDI MIS--Texas Early Hearing Detection and Intervention Management Information System. The department's central information source of results and referrals related to newborn hearing screens, audiological evaluations, and any type of intervention for newborns or infants.

§37.503. Screening and Consent to Release Individually Identifying Information.

(a) The birthing facility shall inform the parents during admission that:

(1) the facility is required by law to screen a newborn or infant for hearing loss; and

(2) the parents may decline the screening.

(b) The birthing facility is responsible for obtaining and documenting, during admission, on the form prescribed by the department, consent to release individually identifying information. Consent may be obtained and stored electronically and must be documented in the TEHDI MIS.

(1) If the birthing facility contracts for hearing screening services, the birthing facility is responsible for ensuring its contractor is in compliance with Texas Health and Safety Code Chapter 47 and this subchapter, as it relates to newborn hearing screening.

(2) If the parent declines the consent to release individually identifying information during admission, the parent may later consent to release individually identifying information during subsequent follow-up screenings or diagnostic evaluations.

(c) Healthcare providers shall document and maintain consent, if obtained, in the medical record, and the consent must be provided at the request of the department.

(d) Any healthcare provider who performs initial hearing screening, follow-up screening, diagnostic evaluations, follow-up care, or interventions must verify that the status of consent to release information is documented in the TEHDI MIS.

(e) A healthcare provider is not criminally or civilly liable for furnishing information in good faith to the department or its designee in accordance with Texas Health and Safety Code §47.009.

(f) At any time, a parent may request in writing to the department or resource center that individually identifying information concerning their child be removed from:

(1) the department's TEHDI MIS;

(2) the resource center's records; or

(3) both.

§37.504. Required Reporting.

(a) Any healthcare provider who performs initial hearing screening, follow-up screening, diagnostic evaluations, follow-up care, or interventions is required to report all patient encounters and outcomes, including pass and do not pass results, in the TEHDI MIS within five calendar days after the date of the patient encounter.

(b) If a parent declines the hearing screening for the newborn, the non-consent must be documented in the medical record and the TEHDI MIS.

§37.505. Birthing Facility Screening Provider Responsibilities.

(a) A birthing facility screening provider ("provider") shall be a department-certified newborn hearing screening program. A provider that is not certified is required to refer the infant to a department-certified newborn hearing screening program.

(b) A provider shall:

(1) perform the initial hearing screening, or document why the screening was not performed, in accordance with Texas Health and Safety Code §47.003;

(2) provide screening results and educational materials to the parents;

(3) provide screening results to the applicable healthcare providers; and

(4) report results in accordance with §37.504 of this subchapter (relating to Required Reporting).

(c) Infants who do not pass the initial hearing screening must be offered a follow-up screening or referral consistent with Joint Committee on Infant Hearing guidelines, found at <http://www.jcih.org/posstatemts.htm>, as updated.

§37.506. Follow-up Screening Provider Responsibilities.

(a) A follow-up screening provider shall:

(1) perform a follow-up screening no later than 30 days after birth;

(2) provide screening results to the applicable healthcare providers;

(3) provide screening results and educational materials to the parents; and

(4) report results in accordance with §37.504 of this subchapter (relating to Required Reporting).

(b) If the infant does not pass, a follow-up screening provider shall:

(1) refer to ECI due to suspected deaf or hard of hearing diagnosis;

(2) provide follow-up screening results to the resource center; and

(3) schedule or refer for diagnostic audiological evaluation consistent with Joint Committee on Infant Hearing guidelines, <http://www.jcih.org/posstatemts.htm>, as updated.

§37.507. Diagnostic Evaluation Provider Responsibilities.

A diagnostic evaluation provider shall:

(1) perform a diagnostic evaluation no later than three months after birth;

(2) provide results to the parents, applicable healthcare providers, and the resource center;

(3) refer children confirmed as deaf or hard of hearing to ECI within seven days of the encounter; and

(4) report in accordance with §37.504 of this subchapter (relating to Required Reporting).

§37.508. Department Responsibilities.

(a) The department shall:

(1) maintain the TEHDI MIS;

(2) certify newborn hearing screening programs, as described by program protocol at <https://www.dshs.texas.gov/tehdi/FacilityCertRequire.aspx>; and

(3) make available standardized educational resources.

(b) The department may assist in coordination of follow-up care and diagnosis.

(c) The department shall ensure ECI services are available to a child suspected or diagnosed as deaf or hard of hearing.

(d) The department shall report de-identified, aggregate data to the Centers for Disease Control and Prevention and the Health Resources and Services Administration Maternal and Child Health Bureau annually.

§37.509. Authorized Newborn Hearing Services.

(a) A newborn hearing screening performed by a birthing facility and any related diagnostic follow-up care, provided in accordance

with Texas Health and Safety Code Chapter 47 and the requirements of this subchapter, for a newborn who receives medical assistance or who is Medicaid-eligible, is a covered service of the Texas Medical Assistance (Medicaid) Program, in accordance with Texas Human Resources Code Chapter 32.

(b) The reimbursement rates and methodology for covered services described in this section shall be established by the Texas Health and Human Services Commission.

(c) Screening for hearing loss from birth through the date the infant is 30 days of age and any diagnostic follow-up care related to the screening from birth through the date the child is 24 months of age, as provided under this subchapter, shall be a covered benefit pursuant to Texas Insurance Code, §§1367.101 - 1367.103. Co-payments or co-insurance requirements are permitted; however, deductible requirements or dollar limits are prohibited.

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 22, 2020.

TRD-202003001

Barbara L. Klein

General Counsel

Department of State Health Services

Earliest possible date of adoption: September 6, 2020

For further information, please call: (512) 776-7726



ADOPTED RULES

Adopted rules include new rules, amendments to existing rules, and repeals of existing rules. A rule adopted by a state agency takes effect 20 days after the date on which it is filed with the Secretary of State unless a later date is required by statute or specified in the rule (Government Code, §2001.036). If a rule is adopted without change to the text of the proposed rule, then the *Texas Register* does not republish the rule text here. If a rule is adopted with change to the text of the proposed rule, then the final rule text is included here. The final rule text will appear in the Texas Administrative Code on the effective date.

TITLE 1. ADMINISTRATION

PART 12. COMMISSION ON STATE EMERGENCY COMMUNICATIONS

CHAPTER 251. 9-1-1 SERVICE--STANDARDS

1 TAC §251.1

The Commission on State Emergency Communications (CSEC) adopts amended §251.1, concerning Regional Planning Commission (RPC) strategic planning, without changes to the proposed text as published for comment in the June 5, 2020, issue of the *Texas Register* (45 TexReg 3711). The adopted rule will not be republished.

REASONED JUSTIFICATION

Amended §251.1 implements Health and Safety Code §771.055 requirement for an RPC to submit for CSEC approval a regional strategic plan describing how 9-1-1 service is to be administered in the RPC's region, including at a minimum how money allocated to the RPC is to be allocated in the region; projected financial operating information for the two state fiscal years following the submission of the plan; and strategic planning information for the five state fiscal years following submission of the plan.

As amended, §251.1 disentangles CSEC strategic planning policy in the rule from the details of implementing such policy and addresses requirements--including those demanded by changes in technology, reporting, etc.--at a higher, policy level that is technology neutral. Reflecting these changes is the rule's replacement of specific public safety answering point (PSAP) requirements with the requirement to include a PSAP Network plan and the addition of new plan requirements for an information security program, plans for call routing/local monitoring/capital assets/database/equipment, Text-to-911 service, and financial reporting. The specific details and instructions for submitting or amending a regional strategic plan are included in CSEC Program Policy Statements. As a result, the amended rule is considerably shorter, with most changes being deletions of text and revising the outline schema to reconcile with the deletions.

PUBLIC COMMENT AND AGENCY RESPONSE

CSEC received no comments on proposed amended §251.1.

STATUTORY AUTHORITY

The amended section is adopted pursuant to Health and Safety Code §§771.051, 771.0511, 771.055 - .057, and 771.078.

No other statute, article, or codes are affected by the adoption.

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

Filed with the Office of the Secretary of State on July 27, 2020.

TRD-202003033

Patrick Tyler

General Counsel

Commission on State Emergency Communications

Effective date: August 16, 2020

Proposal publication date: June 5, 2020

For further information, please call: (512) 305-6915



1 TAC §251.3

The Commission on State Emergency Communications (CSEC) adopts amended §251.3, concerning a Regional Planning Commission (RPC) requests for Use of Revenue, without changes to the proposed text as published for comment in the June 5, 2020, issue of the *Texas Register* (45 TexReg 3713). The adopted rule will not be republished.

REASONED JUSTIFICATION

Amended §251.3 implements Health and Safety Code §§771.075, 771.0751, and 771.0751 regarding the use of CSEC-allocated 9-1-1 service fees and equalization surcharge by an RPC in its largest county/county with at least one million population. The amendments clarify in §251.3(a) that an RPC's use of revenue is limited to the amount of unexpended and unencumbered allocated grant funds from 9-1-1 service fees (wireline/VoIP, wireless, and prepaid wireless) and equalization surcharge remitted to the Comptroller of Public Accounts from the RPC's service region for the fiscal year use of revenue is requested. Allocated grant funds exceeding an RPC's 9-1-1 service fee and equalization surcharge revenues are not eligible for use of revenue.

Amended §251.3(a) also clarifies that allocated grant funds remitted from an RPC's 9-1-1 service region are expended and encumbered first before any other source of funding of an RPC's grant--including grant funds allocated from General Revenue Dedicated (GRD) fund balances.

As amended, §251.3 will result in CSEC lapsing 9-1-1 service appropriations back to the Texas Treasury GRD accounts equal to any remaining unexpended and unencumbered RPC grant amounts funded from GRD account balances.

PUBLIC COMMENT AND AGENCY RESPONSE

CSEC received no comments on proposed amended §251.3

STATUTORY AUTHORITY

The amended section is adopted pursuant to Health and Safety Code §§771.051 - .052, 771.055 - .057, 771.075, 771.0751.

No other statute, article, or codes are affected by the adoption.

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

Filed with the Office of the Secretary of State on July 27, 2020.

TRD-202003034

Patrick Tyler

General Counsel

Commission on State Emergency Communications

Effective date: August 16, 2020

Proposal publication date: June 5, 2020

For further information, please call: (512) 305-6915



CHAPTER 254. REGIONAL POISON CONTROL CENTERS

1 TAC §254.2

The Commission on State Emergency Communications (CSEC) adopts amended §254.2, concerning the establishment and governance of CSEC's Poison Control Coordinating Committee (PCCC), without changes to the proposed text as published for comment in the June 5, 2020, issue of the *Texas Register* (45 TexReg 3715). The adopted rule will not be republished.

REASONED JUSTIFICATION

Amended §254.2 is primarily adopted to extend the duration of the PCCC to September 1, 2023. As amended, the rule also incorporates by reference new coordinating, partnering, and evaluation activities recently adopted by CSEC in the PCCC bylaws; changes the requirement of quarterly reporting by the PCCC to a September 1 of each year annual report; and makes conforming changes for clarification.

PUBLIC COMMENT AND AGENCY RESPONSE

CSEC received no comments on proposed amended §254.2.

STATUTORY AUTHORITY

The amended section is adopted under Health and Safety Code §777.008 and Government Code Chapter 2110. The former establishes the PCCC and the latter requires state agencies to describe by rule an advisory committee's purpose and tasks, the manner in which the Committee reports to CSEC, and the duration of the Committee.

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

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

Filed with the Office of the Secretary of State on July 27, 2020.

TRD-202003035

Patrick Tyler

General Counsel

Commission on State Emergency Communications

Effective date: August 16, 2020

Proposal publication date: June 5, 2020

For further information, please call: (512) 305-6915



PART 15. TEXAS HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 372. TEMPORARY ASSISTANCE FOR NEEDY FAMILIES AND SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAMS

SUBCHAPTER F. BENEFITS

DIVISION 1. BENEFITS IN GENERAL

1 TAC §372.1513

The Executive Commissioner of the Texas Health and Human Services Commission (HHSC) adopts an amendment to §372.1513, concerning Availability of Monthly Benefits. The amendment is adopted without changes to the proposed text as published in the May 8, 2020, issue of the *Texas Register* (45 TexReg 2957). The rule will not be republished.

BACKGROUND AND JUSTIFICATION

The amendment is necessary to comply with House Bill 1218, 86th Legislature, Regular Session, 2019, which requires HHSC to distribute Supplemental Nutrition Assistance Program (SNAP) benefits across a 28-day period for new SNAP households certified on or after September 1, 2020.

The amendment to §372.1513 changes the benefits distribution schedule for SNAP and Temporary Assistance for Needy Families (TANF). SNAP benefits will be available during the first 28 days of the month, rather than the first 15 days. The amendment also clarifies that TANF benefits are available during the first 3 days of the month and removes the correlated SNAP and TANF distribution schedules.

COMMENTS

The 31-day comment period ended June 8, 2020.

During this period, HHSC did not receive any comments regarding the proposed rule.

STATUTORY AUTHORITY

The amendment is adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies and Human Resources Code §33.002(c-1), which requires the Executive Commissioner to adopt rules related to distribution of SNAP benefits.

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 22, 2020.

TRD-202003007

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Effective date: August 11, 2020

Proposal publication date: May 8, 2020

For further information, please call: (512) 206-4641



TITLE 16. ECONOMIC REGULATION

PART 8. TEXAS RACING COMMISSION

CHAPTER 303. GENERAL PROVISIONS SUBCHAPTER G. HORSE INDUSTRY ESCROW ACCOUNT

DIVISION 3. BREED REGISTRIES

16 TAC §§303.321, 303.322, 303.325

The Texas Racing Commission ("the Commission") adopts amendments to 16 TAC §§303.321, Allocations to Breed Registries; 303.322, Limitations on Use of Funds by Breed Registries; and 303.325, Quarterly Reports. The amendments clarify certain provisions of the rules that were adopted in October 2019 regarding the horse industry escrow account ("account") created by House Bill 2463 (86th Legislature, Regular Session, 2019).

The amendments to Sections 303.321 and 303.325 are adopted without changes from the text as proposed in the June 5, 2020, issue of the *Texas Register* (45 TexReg 3725) and will not be republished. Amendments to Section 303.321 require events funded from the account to serve certain types of public purposes, require breed registries to use forms approved by the executive director when applying for funding from the account, and delete a provision regarding executive director approval of requests prior to January 1, 2020. Amendments to Section 303.325 clarify the quarterly reporting requirements.

The amendments to Section 303.322 are being adopted with changes from the text as proposed in the June 5, 2020, issue of the *Texas Register* (45 TexReg 3725). The proposed amendments to this section clarify the 5% limitation on administrative costs paid from the fund and the requirement to comply with the Texas Uniform Grant Management Standards and require unused funds from canceled events to be repaid within 45 days. In response to public comments, the provisions regarding unused funds from canceled events were moved to a new subsection (f) and subsection (g) was added to address unused funds from events that took place. These changes are not so substantial as to constitute a different rule or to involve parties not already on notice of the changes.

REASONED JUSTIFICATION

The reasoned justification for these amendments is clarity regarding requirements for applying for, using, and reporting on funding from the account.

PUBLIC COMMENTS

Comments regarding Section 303.322, were submitted jointly by the Texas Quarter Horse Association, Texas Thoroughbred Association, Texas Arabian Breeders Association, and Texas Paint Horse Association, requesting that the rule address funds remaining after an event takes place. New subsection (g) addresses that situation, allowing the Commission to require the return of funds in that instance.

STATUTORY AUTHORITY

The amendments are adopted under Tex. Occ. Code §2023.004, which authorizes the Commission to adopt rules to administer the Act, and §2028.201, which requires the Commission to adopt rules relating to Tex. Occ. Code Subchapter E, Chapter 2028.

No other statute, code, or article is affected by the amendments.

§303.322. *Limitations on Use of Funds by Breed Registries.*

(a) A breed registry may use horse industry escrow account funds only for events that further the horse industry.

(b) The following types of costs may not be paid from funds allocated from the account:

(1) capital improvements;

(2) donations or contributions made to any individual or organization without express approval from the Commission for such contribution or donation;

(3) costs of entertainment, amusements, social activities, and incidental costs relating thereto, including tickets to shows or sports events, meals, alcoholic beverages, lodging, rentals, transportation, tips, and gratuities;

(4) fines, penalties, or other costs resulting from violations of or failure to comply with federal, state, or local laws and regulations;

(5) liability insurance coverage not specific to a particular event or series of events for which the Commission has allocated funds from the account;

(6) expenses related to litigation;

(7) professional association fees or dues for the breed registry or an individual;

(8) legislative expenses such as salaries and other expenses associated with lobbying the state or federal legislature or similar local governmental bodies, whether incurred for purposes of legislation or executive direction; or

(9) fundraising.

(c) The following types of costs may only be paid with funds allocated from the account, in an amount not to exceed five percent of the amount allocated for the event for which it is allocated, if specifically approved by the Commission:

(1) operating expenses, including the salaries of breed registry staff, interest and other financial costs related to borrowing and the cost of financing, contributions to a contingency reserve or any similar provision for unforeseen events, and audits or other accounting services; and

(2) the purchase of capital assets.

(d) A breed registry may pay a cost out of funds awarded from the horse industry escrow account if it satisfies subsections (a) through (c) of this section and is reasonable and adequately documented.

(1) A cost is reasonable if the cost does not exceed that which would be incurred by a prudent individual or organization under the circumstances prevailing at the time the decision was made to incur the cost and it is necessary to achieve the purpose for which the funds were sought.

(2) A cost is adequately documented if the cost is supported by Generally Accepted Accounting Principles, the breed registry's accounting records, and documented in accordance with §303.325 of this subchapter (relating to Quarterly Reports).

(e) Use of funds allocated to a breed registry from the account shall comply with the current Uniform Grant Management Standards or Texas Grant Management Standards.

(f) If a previously approved and funded event is canceled, the funds shall be returned to the Commission within 45 days after the cancellation of the event. All funds expended with respect to any canceled

event or event that does not otherwise occur shall be accounted for and such accounting shall accompany the return of the balance of such related canceled event funds.

(g) The Commission may require a breed registry to repay any funds not expended in accordance with Section 2028.204 of the Act and this section after the completion of an event.

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 22, 2020.

TRD-202003006

Chuck Trout

Executive Director

Texas Racing Commission

Effective date: August 11, 2020

Proposal publication date: June 5, 2020

For further information, please call: (512) 833-6699



TITLE 19. EDUCATION

PART 1. TEXAS HIGHER EDUCATION COORDINATING BOARD

CHAPTER 1. AGENCY ADMINISTRATION

SUBCHAPTER A. GENERAL PROVISIONS

19 TAC §1.18

The Texas Higher Education Coordinating Board adopts amendments to Chapter 1, Subchapter A, §1.18, concerning the Operation of Education Research Centers, without changes to the proposed text as published in the June 19, 2020, issue of the *Texas Register* (45 TexReg 4133). The rule will not be republished.

Specifically, this amendment will allow for improved access to data for education researchers while maintaining controls for data security. By law, up to three Education Research Centers (ERCs) are authorized to operate in Texas. The ERCs are under the oversight of the THECB and are governed by an Advisory Board which meets at least quarterly and includes representation from the Texas Education Agency and the Texas Workforce Commission and each ERC, among others. Researcher proposals are reviewed and acted upon by the Advisory Board, and research must be of benefit to the state of Texas. The ERCs are self-funded.

Currently, researchers must access the P-16/Workforce Data Repository available through the ERCs by physically accessing special terminals at the ERC locations. The rule amendments would allow a researcher or researchers, when approved by the Advisory Board, to access the de-identified data approved for their project via remote access. Security guidelines for this access, including required Virtual Private Network (VPN) and multi-factor authentication have been developed and approved by the ERC Advisory Board. All FERPA and other federal and state education privacy law requirements must be met, as stipulated by existing ERC law and rule.

There would be minimal costs to public institutions of higher education to adjust to the revised rules given the security measures

that the authorized ERCs already have in place and the self-supporting nature of the Education Research Centers.

The following comments were received within the public comment period.

COMMENTS: Researchers commented in favor of the amendments to allow remote access to data at the Education Research Centers for researchers so approved. Researchers who submitted comments are affiliated with organizations and higher education institutions including the: Houston Education Research Consortium at Rice University, Yale University's Economics Department, the University of Michigan's Gerald R. Ford School of Public Policy, Michigan State University, and the University of California-Davis. Another researcher who submitted written testimony has prior affiliations with the Texas Education Agency and Texas State University. The comments and written testimony, all in favor of the rule change, centered on a few common themes.

Researchers anticipate the proposed rule changes will lead to increased use of the ERC data to address key policy questions across educational and workforce sectors since researchers will now have the potential to access the data remotely. Further, remote access can occur while maintaining the rigorous data security standards that already are in place under ERC onsite data access policies, without researchers having to travel or schedule time to use limited physical facilities onsite at the ERCs. In addition, risks and challenges due to the potential spread of COVID-19, while not expected to be long-term, can be mitigated for both researchers and ERC staff under approved remote access policies. Otherwise, many researchers' projects may remain on hold or even if restarted, may have to be halted again due to travel, shelter-in-place, safety, or other restrictions.

The proposed changes allow for enhanced ERC capacity and self-sufficiency without compromising researcher access to data or creating the need for ERCs to acquire more physical space, which were limitations even before the current pandemic restrictions began. Among the researchers who commented, there is agreement that the value of the ERC data holdings will increase, along with greater production of high-quality research focused on improving educational policy and practice and enhancing, thereby, the state's academic and workforce competitiveness. They also observed that some research studies have been funded from federal and foundation sources that also support ERC operations and staff, along with faculty and graduate students at universities hosting the ERCs. Thus, these changes in rule can foster the sustained presence of the ERCs in the long run, in addition to other statewide benefits.

Finally, in the written testimony that was submitted, it was noted that when the ERCs were created 13 years ago, VPN technology did not meet the desired standards for functionality and security that were deemed necessary to protect the confidentiality of the ERC data, which was of paramount concern. Thus, providing researchers physical access to the data onsite at an ERC under established policies and controls mitigated concerns about compromised data confidentiality that would have arisen in the early years with less secure, offsite VPN access. Under current VPN technology, functionality and security features are vastly improved, and the rule changes continue to reinforce the necessity for ERCs to train researchers on policies and procedures for ensuring that the confidentiality of the ERC data remains paramount in researcher use of the data, even when data are accessed remotely. In addition, while approved researchers will still pay fees to access ERC data, due to the self-sustaining nature of the ERCs, they no longer need to incur additional costs

due to travel and time away from their organizations or academic institutions.

STAFF RESPONSE: Staff agree with the comments.

The amendment is adopted under the Texas Education Code, Title 1, Chapter 1, Sections 1.005 and 1.006. Section 1.005(b) authorizes the Coordinating Board to establish up to three Education Research Centers. Section 1.006 requires the establishment of an Advisory Board for the purpose of reviewing study or evaluation proposals and ensuring appropriate data use.

The amendments affect Texas Education Code, Sections 1.005 and 1.006.

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 27, 2020.

TRD-202003046

Nichole Bunker-Henderson

General Counsel

Texas Higher Education Coordinating Board

Effective date: August 16, 2020

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For further information, please call: (512) 426-6533



PART 2. TEXAS EDUCATION AGENCY

CHAPTER 62. COMMISSIONER'S RULES CONCERNING THE EQUALIZED WEALTH LEVEL

The Texas Education Agency (TEA) adopts the repeal of §62.1071 and an amendment to §62.1072, concerning the equalized wealth level. The repeal and amendment are adopted without changes to the proposed text as published in the April 24, 2020 issue of the *Texas Register* (45 TexReg 2631) and will not be republished.

The adopted repeal of §62.1071 removes outdated provisions. The adopted amendment to §62.1072 implements House Bill (HB) 3, 86th Texas Legislature, 2019, by adopting as part of the Texas Administrative Code (TAC) new manuals that describe the processes and procedures that TEA will use in the administration of the provisions of Texas Education Code (TEC), Chapter 49, and the fiscal, procedural, and administrative requirements that must be met by school districts subject to TEC, Chapter 49.

REASONED JUSTIFICATION: TEA has adopted the procedures contained in each yearly manual for districts subject to wealth equalization as part of the TAC since 2011. Manuals adopted for previous school years remain in effect with respect to those school years. Each school year's manual for districts subject to wealth equalization explains how districts subject to wealth equalization are identified; the fiscal, procedural, and administrative requirements those districts must meet; and the consequences for not meeting requirements. The manual also provides information on using the online Foundation School Program (FSP) System to fulfill certain requirements.

HB 3, 86th Texas Legislature, 2019, transferred, redesignated, and amended TEC, §41.006 as §49.006, authorizing the commissioner to adopt rules necessary for implementation of TEC,

Chapter 49. Provisions from TEC, Chapter 41, Equalized Wealth Level, were transferred to TEC, Chapter 49, Options for Local Revenue Levels in Excess of Entitlement.

To align with changes made by HB 3, the title for 19 TAC Chapter 62 was changed from "Commissioner's Rules Concerning the Equalized Wealth Level" to "Commissioner's Rules Concerning Options for Local Revenue Levels in Excess of Entitlement."

The adopted repeal of §62.1071, Manual for Districts Subject to Wealth Equalization, removes outdated provisions from the 2016-2017 school year. The rule is obsolete.

The adopted amendment to §62.1072, Manual for Districts Subject to Wealth Equalization, 2017-2018 and 2018-2019 School Years, adopts in rule the official TEA publications *Options and Procedures for Local Revenue in Excess of Entitlement 2019-2020 School Year* as Figure: 19 TAC §62.1072(a) and *Options and Procedures for Local Revenue in Excess of Entitlement 2020-2021 School Year* as Figure: 19 TAC §62.1072(b). Additionally, the section title was changed from "Manual for Districts Subject to Wealth Equalization, 2017-2018 and 2018-2019 School Years" to "Options and Procedures for Local Revenue in Excess of Entitlement, 2019-2020 and 2020-2021 School Years."

Significant changes addressed in the new publications are as follows.

Chapter 41 Provisions

TEC, Chapter 41, was renumbered to TEC, Chapter 49, and amended by HB 3, 86th Texas Legislature, 2019.

Early Agreement Credit Provision

Districts purchasing attendance credits from the state in accordance with former TEC, Chapter 41, Subchapter D (Option 3), were able to obtain a discount in the form of an early agreement credit in accordance with former TEC, §41.098. The discount was limited to 4.0% of the computed cost of Option 3 before any discounts were applied or \$80 multiplied by the number of weighted average daily attendance (WADA) purchased, whichever was less. To qualify, the district subject to the provisions of TEC, Chapter 41, was to submit a signed Option 3 agreement to TEA with a postmark on or before September 1 of the applicable year. TEC, §41.098, was repealed by HB 3, and no equivalent provision was enacted in TEC, Chapter 49. Therefore, this provision will not continue.

Current Year Values

As established in TEC, §48.269, this determination is based on estimates of enrollment for school year 2019-2020 and estimated property values for tax year 2019. Because TEA does not yet have final state certified property values for tax year 2019, it is using 2018 state certified property values increased by 5.76%, in accordance with the 2020-2021 General Appropriations Act, as a proxy for tax year 2019.

Netting Provision

TEC, §41.0041, which provided certain districts the option of authorizing the commissioner to withhold state aid in lieu of holding an election, was repealed. However, provisions in TEC, §48.257(c), allow districts to offset the reduction of excess local revenue against TEC, Chapter 48, Subchapter F, funds. All districts will have the option to use state aid calculated under TEC, Chapter 48, Subchapter F, as an offset to their attendance credit for purposes of reducing their local revenue level. Districts

using this option are required to submit the district intent/choice selection form and complete an Option 3 netting contract.

92-93 Hold Harmless Provision

The *Chapter 41 hold harmless provision* allowed a district to retain more wealth than it would otherwise keep at the equalized wealth level (EWL). A district was eligible for this provision if the revenue per WADA generated by applying a \$1.17 rate to the tax base at the EWL was less than what the district's revenue per WADA was in 1992-1993. This provision, which allowed a district to keep a higher tax base, referred to as the hold harmless tax base, so that its 1992-1993 revenue per WADA was maintained, was repealed by HB 3.

HB 3 created the Equalized Wealth Transition Grant, which will be phased out over the next five years. A school district is entitled to receive an annual allotment in an amount equal to the amount of additional revenue a school district received for the 2018-2019 school year under former TEC, §41.002. Beginning in school year 2020-2021, estimates of local property values for the current year will be collected from districts for use in determinations for districts with local revenue levels in excess of entitlement.

For purposes of calculating a district's allotment under the Equalized Wealth Transition Grant, the amount to which a district is entitled will be reduced by 20% for the 2020-2021 school year; 40% for the 2021-2022 school year; 60% for the 2022-2023 school year; and 80% for the 2023-2024 school year.

The adopted amendment addresses new and revised provisions as applicable in the publication for each school year, Figure: 19 TAC §62.1072(a) for the 2019-2020 school year and Figure: 19 TAC §62.1072(b) for the 2020-2021 school year.

SUMMARY OF COMMENTS AND AGENCY RESPONSES: The public comment period on the proposal began April 24, 2020, and ended June 8, 2020. No public comments were received.

19 TAC §62.1071

STATUTORY AUTHORITY. The repeal is adopted under Texas Education Code (TEC), §49.006, which authorizes the commissioner of education to adopt rules necessary for the implementation of TEC, Chapter 49, Options for Local Revenue Levels in Excess of Entitlement.

CROSS REFERENCE TO STATUTE. The repeal implements Texas Education Code, §49.006.

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 22, 2020.

TRD-202002997

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Effective date: August 11, 2020

Proposal publication date: April 24, 2020

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



19 TAC §62.1072

STATUTORY AUTHORITY. The amendment is adopted under Texas Education Code (TEC), §49.006, which authorizes the commissioner of education to adopt rules necessary for the implementation of TEC, Chapter 49, Options for Local Revenue Levels in Excess of Entitlement.

CROSS REFERENCE TO STATUTE. The amendment implements Texas Education Code, §49.006.

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 22, 2020.

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Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Effective date: August 11, 2020

Proposal publication date: April 24, 2020

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



CHAPTER 101. ASSESSMENT

SUBCHAPTER CC. COMMISSIONER'S

RULES CONCERNING IMPLEMENTATION OF

THE ACADEMIC CONTENT AREAS TESTING

PROGRAM

DIVISION 1. IMPLEMENTATION OF

ASSESSMENT INSTRUMENTS

19 TAC §101.3011

The Texas Education Agency adopts an amendment to §101.3011, concerning the implementation and administration of academic content area assessment instruments. The amendment is adopted without changes to the proposed text as published in the May 8, 2020 issue of the *Texas Register* (45 TexReg 3009) and will not be republished. The adopted amendment modifies the rule to clarify testing requirements for accelerated students who have completed end-of-course (EOC) assessments before entering high school.

REASONED JUSTIFICATION: Section 101.3011 addresses state and federal requirements relating to the implementation and administration of academic content area assessment instruments. The adopted amendment to 19 TAC §101.3011 clarifies state and federal testing requirements relating to accelerated students.

In alignment with federal testing and accountability requirements, all students are required to be tested at least once in high school. To satisfy federal requirements, students who complete their state required EOC assessments before entering high school are now required to take the ACT® or SAT®. In accordance with House Bill 3, 86th Texas Legislature, 2019, Texas Education Code (TEC), §39.0261(a)(3)(A), College Preparation Assessment, now provides for students to take a nationally norm-referenced assessment used by colleges and universities one time during high school at state cost. The scores of these tests will be used for federal accountability purposes if a student has completed EOC assessments prior to entering high school.

The adopted amendment adds new subsection (a)(2) to require students in Grades 3-8 who are accelerated and are on track to complete EOC assessment requirements prior to entering high school to take either the ACT® or SAT® at least once in high school for federal accountability purposes. District may choose to have these students test between January of Grade 11 through graduation at state cost in accordance with TEC, §39.0261(a)(3)(A).

The adopted amendment deletes language that references the previous statewide assessment program, the Texas Assessment of Knowledge and Skills (TAKS). With the implementation of Senate Bill (SB) 463 and SB 1005, 85th Texas Legislature, Regular Session, 2017, TAKS is no longer administered. As such, this language is no longer applicable.

SUMMARY OF COMMENTS AND AGENCY RESPONSES: The public comment period on the proposal began May 8, 2020, and ended June 22, 2020. Following is a summary of public comments received and corresponding agency responses.

Comment: The Texas School Alliance (TSA) and the College Board both agreed with the proposed amendment, indicating that it will benefit students.

Response: The agency agrees.

Comment: TSA requested that clarification be added regarding testing requirements for students who are accelerated by more than one grade level.

Response: The agency disagrees that clarification is needed regarding students who are accelerated by more than one grade level. TEC, §39.023(a), and §101.3011(a)(1) require all students to be tested on grade level unless the student is accelerated and taking a corresponding test. In most cases, students who are accelerated by more than one grade level do not have a corresponding test to take. Therefore, these students must take their enrolled grade level assessment. This testing policy has been included in testing manuals and has not changed.

Comment: TSA requested modifying the amendment to indicate how and when ACT® and SAT® scores would be used for accountability.

Response: This comment is outside the scope of the proposed rulemaking since accountability reporting requirements are not addressed in §101.3011.

Comment: TSA requested that Advanced Placement (AP) and International Baccalaureate (IB) exams be included to provide accelerated students more testing options in high school.

Response: The agency disagrees. Although including AP and IB exams would provide accelerated students more testing options, ACT® and SAT® were identified for this purpose to alleviate the financial burden of testing from students and districts. TEC, §39.0261(a)(3)(A), provides for high school students to take once at state cost a nationally norm-referenced assessment used by colleges as part of their undergraduate admissions process.

Comment: An educator expressed concern about the increased burden to school districts to track these students.

Response: The agency provides the following clarification. Annually, the agency plans to provide districts with a list of accelerated students who have completed EOC assessments by the end of Grade 8 and who do not have a corresponding ACT® or SAT® score on file.

Comment: An educator expressed concern about the cost to the state.

Response: The agency provides the following clarification. Funding for reimbursement under §101.3001 was allocated by HB 3, 86th Texas Legislature, 2019, through TEC, §48.155, College Preparation Assessment Reimbursement.

STATUTORY AUTHORITY. The amendment is adopted under Texas Education Code (TEC), §28.0211(o) and (p), which provide that accelerated students in Grades 5 and 8 are not required to take their grade-level assessment and may not be denied promotion based on their performance on an advanced assessment; TEC, §39.023(a), (a-2), (b), (c), and (l), which specify the required testing for students in Grades 3-8, accelerated students, students who are significantly cognitively disabled, students enrolled in high school courses, and students whose primary language is Spanish, respectively; TEC, §39.0238, which establishes Algebra II and English III EOC assessments as measures of postsecondary readiness; TEC, §39.0261(a)(3)(A), which provides for high school students to take a nationally norm-referenced assessment one time at state cost; and the Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act, §1111(b)(2)(C), which allows states to exempt Grade 8 students from their grade-level mathematics assessment and instead take and use a score from the state's EOC mathematics assessment for accountability purposes as long as a more advanced assessment is taken to fulfill accountability requirements in high school.

CROSS REFERENCE TO STATUTE. The amendment implements Texas Education Code, §§28.0211(o) and (p); 39.023(a), (a-2), (b), (c), and (l); 39.0238; and 39.0261(a)(3)(A); and the Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act, §1111(b)(2)(C).

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 22, 2020.

TRD-202002996

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Effective date: August 11, 2020

Proposal publication date: May 8, 2020

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

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TITLE 22. EXAMINING BOARDS

**PART 16. TEXAS BOARD OF
PHYSICAL THERAPY EXAMINERS**

CHAPTER 341. LICENSE RENEWAL

22 TAC §§341.1, 341.6, 341.8, 341.9

The Texas Board of Physical Therapy Examiners adopts the amendments to 22 Texas Administrative Code (TAC) Chapter 341 License Renewal specifically the following sections: §341.1 Requirements for Renewal, §341.6 License Restoration, §341.8

Inactive Status, and §341.9 Retired Status; Performing Voluntary Charity Care.

The amendments are adopted without changes to the proposed text as published in the June 19, 2020, issue of the *Texas Register* (45 TexReg 4136). The rules will not be republished.

The amendments are adopted pursuant to the provisions in HB 2059 during the 86th Legislative Session that mandates the addition of human trafficking prevention training for health care practitioners as a condition of license renewal.

No public comment was received.

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 27, 2020.

TRD-202003037

Ralph A. Harper
Executive Director

Texas Board of Physical Therapy Examiners

Effective date: September 1, 2020

Proposal publication date: June 19, 2020

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



PART 17. TEXAS STATE BOARD OF PLUMBING EXAMINERS

CHAPTER 361. ADMINISTRATION

SUBCHAPTER A. GENERAL PROVISIONS

22 TAC §361.1

The Texas State Board of Plumbing Examiners (Board) adopts amendments to 22 Texas Administrative Code §361.1 without changes to the proposed text as published in the May 22, 2020, issue of the *Texas Register* (45 TexReg 3730). The rule will not be republished.

REASONED JUSTIFICATION

The amendment to §361.1, concerning definitions, indicates that although cleaning a drain or sewer line constitutes "service" of plumbing (and therefore the act of plumbing), inspection, alone, of a drain, of a sewer line, or of other plumbing, using a scope or camera, does not constitute the service of plumbing or the act of plumbing. The adopted rule clarifies the definition of plumbing and is consistent with Texas Occupations Code chapter 1301.

PUBLIC COMMENT

The Board published the proposed amendments to 22 Texas Administrative Code §361.1 in the May 22, 2020, issue of the *Texas Register* (45 TexReg 3730). No comments were received. A public hearing in accordance with Texas Government Code §2001.029 was not required.

STATUTORY AUTHORITY

Amended §361.1 is adopted under the authority of §1301.251(2) of the Texas Occupations Code, which requires the Board to adopt and enforce rules necessary to administer and enforce chapter 1301 of the Occupations Code (Plumbing License Law) and under the authority of, and to implement Plumbing License Law §1301.002(7), concerning definitions. This adoption affects the Plumbing License Law.

No other statute is affected by the adoption of this rule.

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 27, 2020.

TRD-202003042

Lisa Hill

Executive Director

Texas State Board of Plumbing Examiners

Effective date: August 16, 2020

Proposal publication date: June 5, 2020

For further information, please call: (512) 936-5226



CHAPTER 367. ENFORCEMENT

22 TAC §367.10

The Texas State Board of Plumbing Examiners (Board) adopts amendments to 22 Texas Administrative Code §367.10 without changes to the proposed text as published in the June 5, 2020, issue of the *Texas Register* (45 TexReg 3730). The rule will not be republished.

REASONED JUSTIFICATION

The amendment to §367.10 states when a plumbing company must disclose the license information of the Master Plumber acting as the Responsible Master Plumber (RMP) for the company and requires that documents including proposals, invoices, and contracts inform the public of the Board's regulatory authority and provide Board contact information. The rule eliminates the requirement to display an RMP's certificate of licensure in the place of business and stringent requirements including the font size of text in invoices, proposals, and other contracts. With respect to advertising, the proposed amendments make changes to modernize the rule and account for changes in technology, such as the Internet and digital advertising platforms, and changes in the marketplace such as the proliferation of franchisor/franchisee relationships. The amendment will expand the advertising and promotional activities expressly deemed to be exempt from the rule's requirements, thereby limiting existing regulations.

PUBLIC COMMENT

The Board published the proposed amendments to 22 Texas Administrative Code §367.10 in the June 5, 2020, issue of the *Texas Register* (45 TexReg 3730). No comments were received. A public hearing in accordance with Texas Government Code §2001.029 was not required.

STATUTORY AUTHORITY

Amended §367.10 is adopted under the authority of §1301.251(2) of the Texas Occupations Code, which requires the Board to adopt and enforce rules necessary to administer and enforce chapter 1301 of the Occupations Code (Plumbing

License Law). It is also adopted under the authority of, and to implement Plumbing License Law §§1301.252, which prohibits false, misleading, and deceptive practices, and 1301.302, relating to required information in contractual documents.

No other statute is affected by the adoption of this rule.

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 27, 2020.

TRD-202003044

Lisa Hill

Executive Director

Texas State Board of Plumbing Examiners

Effective date: August 16, 2020

Proposal publication date: June 5, 2020

For further information, please call: (512) 936-5226





REVIEW OF AGENCY RULES

This section contains notices of state agency rule review as directed by the Texas Government Code, §2001.039.

Included here are proposed rule review notices, which invite public comment to specified rules under review; and adopted rule review notices, which summarize public comment received as part of the review. The complete text of an agency's rule being reviewed is available in the *Texas Administrative Code* on the Texas Secretary of State's website.

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

Proposed Rule Reviews

Commission on State Emergency Communications

Title 1, Part 12

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 current §255.4 sufficiently defines the foregoing terms.

Persons wishing to comment on CSEC's initial determination or recommend amendments to §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. Any proposed changes to §255.4 will be published in the Proposed Rules Section of the *Texas Register* and will be open for an additional 30-day public comment period.

TRD-202003038

Patrick Tyler

General Counsel

Commission on State Emergency Communication

Filed: July 27, 2020



Texas Racing Commission

Title 16, Part 8

The Texas Racing Commission ("Commission") files this notice of intent to review 16 TAC Chapters 301, Definitions; 303, General Provisions; 307, Proceedings Before the Commission; and 319, Veterinary Practices and Drug Testing. This review is conducted in accordance with Texas Government Code §2001.039, which requires a state agency to review and consider its rules for re-adoption, re-adoption with amendments, or repeal every four years. During the review, the Commission will assess whether the reasons for initially adopting the rules continue to exist.

For 30 days following the publication of this notice, the Commission will accept written comments regarding the review. Comments should be directed to Robert Elrod, Public Information Officer, at Texas

Racing Commission, P.O. Box 12080, Austin, Texas 78711-2080, or info@txrc.texas.gov.

Any proposed changes to these rules as a result of the review will be published in the Proposed Rules section of the *Texas Register* and will be open for an additional 30-day public comment period prior to final adoption.

TRD-202003020

Chuck Trout

Executive Director

Texas Racing Commission

Filed: July 23, 2020



Adopted Rule Reviews

Office of the Attorney General

Title 1, Part 3

Chapter 60

The Office of the Attorney General (OAG) has completed its review of 1 TAC Chapter 60, Texas Crime Victim Services Grant Programs. The notice of intent to review Chapter 60 was published in the June 12, 2020, issue of the *Texas Register* (45 TexReg 4073).

The OAG has assessed whether the reasons for adopting the rules continue to exist. The OAG received no comments regarding this review.

As a result of the review, the OAG finds that the reasons for adopting the rules in Chapter 60 continue to exist and readopts those sections in accordance with the requirements of Government Code §2001.039.

Chapter 61

The Office of the Attorney General (OAG) has completed its review of 1 TAC Chapter 61, Crime Victims' Compensation. The notice of intent to review Chapter 61 was published in the June 12, 2020, issue of the *Texas Register* (45 TexReg 4073).

The OAG has assessed whether the reasons for adopting the rules continue to exist. The OAG received no comments regarding this review.

As a result of the review, the OAG finds that the reasons for adopting the rules in Chapter 61 continue to exist and readopts those sections in accordance with the requirements of Government Code §2001.039.

Chapter 62

The Office of the Attorney General (OAG) has completed its review of 1 TAC Chapter 62, Sexual Assault Prevention and Crisis Services. The notice of intent to review Chapter 62 was published in the June 12, 2020, issue of the *Texas Register* (45 TexReg 4073).

The OAG has assessed whether the reasons for adopting the rules continue to exist. The OAG received no comments regarding this review.

As a result of the review, the OAG finds that the reasons for adopting the rules in Chapter 62 continue to exist and readopts those sections in accordance with the requirements of Government Code §2001.039.

TRD-202003032

Lesley French

General Counsel

Office of the Attorney General

Filed: July 24, 2020



Texas Racing Commission

Title 16, Part 8

Pursuant to Texas Government Code §2001.039, the Texas Racing Commission ("Commission") adopts the review of 16 TAC Chapters 321, Pari-Mutuel Wagering, and 323, Disciplinary Action and Enforcement. The review assessed whether the reasons for adopting the chapters continue to exist.

The Commission received no comments on the proposed review, which was published in the June 21, 2019, issue of the *Texas Register* (44 TexReg 3135).

The agency has proposed amendments to 16 TAC §323.101 and §323.201 to correct drafting errors and update statutory references.

The Commission finds that the reasons for adopting the chapters continue to exist and readopts the chapters at this time in accordance with the requirements of Government Code §2001.039.

This concludes the review of Chapters 321 and 323.

TRD-202003021

Chuck Trout

Executive Director

Texas Racing Commission

Filed: July 23, 2020



Texas Board of Physical Therapy Examiners

Title 22, Part 16

The Texas Board of Physical Therapy Examiners (Board) has completed its rule review of the following chapters of Title 22, Part 16 of the Texas Administrative Code: Chapter 321, concerning Definitions; Chapter 322, concerning Practice; Chapter 323, concerning Powers and Duties of the Board; Chapter 325, concerning Organization of the Board; Chapter 327, concerning Compensation; Chapter 329, concerning Licensing Procedure; Chapter 335, concerning Professional Title; Chapter 337, concerning Display of License; Chapter 339, concerning Fees; Chapter 341, concerning License Renewal; Chapter 342, concerning Open Records; Chapter 343, concerning Contested Case Procedure; Chapter 344, concerning Administrative Fines and Penalties; Chapter 346, concerning Practice Settings for Physical Therapy; and Chapter 348, concerning Physical Therapy Licensure Compact. The rule review was conducted in accordance with Texas Government Code §2001.039.

The proposed notice of intent to review rules was published in the May 22, 2020, issue of the *Texas Register* (45 TexReg 3523). The Board received no comments regarding this review.

The Board has assessed whether the reasons for adopting the rules continue to exist. As a result of the review, the Board finds that the reasons for initially adopting the rules continue to exist and readopts in accordance with the requirements of Texas Government Code §2001.039.

TRD-202003036

Ralph A. Harper

Executive Director

Texas Board of Physical Therapy Examiners

Filed: July 27, 2020



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 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 08/03/20 - 08/09/20 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 08/03/20 - 08/09/20 is 18% for Commercial over \$250,000.

¹ Credit for personal, family or household use.

² Credit for business, commercial, investment or other similar purpose.

TRD-202003061

Leslie L. Pettijohn

Commissioner

Office of Consumer Credit Commissioner

Filed: July 28, 2020

Deep East Texas Council of Governments

Public Notice - Request for Proposals

Professional Grant Application and Administration Services

DETCOG is seeking a qualified firm to provide professional grant application and administration services to assist the Deep East Texas Council of Governments (DETCOG) in its application(s) for, and implementation of, one or more contracts, if awarded, from the GLO's CDBG - MIT program.

Interested responders should refer to DETCOG RFP No. 2020-04. DETCOG intends to negotiate with the successful responder to RFP No. 2020-04 to provide grant application and administration services.

Proposals will be scored on the basis of:

Experience - (35%)

Work Performance - (30%)

Capacity to Perform - (20%)

Proposal Costs - (15%)

DETCOG reserves the right to reject all proposals or negotiate with any or all individuals and firms that submit proposals.

Complete details of RFP No. 2020-4 and Conditions for Submittal can be found at: <https://www.detcog.gov/rfps-rfq>

The closing of this RFP is 4 p.m. CDT, Wednesday, August 19, 2020.

Any questions or requests for clarifications must be submitted in writing via EMAIL to respond@detcog.gov no later than August 14, 2020 at 4:00 p.m. CDT.

DETCOG is an Affirmative Action/Equal Opportunity Employer

TRD-202003068

Lonnie Hunt

Executive Director

Deep East Texas Council of Governments

Filed: July 28, 2020

Public Notice - Request for Proposals Regional Rural Broadband Network Project Manager RFP Number: 2020-03

Regional Rural Broadband Network Project Manager

DETCOG is seeking a qualified individual or firm to manage its Regional Rural Broadband Project.

Interested responders should refer to DETCOG RFP No. 2020-03. DETCOG intends to negotiate a contract with the successful responder to RFP No. 2020-03 to provide broadband project management services.

Proposals will be scored on the basis of:

Responsiveness to Proposal - (Pass/Fail)

Qualifications, Experience & Capabilities - (50%)

Methodology and Approach - (30%)

Project Management, Organizational Structure & Key Personnel - (20%)

DETCOG Reserves the right to reject all proposals or negotiate with any or all individuals and firms that submit proposals.

Complete details of RFP No. 2020-3 and Conditions for Submittal can be found at: <https://www.detcog.gov/rfps-rfq>.

The closing of this RFP is 4:30 p.m. CDT, Friday, August 14, 2020.

Any questions or requests for clarifications must be submitted in writing via EMAIL to respond@detcog.gov no later than Tuesday, August 11, 2020, at 4:30 p.m. CDT.

DETCOG is an Affirmative Action/Equal Opportunity Employer

TRD-202003070

Lonnie Hunt

Executive Director

Deep East Texas Council of Governments

Filed: July 28, 2020

Texas Commission on Environmental Quality

Agreed Orders

The Texas Commission on Environmental Quality (TCEQ or commission) staff is providing an opportunity for written public comment on the listed Agreed Orders (AOs) in accordance with Texas Water Code (TWC), §7.075. TWC, §7.075, requires that before the commission may approve the AOs, the commission shall allow the public an opportunity to submit written comments on the proposed AOs. TWC,

§7.075, requires that notice of the 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 08, 2020**. 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 commissions 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 commissions 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 08, 2020**. 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: AANI Diamond 002 LLC dba TX0313 Yumm Market; DOCKET NUMBER: 2019-1803-PST-E; IDENTIFIER: RN102373545; LOCATION: Uvalde, Uvalde 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 tank (UST) system for releases at a frequency of at least once every 30 days; 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: \$4,500; ENFORCEMENT COORDINATOR: Miles Wehner, (512) 239-2813; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

(2) COMPANY: Aqua Utilities, Incorporated; DOCKET NUMBER: 2020-0343-PWS-E; IDENTIFIER: RN101206605; LOCATION: Canyon Lake, Comal County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.39(j) and Texas Health and Safety Code, §341.0351, by failing to notify the executive director prior to making any significant change or addition to the systems production, treatment, storage, pressure maintenance, or distribution facilities; and 30 TAC §290.42(l), by failing to maintain a thorough and up-to-date plant operations manual for operator review and reference; PENALTY: \$207; ENFORCEMENT COORDINATOR: Samantha Duncan, (512) 239-2511; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

(3) COMPANY: Aqua Utilities, Incorporated (PCW Number 1); DOCKET NUMBER: 2020-0301-PWS-E; IDENTIFIER: RN102343175; LOCATION: Livingston, Polk County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.41(c)(1)(F), by failing to obtain a sanitary control easement covering land within 150 feet of the facility's two wells; 30 TAC §290.42(e)(4)(A), by failing to provide a full-face self-contained breathing apparatus or supplied air respirator that meets Occupational Safety and Health Administration standards for construction and operation, and a small bottle of fresh ammonia solution (or approved equal) for testing for chlorine leakage that are readily accessible outside the chlorinator room and immediately available to the operator in the

event of an emergency; 30 TAC §290.42(l), by failing to maintain a thorough and up-to-date plant operations manual for operator review and reference; 30 TAC §290.45(b)(1)(D)(iv) and Texas Health and Safety Code, §341.0315(c), by failing to provide a pressure tank capacity of 20 gallons per connection; 30 TAC §290.46(f)(2) and (3)(A)(i)(II), (ii)(IV), and (iv), (B)(iv), and (E)(iv), 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(l), by failing to flush all dead-end mains at monthly intervals; 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(q)(1), by failing to issue a boil water notification to the customers of the facility using the applicable language and prescribed format specified in 30 TAC §290.47(c)(1); 30 TAC §290.110(c), by failing to monitor the performance of the disinfection facilities at sites designated in the public water system's monitoring plan; and 30 TAC §290.110(c)(4)(B), by failing to monitor the disinfectant residual at representative locations in the distribution system at least once per day; PENALTY: \$6,850; ENFORCEMENT COORDINATOR: Aaron Vincent, (512) 239-0855; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1830, (409) 898-3838.

(4) COMPANY: BROOKS, BEN; DOCKET NUMBER: 2020-0637-OSS-E; IDENTIFIER: RN110029139; LOCATION: Ozona, Crockett County; TYPE OF FACILITY: operator; RULE VIOLATED: 30 TAC §30.5(a), by failing to obtain a required occupational license; PENALTY: \$175; ENFORCEMENT COORDINATOR: Katelyn Tubbs, (512) 239-2512; REGIONAL OFFICE: 622 South Oakes, Suite K, San Angelo, Texas 76903-7035, (325) 655-9479.

(5) COMPANY: City of Lago Vista; DOCKET NUMBER: 2020-0639-WQ-E; IDENTIFIER: RN110977162; LOCATION: Lago Vista, Travis County; TYPE OF FACILITY: operator; RULE VIOLATED: 30 TAC §281.25(a)(4), by failing to obtain a construction general permit (stormwater); PENALTY: \$875; ENFORCEMENT COORDINATOR: Herbert Darling, (512) 239-2520; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711, (512) 339-2929.

(6) COMPANY: Corner Market 80, L.L.C.; DOCKET NUMBER: 2020-0575-PST-E; IDENTIFIER: RN102375664; LOCATION: Mesquite, Dallas 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: \$3,375; ENFORCEMENT COORDINATOR: Harley Hobson, (512) 239-1337; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(7) COMPANY: Corrigan OSB, L.L.C.; DOCKET NUMBER: 2019-1600-AIR-E; IDENTIFIER: RN107922510; LOCATION: Corrigan, Polk County; TYPE OF FACILITY: oriented strandboard production; RULES VIOLATED: 30 TAC §§101.20(3), 116.115(b)(2)(F) and (c), and 122.143(4), New Source Review Permit Numbers 128854, PSDTX1446, and GHGPSDTX128, Special Conditions Numbers 1 and 11, Federal Operating Permit Number O3779, General Terms and Conditions and Special Terms and Conditions Number 10, and Texas Health and Safety Code, §382.085(b), by failing to comply with the maximum dryer and press throughput rates and the maximum allowable emissions rates; PENALTY: \$81,000; ENFORCEMENT COORDINATOR: Toni Red, (512) 239-1704; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1830, (409) 898-3838.

(8) COMPANY: Enterprise Products Operating LLC; DOCKET NUMBER: 2020-0461-AIR-E; IDENTIFIER: RN102323268; LOCATION: Mont Belvieu, Chambers County; TYPE OF FACILITY:

natural gas processing; RULES VIOLATED: 30 TAC §§101.20(3), 116.115(b)(2)(F) and (c), and 122.143(4), New Source Review Permit Numbers 100091, PSDTX1286, and N154, Special Conditions Number 1, Federal Operating Permit Number O3557, General Terms and Conditions and Special Terms and Conditions Number 6, and Texas Health and Safety Code, §382.085(b), by failing to comply with the maximum allowable emissions rate; PENALTY: \$13,125; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$5,250; ENFORCEMENT COORDINATOR: Amanda Diaz, (512) 239-2601; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(9) COMPANY: H4WR Phase 3A, LLC; DOCKET NUMBER: 2020-0492-EAQ-E; IDENTIFIER: RN110496593; LOCATION: Georgetown, Williamson County; TYPE OF FACILITY: single-family residential project; RULES VIOLATED: 30 TAC §213.4(j) and Edwards Aquifer Pollution Plan Number 11001330, Standard Conditions Number 6, by failing to obtain approval of a modification to an approved Water Pollution Abatement Plan prior to commencing a regulated activity over the Edwards Aquifer Recharge Zone; PENALTY: \$1,250; ENFORCEMENT COORDINATOR: Amanda Conner, (512) 239-2521; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 339-2929.

(10) COMPANY: HARVEY'S LP GAS COMPANY; DOCKET NUMBER: 2020-0535-PST-E; IDENTIFIER: RN105213961; LOCATION: Los Fresnos, Cameron County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.10(b)(2), by failing to assure that all underground storage tank (UST) recordkeeping requirements are met; 30 TAC §334.50(b)(1)(A) and TWC, §26.3475(c)(1), by failing to monitor the UST for releases in a manner which will detect a release at a frequency of at least once every 30 days; 30 TAC §334.72 and §334.50(d)(9)(A)(v), by failing to report a suspected release to the TCEQ within 24 hours of discovery, and failing to report a suspected release to the TCEQ within 72 hours of discovery; and 30 TAC §334.74, by failing to investigate and confirm all suspected releases of regulated substances requiring reporting under 30 TAC §334.72 (relating to Reporting of Suspected Releases) within 30 days; PENALTY: \$13,801; ENFORCEMENT COORDINATOR: Karolyn Kent, (512) 239-2536; REGIONAL OFFICE: 1804 West Jefferson Avenue, Harlingen, Texas 78550-5247, (956) 425-6010.

(11) COMPANY: Holcim (US) Incorporated; DOCKET NUMBER: 2020-0613-AIR-E; IDENTIFIER: RN100219286; LOCATION: Midlothian, Ellis County; TYPE OF FACILITY: cement manufacturing plant; RULES VIOLATED: 30 TAC §§101.20(3), 116.115(c), and 122.143(4), New Source Review Permit Numbers 8996 and PSDTX454M4, Special Conditions Number 1, Federal Operating Permit (FOP) Number O1046, General Terms and Conditions (GTC) and Special Terms and Conditions (STC) Number 11, and Texas Health and Safety Code (THSC), §382.085(b), by failing to prevent unauthorized emissions; and 30 TAC §101.201(b)(1)(G) and (H) and §122.143(4), FOP Number O1046, GTC and STC Number 2.F, and THSC, §382.085(b), by failing to identify all required information on the final record for a reportable emissions event; PENALTY: \$7,426; ENFORCEMENT COORDINATOR: Richard Garza, (512) 239-2697; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(12) COMPANY: LaBarge Realty, LLC; DOCKET NUMBER: 2020-0422-PWS-E; IDENTIFIER: RN106871452; LOCATION: Channelview, Harris County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.42(b)(1) and (c)(3), by failing to provide disinfection facilities for the groundwater supply for the purpose of microbiological control and distribution protection;

30 TAC §290.46(n)(1), by failing to maintain at the facility accurate and up-to-date detailed as-built plans or record drawings and specifications for each treatment plant, pump station, and storage tank until the facility is decommissioned; 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 well remains in service; PENALTY: \$1,063; ENFORCEMENT COORDINATOR: Steven Hall, (512) 239-2569; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(13) COMPANY: Marathon Petroleum Company LP; DOCKET NUMBER: 2020-0138-AIR-E; IDENTIFIER: RN102535077; LOCATION: Texas City, Galveston County; TYPE OF FACILITY: petrochemical refinery; RULES VIOLATED: 30 TAC §116.715(a) and §122.143(4), Flexible Permit Number 22433, Special Conditions Number 1, Federal Operating Permit Number O1380, General Terms and Conditions and Special Terms and Conditions Number 21, and Texas Health and Safety Code, §382.085(b), by failing to prevent unauthorized emissions; PENALTY: \$13,125; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$5,250; ENFORCEMENT COORDINATOR: Johnnie Wu, (512) 239-2524; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(14) COMPANY: RANCHO DEL LAGO, INCORPORATED; DOCKET NUMBER: 2020-0018-MWD-E; IDENTIFIER: RN106482029; LOCATION: Blanco, Blanco County; TYPE OF FACILITY: wastewater treatment plant; RULES VIOLATED: 30 TAC §30.350(d) and §305.125(1) and Texas Pollutant Discharge Elimination System (TPDES) Permit Number WQ0015051001, Special Provisions Number 2, by failing to employ or contract with one or more licensed wastewater treatment facility operators or wastewater system operations companies holding a valid Class C license or higher; 30 TAC §217.6(c) and §305.125(1) and TPDES Permit Number WQ0015051001, Special Provisions Number 4, by failing to submit to the TCEQ Wastewater Permitting Section a summary transmittal letter for the Facility within 60 days from the date of permit issuance of August 14, 2014; 30 TAC §217.33(a) and §305.125(1) and TPDES Permit Number WQ0015051001, Monitoring Requirements Number 5, by failing to annually calibrate all automatic flow measuring or recording devices and all totalizing meters for measuring flow; 30 TAC §217.7(b)(2) and §217.282, by failing to obtain approval to utilize any chemical disinfection not discussed in 30 TAC Chapter 217; 30 TAC §217.330(b), by failing to test the reduced-pressure backflow assembly annually; 30 TAC §305.65 and §305.125(1) and TPDES Permit Number WQ0015051001, Permit Conditions Number 4, by failing to submit a permit renewal application at least 180 days before the expiration date of the effective permit; 30 TAC §305.125(1) and TPDES Permit Number WQ0015051001, Special Provisions Number 5, by failing to provide written notice to TCEQ Region 11 Office and the TCEQ Applications Review and Processing Team of the Water Quality Division in writing at least 45 days prior to plant startup or anticipated discharge, whichever occurs first; 30 TAC §217.155(b)(4)(C) and (D) and §305.125(1) and TPDES Permit Number WQ0015051001, Operational Requirements Number 1, by failing to ensure the Facility and all of its systems of collection, treatment, and disposal are properly operated and maintained; 30 TAC §305.125(1) and (7) and TPDES Permit Number WQ0015051001, Special Provision Numbers 22 and 23, by failing to provide certification by a Texas Licensed Professional Engineer that the completed pond lining meets the appropriate criteria prior to utilization; 30 TAC §305.125(1) and (7) and §305.126(b) and TPDES Permit Number WQ0015051001, Permit Conditions Number 2.e, by failing to give notice to the executive director before physical alterations or additions were made to the Facility; 30 TAC §305.125(1) and §309.13(c)(3) and TPDES

Permit Number WQ0015051001, Special Provision Numbers 6 and 7, by failing to ensure the Facility is not located closer than 500 feet from a public water well; and 30 TAC §305.125(1) and (11)(B) and §319.7(c) and TPDES Permit Number WQ0015051001, Monitoring Requirements Number 3.b, by failing to maintain monitoring and reporting records at the Facility and make them readily available for review by a TCEQ representative for a period of three years; PENALTY: \$45,417; ENFORCEMENT COORDINATOR: Stephanie Frederick, (512) 239-1001; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 339-2929.

(15) COMPANY: SWWC Utilities, Incorporated; DOCKET NUMBER: 2019-1625-MWD-E; IDENTIFIER: RN101717791; LOCATION: Pflugerville, Travis County; TYPE OF FACILITY: wastewater treatment facility; RULES VIOLATED: 30 TAC §305.125(1), TWC, §26.121(a)(1), and Texas Pollutant Discharge Elimination System (TPDES) Permit Number WQ0011931001, Permit Conditions Number 2.d, by failing to take all reasonable steps to minimize or prevent any discharge that has a reasonable likelihood of adversely affecting human health or the environment; 30 TAC §305.125(1) and (5) and TPDES Permit Number WQ0011931001, Operational Requirements Number 1, by failing to ensure the facility and all of its systems of collection, treatment, and disposal are properly operated and maintained; and 30 TAC §305.125(1) and (5), TWC, §26.121(a)(1), and TPDES Permit Number WQ0011931001, Permit Conditions Number 2.g, by failing to prevent an unauthorized discharge of sewage into or adjacent to any water in the state; PENALTY: \$51,498; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$25,749; ENFORCEMENT COORDINATOR: Steven Van Lingham, (512) 239-5717; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 339-2929.

(16) COMPANY: The Lubrizol Corporation; DOCKET NUMBER: 2019-1754-AIR-E; IDENTIFIER: RN101058410; LOCATION: Pasadena, Harris County; TYPE OF FACILITY: chemical manufacturing plant; RULES VIOLATED: 30 TAC §116.115(c) and §122.143(4), New Source Review Permit Number 1685, Special Conditions Numbers 1 and 5, Federal Operating Permit Number O1582, General Terms and Conditions and Special Terms and Conditions Number 14, and Texas Health and Safety Code, §382.085(b), by failing to prevent unauthorized emissions and failing to route vapor emissions from the tanks to the vapor oxidizer; PENALTY: \$3,413; ENFORCEMENT COORDINATOR: Danielle Porras, (713) 767-3682; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(17) COMPANY: The Quikrete Companies, LLC; DOCKET NUMBER: 2018-1411-AIR-E; IDENTIFIER: RN100760396; LOCATION: Alvarado, Johnson County; TYPE OF FACILITY: dry concrete bagging plant; RULES VIOLATED: 30 TAC §101.4 and §116.115(b)(2)(G) and (c), New Source Review (NSR) Permit Number 31489, General Conditions (GC) Number 9 and Special Conditions Number 14, and Texas Health and Safety Code (THSC), §382.085(a) and (b), by failing to spray all roads, active work areas, and aggregate stockpiles with water upon detection of visible particulate matter emissions and failed to prevent nuisance dust conditions; 30 TAC §101.4 and THSC, §382.085(a) and (b), by failing to prevent nuisance conditions; 30 TAC §116.115(b)(2)(E), NSR Permit Number 31489, GC Number 7, and THSC, §382.085(b), by failing to maintain a copy of the permit along with records containing the information and data sufficient to demonstrate compliance; and 30 TAC §116.115(b)(2)(G), NSR Permit Number 31489, GC Number 9, and THSC, §382.085(b), by failing to maintain capture and abatement equipment in good working order and operating properly during normal facility operations; PENALTY: \$13,812; ENFORCEMENT COORDINATOR: Margarita

Dennis, (817) 588-5892; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(18) COMPANY: Troy G. Waller dba Rockwell Acres Water System; DOCKET NUMBER: 2020-0446-PWS-E; IDENTIFIER: RN101451565; LOCATION: Amarillo, Randall County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.108(f)(1) and Texas Health and Safety Code, §341.0315(c), by failing to comply with the maximum contaminant level of 15 picoCuries per liter for gross alpha particle activity based on the running annual average; and 30 TAC §291.76 and TWC, §5.702, by failing to pay regulatory assessment fees for the TCEQ Public Utility Account regarding Certificate of Convenience and Necessity Number 11759 for calendar year 2019; PENALTY: \$975; ENFORCEMENT COORDINATOR: Amanda Conner, (512) 239-2521; REGIONAL OFFICE: 3918 Canyon Drive, Amarillo, Texas 79109-4933, (806) 353-9251.

(19) COMPANY: University of Texas Medical Branch at Galveston; DOCKET NUMBER: 2020-0602-AIR-E; IDENTIFIER: RN101921138; LOCATION: Galveston, Galveston County; TYPE OF FACILITY: medical research facility; RULES VIOLATED: 30 TAC §§101.20(1), 116.115(c), and 122.143(4), 40 Code of Federal Regulations §60.56c(f)(6), New Source Review Permit Number 18655, Special Conditions Number 2.B, Federal Operating Permit Number O1531, General Terms and Conditions and Special Terms and Conditions Number 12, and Texas Health and Safety Code, §382.085(b), by failing to prevent the use of the bypass stack for the medical waste incinerator equipped with a wet scrubber; PENALTY: \$11,700; ENFORCEMENT COORDINATOR: Danielle Porras, (713) 767-3682; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(20) COMPANY: VEREIT REAL ESTATE, L.P.; DOCKET NUMBER: 2019-1134-PWS-E; IDENTIFIER: RN106882061; LOCATION: Lubbock, Lubbock County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.41(c)(1)(F), by failing to obtain a sanitary control easement covering land within 150 feet of the facility's well; 30 TAC §290.41(c)(3)(A), by failing to submit well completion data for review and approval prior to placing the facility's drinking water well into service; 30 TAC §290.46(s)(1), by failing to calibrate the facility's well meter at least once every three years; and 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: \$2,620; ENFORCEMENT COORDINATOR: Miles Wehner, (512) 239-2813; REGIONAL OFFICE: 5012 50th Street, Suite 100, Lubbock, Texas 79414-3426, (806) 796-7092.

TRD-202003055
Charmaine Backens
Director, Litigation Division
Texas Commission on Environmental Quality
Filed: July 28, 2020



Enforcement Orders

A default order was adopted regarding P&U King Corporation dba Quick Track 7, Docket No. 2017-1650-PST-E on July 29, 2020 assessing \$4,946 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 CIRCLE K STORES INC. dba Circle K Store 2706981, Docket No. 2018-0227-PST-E on July 29,

2020 assessing \$48,302 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Clayton Smith, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Apex Blasting, Inc., Docket No. 2018-1084-IHW-E on July 29, 2020 assessing \$48,750 in administrative penalties with \$9,750 deferred. Information concerning any aspect of this order may be obtained by contacting Danielle Porras, 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 Mort Roszell Rentals Limited Liability Company, Docket No. 2018-1544-MLM-E on July 29, 2020 assessing \$33,013 in administrative penalties with \$6,602 deferred. Information concerning any aspect of this order may be obtained by contacting Had Darling, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding the City of Manor, Docket No. 2019-0260-MWD-E on July 29, 2020 assessing \$54,938 in administrative penalties with \$10,987 deferred. Information concerning any aspect of this order may be obtained by contacting Had Darling, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding CLIFTON FOOD MART, L.L.C. dba Clifton Food Mart, Docket No. 2019-0361-PST-E on July 29, 2020 assessing \$31,500 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Clayton Smith, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was adopted regarding Rapid Marine Fuels, LLC, Docket No. 2019-0438-MLM-E on July 29, 2020 assessing \$50,875 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Ryan Rutledge, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was adopted regarding Andra J. Odom, Docket No. 2019-0538-MLM-E on July 29, 2020 assessing \$2,722 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Audrey Liter, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding INVISTA S.a r.l., Docket No. 2019-0748-AIR-E on July 29, 2020 assessing \$39,359 in administrative penalties with \$7,871 deferred. Information concerning any aspect of this order may be obtained by contacting Johnnie Wu, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding ISP Technologies Inc., Docket No. 2019-0838-AIR-E on July 29, 2020 assessing \$27,375 in administrative penalties with \$5,475 deferred. Information concerning any aspect of this order may be obtained by contacting Richard 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 the City of Laredo, Docket No. 2019-0881-MWD-E on July 29, 2020 assessing \$42,600 in administrative penalties with \$8,520 deferred. Information concerning any aspect of this order may be obtained by contacting Abigail Lindsey, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Jon David Stover, Docket No. 2019-0997-WQ-E on July 29, 2020 assessing \$22,125 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Steven Van Landingham, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding BAHRAMI ENTERPRISES L-L-C dba Minit Mart, Docket No. 2019-1016-PST-E on July 29, 2020 assessing \$12,538 in administrative penalties with \$2,507 deferred. Information concerning any aspect of this order may be obtained by contacting Carlos Molina, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Midcoast G & P (East Texas) L.P., Docket No. 2019-1167-AIR-E on July 29, 2020 assessing \$25,000 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Richard 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 Chris Harp Construction Limited Liability Company, Docket No. 2019-1275-MLM-E on July 29, 2020 assessing \$25,307 in administrative penalties with \$5,061 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 Midcoast G & P (East Texas) L.P., Docket No. 2019-1311-AIR-E on July 29, 2020 assessing \$26,431 in administrative penalties with \$5,286 deferred. Information concerning any aspect of this order may be obtained by contacting Richard 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 TXI Operations, LP Docket No. 2019-1431-AIR-E on July 29, 2020 assessing \$7,875 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Mackenzie Mehlmann, 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 Lucite International, Inc., Docket No. 2019-1436-AIR-E on July 29, 2020 assessing \$15,000 in administrative penalties with \$3,000 deferred. Information concerning any aspect of this order may be obtained by contacting Mackenzie Mehlmann, 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 Ronnie W. Sharp dba Chipper Point Apartments, Docket No. 2019-1506-PWS-E on July 29, 2020 assessing \$737 in administrative penalties with \$390 deferred. Information concerning any aspect of this order may be obtained by contacting Samantha Duncan, 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 Phillips 66 Gulf Coast Properties LLC and Phillips 66 Pipeline LLC, Docket No. 2019-1540-IWD-E on July 29, 2020 assessing \$19,350 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Abigail Lindsey, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Starrville Water Supply Corporation, Docket No. 2019-1631-PWS-E on July 29, 2020 assessing \$1,725 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Samantha Salas, 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 PRINTPACK, INC., Docket No. 2019-1639-IWD-E on July 29, 2020 assessing \$16,312 in administrative penalties with \$3,262 deferred. Information concerning any aspect of this order may be obtained by contacting Stephanie Frederick, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Total Petrochemicals & Refining USA, Inc., Docket No. 2019-1645-AIR-E on July 29, 2020 assessing \$59,064 in administrative penalties with \$11,812 deferred. Information concerning any aspect of this order may be obtained by contacting Mackenzie Mehlmann, 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 HAMPTON COMMERCIAL, INC dba Hampton Food Mart, Docket No. 2019-1651-PST-E on July 29, 2020 assessing \$13,500 in administrative penalties with \$2,700 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 Edwards Construction, Docket No. 2019-1667-MWD-E on July 29, 2020 assessing \$10,938 in administrative penalties with \$2,187 deferred. Information concerning any aspect of this order may be obtained by contacting Alejandro Laje, 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 HARLETON WATER SUPPLY CORPORATION, Docket No. 2019-1668-PWS-E on July 29, 2020 assessing \$1,635 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Amanda Conner, 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 Lake Fork Water Supply Corp., Docket No. 2019-1677-PWS-E on July 29, 2020 assessing \$1,605 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Jace Willis, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding TABORCA PROPERTIES, LLC, Docket No. 2019-1706-PWS-E on July 29, 2020 assessing \$345 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Samantha Duncan, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Aqua Texas, Inc., Docket No. 2019-1711-PWS-E on July 29, 2020 assessing \$405 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Amanda Conner, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding the City of Chico, Docket No. 2019-1712-MWD-E on July 29, 2020 assessing \$15,075 in administrative penalties. Information concerning any aspect of this order may be

obtained by contacting Stephanie Frederick, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding the City of Fort Worth, Docket No. 2019-1720-MWD-E on July 29, 2020 assessing \$13,125 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Stephanie Frederick, 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 Trinity River Authority of Texas, Docket No. 2019-1722-MWD-E on July 29, 2020 assessing \$5,625 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.

TRD-202003087
Bridget C. Bohac
Chief Clerk
Texas Commission on Environmental Quality
Filed: July 29, 2020



Notice of Correction to Agreed Order Number 12

In the March 6, 2020, issue of the *Texas Register* (45 TexReg 1727), the Texas Commission on Environmental Quality (commission) published notice of Agreed Orders, specifically Item Number 12, for K&N MANAGEMENT, INCORPORATED dba Rudy's Country Store & BBQ, Docket Number 2019-1545-PST-E. The error is as submitted by the commission.

The reference to the Company should be corrected to read: "K&N MANAGEMENT dba Rudy's Country Store & BBQ."

For questions concerning these errors, please contact Michael Parrish at (512) 239-2548.

TRD-202003056
Charmaine Backens
Director, Litigation Division
Texas Commission on Environmental Quality
Filed: July 28, 2020



Notice of Public Meeting on an Application for a Water Use Permit: Application No. 13404

The City of Wichita Falls seeks authorization to construct and maintain a 275,000 acre-foot capacity reservoir, Lake Ringgold, on the Little Wichita River, Red River Basin. Applicant also seeks to divert 65,000 acre-feet of water per year from Lake Ringgold for multiple purposes within its service area. Applicant further seeks to use the bed and banks of the Little Wichita River (Lake Arrowhead) to convey return flows and the 65,000 acre-feet of water for subsequent diversion and use. More information on the application and how to participate in the permitting process is given below.

APPLICATION. City of Wichita Falls, 1300 7th Street, Wichita Falls, Texas 76307, Applicant, has applied to the Texas Commission on Environmental Quality (TCEQ) for a Water Use Permit pursuant to Texas Water Code §§11.121, 11.042 and TCEQ Rules Title 30 Texas Administrative Code (TAC) §§295.1, et seq. Notice is being published and mailed to the water right holders of record in the Red River Basin pursuant to Title 30 TAC §295.151.

Applicant seeks a Water Use Permit to construct and maintain a 275,000 acre-foot capacity reservoir (Lake Ringgold) on the Little Wichita River, tributary of the Red River, Red River Basin with the centerline of the dam being at Latitude 33.8962900°N, Longitude 97.9929801°W, Zip Code 76261, in Clay County.

Applicant also seeks to divert and use not to exceed 65,000 acre-feet of water per year from anywhere along the perimeter of Lake Ringgold, at a maximum diversion rate of 139.79 cfs (62,770 gpm), for municipal, industrial, mining and agricultural purposes within the Applicant's service area in Archer, Clay and Wichita counties.

Lake Arrowhead is authorized under Applicant's Certificate of Adjudication No. 02-5150, as amended.

Applicant also seeks to authorize the use of the bed and banks of the Little Wichita River (Lake Arrowhead), Red River Basin to convey up to 65,000 acre-feet of water per year for subsequent diversion and use for municipal, industrial, mining, and agricultural purposes.

Applicant is authorized to divert surface water-based return flows authorized by TPDES Permit No. WQ0010509001 under Certificate of Adjudication No. 02-5150C.

Applicant further seeks authorization to use the bed and banks of the Little Wichita River (Lake Arrowhead) to convey the return flows generated from the diversion and use of water originating from Lake Ringgold for subsequent diversion and use pursuant to the authorization to reuse return flows included in Certificate of Adjudication No. 02-5150C.

Applicant indicates water diverted from Lake Ringgold may be delivered via pipeline and discharged, at a maximum discharge rate of 139.79 cfs (62,770 gpm), anywhere along the perimeter of Lake Arrowhead in Archer and Clay counties, Zip Code 76379.

Applicant indicates the water diverted from Lake Ringgold and discharged into Lake Arrowhead will be subsequently diverted, at a maximum diversion rate of 139.79 cfs (62,770 gpm), from anywhere along the perimeter of Lake Arrowhead in Archer and Clay counties and from an existing point on Lake Arrowhead, at a maximum diversion rate of 93 cfs (41,850 gpm), being at Latitude 33.763707°N, Longitude 98.370091°W in Clay County, Zip Code 76379.

Applicant indicates that diversions from Lake Ringgold may overdraft the firm yield of the reservoir as part of a system operation with Applicant's existing water supplies.

The application is subject to the obligations of the State of Texas pursuant to the terms of the Red River Compact.

The application and partial fees were received on June 27, 2017. Additional information and fees were received July 7, July 10, and August 7, 2017. The application was declared administratively complete and filed with the Office of the Chief Clerk on August 10, 2017. Additional information was received on October 13, October 16, 2017, October 23, November 16, 2018 and June 4, 2019.

The TCEQ Executive Director has completed the technical review of the application and prepared a draft permit. The draft permit, if granted, would contain special conditions including, but not limited to, mitigation, monitoring, and accounting plan requirements. The application and Executive Director's draft permit are available for viewing and copying at the Office of the Chief Clerk, 12100 Park 35 Circle, Building F., Austin, Texas 78753.

PUBLIC COMMENT / PUBLIC MEETING. You may submit public comments to the Office of the Chief Clerk at the address below. A public meeting will be held and will consist of two parts, an Informal Discussion Period and a Formal Comment Period. A

public meeting is not a contested case hearing under the Administrative Procedure Act. During the Informal Discussion Period, the public is encouraged to ask questions of the applicant and TCEQ staff concerning the permit application and the Executive Director's recommendations, but the comments and questions submitted orally during the Informal Discussion Period will not be considered by the Commissioners and no formal response will be made. Responses will be provided orally during the Informal Discussion Period. During the Formal Comment Period, members of the public may state their formal comments orally into the official record. The Executive Director will subsequently summarize the formal comments and prepare a written response which will be considered by the Commissioners before they reach a decision on the application. The Executive Director's written response will be available to the public online or upon request. The public comment period on this application concludes at the close of the public meeting.

The Public Meeting is to be held:

Tuesday, August 25, 2020 at 7:00 p.m.

Members of the public who would like to ask questions or provide comments during the meeting may access the meeting via webcast by following this link: <https://www.gotomeeting.com/webinar/join-webinar> and entering Webinar ID 483-175-187. It is recommended that you join the webinar and register for the public meeting at least 15 minutes before the meeting begins. You will be given the option to use your computer audio or to use your phone for participating in the webinar.

Those without internet access may call (512) 239-1201 at least one day prior to the meeting for assistance in accessing the meeting and participating telephonically. Members of the public who wish to only listen to the meeting may call, toll free, (914) 614-3221 and enter access code 986-986-971. Additional information will be available on the agency calendar of events at the following link: <https://www.tceq.texas.gov/agency/decisions/hearings/calendar.html>.

INFORMATION. Citizens are encouraged to submit written comments anytime during the public meeting. Citizens may mail their comments to the Office of the Chief Clerk, TCEQ, Mail Code MC-105, P.O. Box 13087, Austin, Texas 78711-3087 or submit them electronically at <http://www14.tceq.texas.gov/epic/eComment/> by entering WRPERM 13404 in the search field before the public comment period closes. If you need more information about the permit application or the permitting process, please call the TCEQ Public Education Program, toll free, at (800) 687-4040. General information can be found at our Web site at www.tceq.texas.gov. *Si desea información en español, puede llamar al (800) 687-4040.*

Persons with disabilities who need special accommodations at the meeting should call the Office of the Chief Clerk at (512) 239-3300 or (800) RELAY-TX (TDD) at least one week prior to the meeting.

Issued: July 22, 2020

TRD-202003084

Bridget C. Bohac

Chief Clerk

Texas Commission on Environmental Quality

Filed: July 29, 2020



Notice of Public Meeting on Proposed Remedial Action

Notice of a virtual public meeting on September 17, 2020, concerning the proposed remedial action at the McBay Oil and Gas state Superfund site in Grapeland, Texas (the site).

The public meeting will be held for the purpose of obtaining additional information regarding the facility and the identification of additional potentially responsible parties and to invite public comment concerning the proposed remedy for the site. The public meeting is not a contested case hearing under the Texas Government Code, Chapter 2001.

The executive director (ED) of the Texas Commission on Environmental Quality (TCEQ) issues this public notice of the proposed remedy for the site. In accordance with Texas Health and Safety Code, §361.187 and 30 Texas Administrative Code §335.349(a), a public meeting regarding the TCEQ's selection of a proposed remedy for the site shall be held. This notice was also published in the Grapeland Messenger and the Houston County Courier on August 6, 2020.

This meeting was originally scheduled for April 9, 2020, but was postponed. On March 16, 2020, in accordance with Texas Government Code, §418.016, Governor Abbott suspended various provisions of the Open Meetings Act that require government officials and members of the public to be physically present at a specified meeting location. Pursuant to that suspension, the public will not be able to attend the public meeting in person but may attend via the Microsoft Live application at no cost.

The public meeting will be held on September 17, 2020, at 6:00 p.m. This public meeting can be accessed through a Microsoft Live link and access code. Both the link, access code, and reference documents for the public meeting will be available by August 7, 2020 at the TCEQ's website, accessible at <https://www.tceq.texas.gov/remediation/superfund/state/mcbay.html>.

The site was proposed for listing on the state registry of Superfund sites in the July 25, 1986, issue of the *Texas Register* (11 TexReg 3421) and listed on the state registry of Superfund sites in the January 16, 1987, issue of the *Texas Register* (12 TexReg 205). On August 12, 1999, commercial/industrial land use was selected for remediation of the site.

The site is located on Farm-to-Market Road (FM) 1272, two miles west of the intersection with FM 2968 (North Olive Street), Grapeland, Texas, in a rural area of Houston County. The site is approximately 20 acres in size. A facility operated on the site until 1987, and at different times was an oil processing facility, an oil refinery, and an oil reclamation facility.

The TCEQ completed its investigation of the site and documented the results in an Affected Property Assessment Report. Groundwater contamination consisting of total petroleum hydrocarbons and several aromatic hydrocarbon contaminants is present on- and off-site in the uppermost groundwater-bearing unit, the Sparta Formation, which occurs approximately 22 to 50 feet below the ground surface.

The TCEQ has also completed a Focused Feasibility Study that evaluated remedial alternatives for remediating the site groundwater according to the Texas Risk Reduction Program (TRRP) rules. The process used to evaluate the remedial alternatives and the proposed remedy are documented in the Proposed Remedial Action Document (PRAD), which is available at the TCEQ's website, accessible at <https://www.tceq.texas.gov/remediation/superfund/state/mcbay.html>. The proposed remedy is an on- and off-site Plume Management Zone (PMZ). The PMZ will be established with institutional controls filed in county real property records in accordance with TRRP. Institutional controls will remain in place until it is demonstrated that chemicals of concern in groundwater no longer exceed the applicable Protective Concentration Levels.

All persons desiring to comment may do so prior to or at the meeting. All comments submitted prior to the meeting must be received by 5:00 p.m. on September 16, 2020, **and should be sent in writing** to Sherell Heidt, Project Manager, TCEQ, Remediation Division,

MC 136, P.O. Box 13087, Austin, Texas 78711-3087, or via email at Sherell.Heidt@tceq.texas.gov or by facsimile at (512) 239-2450. The public comment period for this action will end at the close of the public meeting on September 17, 2020. Please be aware that any contact information provided, including name, phone number, email address, and physical address will become part of the agency's public record.

Site documents are also available for review at the J.H. Wootters Crockett Public Library, located at 709 East Houston Avenue in Crockett, Texas, (936) 544-3089, and the Grapeland Public Library, located at 212 North Oak Street in Grapeland, Texas, (936) 987-3425. Please contact the libraries directly for their hours of operation. Should additional assistance be needed in obtaining documents for the site, contact John Flores at (800) 633-9363 or email your request to superfund@tceq.texas.gov.

Persons who have special communication or other accommodation needs who are planning to attend the meeting should contact the agency at (800) 633-9363 or (512) 239-5906. Requests should be made at least 14 days prior to the meeting.

For further information about the site or the public meeting, please call John Flores, TCEQ Community Relations, at (800) 633-9363.

TRD-202003062
Charmaine Backens
Director, Litigation Division
Texas Commission on Environmental Quality
Filed: July 28, 2020

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Notice of Water Rights Application

Notice issued July 22, 2020

APPLICATION NO. 3651B; Christina W. McCullough & Joe Mark McCullough, 1850 County Road 216, Comanche, Texas 76442, Applicants, seeks to amend a portion Certificate of Adjudication No. 12-3651 to change the place of use and to add a diversion segment along the Leon River, Brazos River Basin in Comanche County. The application does not request a new appropriation of water. More information on the application and how to participate in the permitting process is given below. The application and partial fees were received on October 26, 2018. Additional information and fees were received on January 28, 2019. The application was declared administratively complete and filed with the Office of the Chief Clerk on February 22, 2019.

The Executive Director completed the technical review of the application and prepared a draft amendment. The draft amendment, if granted, would include special conditions including, but not limited to, installation of a measuring device for diversions. The application, technical memoranda, and Executive Director's draft amendment are available for viewing on the TCEQ web page at: www.tceq.texas.gov/permitting/water_rights/wr-permitting/wr-apps-pub-notice. Alternatively, you may request a copy of the documents by contacting the TCEQ Office of the Chief Clerk by phone at (512) 239-3300 or by mail at TCEQ OCC, Notice Team (MC-105), P.O. Box 13087, Austin, Texas 78711. Written public comments and requests for a public meeting should be submitted to the Office of the Chief Clerk, at the address provided in the information section below, by August 10, 2020. To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) applicant's name and amendment number; (3) the statement "[I/we] request a contested case hearing;" (4) a brief and specific description of how you would be affected by the application in a way not common

to the general public; and (5) the location and distance of your property relative to the proposed activity. You may also submit proposed conditions for the requested amendment which would satisfy your concerns. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below.

If a hearing request is filed, the Executive Director will not issue the amendment and will forward the application and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting.

Written hearing requests, public comments, or requests for a public meeting should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087 or electronically at <https://www14.tceq.texas.gov/epic/eComment/> by entering ADJ 3651 in the search field. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Public Education Program at (800) 687-4040. General information regarding the TCEQ can be found at our web site at www.tceq.texas.gov. Si desea información en español, puede llamar al (800) 687-4040 o por el internet al <http://www.tceq.texas.gov>.

TRD-202003085

Bridget C. Bohac
Chief Clerk

Texas Commission on Environmental Quality
Filed: July 29, 2020



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 2020 Update to the WQMP for the State of Texas.

Download the draft July 2020 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. Please periodically check the following website for updates, in the event the TCEQ Library is closed due to COVID-19 restrictions: https://www.tceq.texas.gov/permitting/wqmp/WQmanagement_comment.html.

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 8, 2020**.

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 *or* emailed to Nancy Vignali at Nancy.Vignali@tceq.texas.gov, but must be followed up with written comments by mail within five working days of the fax or email 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-202003063

Robert Martinez

Director, Litigation Division

Texas Commission on Environmental Quality

Filed: July 28, 2020



General Land Office

Correction of Error

The Texas General Land Office adopted amendments to 31 TAC §§19.12 - 19.14, 19.16 and 19.18 in the July 31, 2020, issue of the *Texas Register* (45 TexReg 5364). Due to an error by the *Texas Register*, the proposal publication date and effective date were mistakenly omitted. The original publication of the proposed amendments was in the February 7, 2020, issue of the *Texas Register* (45 TexReg 862). The effective date of the adoption is August 9, 2020.

TRD-202003039



Texas Health and Human Services Commission

Public Notice - Texas State Plan for Medical Assistance Amendments

The Texas Health and Human Services Commission (HHSC) announces its intent to submit amendments to the Texas State Plan for Medical Assistance, under Title XIX of the Social Security Act. The amendments are proposed to be effective September 1, 2020.

The purpose of the amendments is to update the fee schedules in the current state plan by adjusting fees, rates, or charges for the following services:

Ambulatory Surgical Centers (ASC);

Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS);

Early and Periodic Screening, Diagnosis, and Treatment (EPSDT);

Physicians and Other Practitioners; and

Vision Care.

The proposed amendments are estimated to result in an annual aggregate savings of \$3,090 for federal fiscal year (FFY) 2020, consisting of \$2,073 in federal funds and \$1,017 in state general revenue. For FFY 2021, the estimated annual aggregate savings is \$39,311, consisting of \$24,298 in federal funds and \$15,013 in state general revenue. For FFY 2021, the estimated annual aggregate saving is \$41,252, consisting of \$25,349 in federal funds and \$15,903 in state general revenue.

Further detail on specific reimbursement rates and percentage changes is available on the HHSC Rate Analysis website under the proposed effective date at: <http://rad.hhs.texas.gov/rate-packets>.

Rate Hearing. A rate hearing was conducted on May 27, 2020, at 1:30 p.m. in Austin, Texas. Information about the proposed rate changes, and the hearing can be found in the May 8, 2020, issue of the *Texas Register* (45 TexReg 3165). These can be found at <http://www.sos.state.tx.us/texreg/index.shtml>.

Copy of Proposed Amendments. Interested parties may obtain additional information and/or a free copy of the proposed amendments by contacting Cynthia Henderson, State Plan Policy Advisor, by mail at the Health and Human Services Commission, P.O. Box 13247, Mail Code H-600, Austin, TX 78711; by telephone at (512) 487-3349; by facsimile at (512) 730-7472; or by e-mail at Medicaid_Chip_SPA_Inquiries@hhsc.state.tx.us. Copies of the proposed amendments will be available for review at the local county offices of HHSC, which were formerly the local offices of the Texas Department of Aging and Disability Services.

Written Comments. Written comments about the proposed amendments and/or requests to review comments may be sent by U.S. mail, overnight mail, special delivery mail, hand delivery, fax, or email:

U.S. Mail

Texas Health and Human Services Commission
Attention: Rate Analysis, Mail Code H-400
P.O. Box 149030
Austin, Texas 78714-9030

Overnight mail, special delivery mail, or hand delivery

Texas Health and Human Services Commission
Attention: Rate Analysis, Mail Code H-400
Brown-Heatly Building
4900 North Lamar Blvd
Austin, Texas 78751
Phone number for package delivery: (512) 730-7401

Fax

Attention: Rate Analysis at (512) 730-7475

Email

RADAcuteCare@hhsc.state.tx.us
TRD-202003022
Karen Ray
Chief Counsel
Texas Health and Human Services Commission
Filed: July 24, 2020



Texas Department of Housing and Community Affairs

Fifth Amendment to 2020-1 Multifamily Direct Loan Annual Notice of Funding Availability

I. Sources of Multifamily Direct Loan Funds.

Multifamily Direct Loan funds are made available in this Annual Notice of Funding Availability through program income generated from prior year HOME allocations, de-obligated funds from prior year HOME allocations, the 2019 Grant Year HOME allocation, and the 2018, 2019, and 2020 Grant Year National Housing Trust Fund (NHTF) allocations. The Department may amend this NOFA or the Department may release a new NOFA upon receiving additional de-obligated funds from HOME allocations, or upon receiving the 2020 HOME allocation from HUD. These funds have been programmed for multifamily activities including acquisition, refinancing, and preservation of affordable housing involving new construction, reconstruction 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 \$43,312,142.20 in Multifamily Direct Loan funding for the development of affordable multifamily rental housing for low-income Texans.

Of that amount, up to \$14,509,857.20 will be available under the Soft Repayment set-aside statewide through September 10, 2020, for applications proposing to restrict rent and income for all Direct Loan-assisted units to extremely low-income households as defined in 24 CFR Part 93. From September 11, 2020, through October 12, 2020, \$14,956,117.20 will be available under the Soft Repayment set-aside subject to the Regional Allocation Formula in Attachment B of the NOFA for applications proposing to restrict rent and income for all Direct Loan-assisted units to extremely low-income households as defined in 24 CFR Part 93. The remaining \$13,846,168 will be available statewide through October 12, 2020, under the General set-aside for applications proposing eligible activities in non-Participating Jurisdictions.

At the Board meeting on July 23, 2020, the Department approved the Fifth Amendment to 2020-1 Multifamily Direct Loan Annual NOFA, whereby the \$16,956,117.20 in NHTF was added under the Soft Repayment set-aside and the application submission deadline was extended to October 12, 2020. All funds under the NOFA will be available through October 12, 2020 (if sufficient funds remain).

The Multifamily Direct Loan program provides loans to for-profit and nonprofit entities to develop affordable housing for low-income Texans qualified earning 80 percent or less of the applicable Area Median Family Income.

III. Application Deadline and Availability.

Based on the availability of funds, Applications may be accepted until 5:00 p.m. Austin local time on October 12, 2020. The "Amended 2020-1 Multifamily Direct Loan Annual NOFA" is posted on the Department's website: <http://www.tdhca.state.tx.us/multifamily/nofa-rules.htm>. Subscribers to the Department's LISTSERV will receive notification that the Fifth Amendment to the NOFA is posted. Subscription to the Department's LISTSERV is available at <http://mail-list.tdhca.state.tx.us/list/subscribe.html?lui=f9mu0g2g&mContainer=2&mOwner=G382s2w2r2p>.

Questions regarding the 2020-1 Multifamily Direct Loan Annual NOFA may be addressed to Andrew Sinnott at (512) 475-0538 or andrew.sinnott@tdhca.state.tx.us.

TRD-202003091
Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
Filed: July 29, 2020



Notice to Public and to All Interested Mortgage Lenders Texas Department of Housing and Community Affairs Mortgage Credit Certificate Program

The Texas Department of Housing and Community Affairs (the "Department") intends to implement a Mortgage Credit Certificate Program (the "Program") to assist eligible very low, low, and moderate income first-time homebuyers with the purchase of a residence located within the State of Texas. Under the Program, a first-time homebuyer who satisfies the eligibility requirements described herein may receive a federal income tax credit in an amount equal to the product of the certificate credit rate established under the Program and the interest paid or

accrued by the homeowner during the taxable year on the remaining principal of the certified indebtedness amount incurred by the homeowner to acquire the principal residence of the homeowner; provided that, if the certificate credit rate established under the Program exceeds 20%, the amount of such credit allowed in any taxable year may not exceed \$2,000. In order to qualify to receive a mortgage credit certificate, the homebuyer must qualify for a conventional, FHA, VA, USDA or other home mortgage loan from a lending institution and must meet the other requirements of the Program.

The mortgage credit certificates will be issued to qualified mortgagors on a first-come, first-served basis by the Department, which will review applications from lending institutions and prospective mortgagors to determine compliance with the requirements of the Program and determine that mortgage credit certificates remain available under the Program. No mortgage credit certificates will be issued prior to ninety (90) days from the date of publication of this notice or after the date that all of the credit certificate amount has been allocated to homebuyers, and in no event will mortgage credit certificates be issued later than the date permitted by federal tax law.

In order to satisfy the eligibility requirements for a mortgage credit certificate under the Program: (a) the prospective residence must be a single-family residence located within the State of Texas that can be reasonably expected to become the principal residence of the mortgagor within a reasonable period of time after the financing is provided; (b) the prospective homebuyer's current income must not exceed, (1) for families of three or more persons, 115% (140% in certain targeted areas or in certain cases permitted under applicable provisions of the Internal Revenue Code of 1986, as amended (the "Code")) of the area median income; and (2) for individuals and families of two persons, 100% (120% in certain targeted areas or in certain cases permitted under applicable provisions of the Code) of the area median income; (c) the prospective homebuyer must not have owned a home as a principal residence during the past three years (except in the case of certain targeted area residences or in certain cases permitted under applicable provisions of the Code); (d) the acquisition cost of the residence must not exceed 90% (110%, in the case of certain targeted area residences or in certain cases permitted under applicable provisions of the Code) of the average area purchase price applicable to the residence; and (e) no part of the proceeds of the qualified indebtedness may be used to acquire or replace an existing mortgage (except in certain cases permitted under applicable provisions of the Code). To obtain additional information on the Program, including the boundaries of current targeted areas, as well as the current income and purchase price limits (which are subject to revision and adjustment from time to time by the Department pursuant to changes in applicable federal law and Department policy), please contact Cathy Gutierrez at the Texas Department of Housing and Community Affairs, 221 East 11th Street, Austin, Texas 78701-2410; telephone (512) 475-0277.

The Department intends to maintain a list of single family mortgage lenders that will participate in the Program by making loans to qualified holders of these mortgage credit certificates. Any lender interested in appearing on this list or in obtaining additional information regarding the Program should contact Cathy Gutierrez at the Texas Department of Housing and Community Affairs, 221 East 11th Street, Austin, Texas 78701-2410; (512) 475-0277. The Department may schedule a meeting with lenders to discuss in greater detail the requirements of the Program.

This notice is published in satisfaction of the requirements of Section 25 of the Code and Treasury Regulation Sections 1.25-3T(j)(4) and 1.25-4T promulgated thereunder regarding the public notices prerequisite to the issuance of mortgage credit certificates and to maintaining a list of participating lenders.

TRD-202003088
Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
Filed: July 29, 2020

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Texas Department of Insurance

Company Licensing

Application for Time Insurance Company II, a foreign life, accident, and/or health company, to change its name to Time Insurance Company. The home office is in San Juan, Puerto Rico.

Any objections must be filed with the Texas Department of Insurance, within twenty (20) calendar days from the date of the *Texas Register* publication, addressed to the attention of Robert Rudnai, 333 Guadalupe Street, MC 103-CL, Austin, Texas 78701.

TRD-202003090
James Person
General Counsel
Texas Department of Insurance
Filed: July 29, 2020

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Notice of Recommendation to Decrease Stamping Fee Rate for the Surplus Lines Stamping Office of Texas

The Texas Department of Insurance (TDI) received a recommendation from the Surplus Lines Stamping Office of Texas (stamping office) to decrease the stamping fee from the current rate of 0.15% of gross premium to 0.075%. The stamping fee is collected from surplus lines agents to fund the stamping office's operations. The Commissioner of Insurance must approve any change to the stamping fee.

TDI requests public comments on the proposed decrease and the date on which the decrease should go into effect.

You can get a copy of the recommendation and supporting documents at <https://www.tdi.texas.gov/rules/2020/exrules.html>.

Public Comment: TDI will consider any written comments that are received no later than 5:00 p.m., central time, on August 27, 2020. Send your comments to ChiefClerk@tdi.texas.gov or to the Office of the Chief Clerk, MC 112-2A, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104.

TRD-202003053
James Person
General Counsel
Texas Department of Insurance
Filed: July 27, 2020

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Texas Lottery Commission

Scratch Ticket Game Number 2252 "\$5,000 EXTREME Cash"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 2252 is "\$5,000 EXTREME Cash". The play style is "key number match".

1.1 Price of Scratch Ticket Game.

A. The price for Scratch Ticket Game No. 2252 shall be \$1.00 per Scratch Ticket.

1.2 Definitions in Scratch Ticket Game No. 2252.

A. Display Printing - That area of the Scratch Ticket outside of the area where the overprint and Play Symbols appear.

B. Latex Overprint - The removable scratch-off covering over the Play Symbols on the front of the Scratch Ticket.

C. Play Symbol - The printed data under the latex on the front of the Scratch Ticket that is used to determine eligibility for a prize. Each Play Symbol is printed in Symbol font in black ink in positive except for dual-image games. The possible black Play Symbols are: 01, 02,

03, 04, 05, 06, 07, 08, 09, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, STAR SYMBOL, DIAMOND SYMBOL, \$1.00, \$2.00, \$3.00, \$5.00, \$10.00, \$20.00, \$25.00, \$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. 2252 - 1.2D

PLAY SYMBOL	CAPTION
01	ONE
02	TWO
03	THR
04	FOR
05	FIV
06	SIX
07	SVN
08	EGT
09	NIN
10	TEN
11	ELV
12	TLV
13	TRN
14	FTN
15	FFN
16	SXN
17	SVT
18	ETN
19	NTN
20	TWY
STAR SYMBOL	WIN\$
DIAMOND SYMBOL	WINX5
\$1.00	ONE\$
\$2.00	TWO\$
\$3.00	THR\$
\$5.00	FIV\$
\$10.00	TEN\$
\$20.00	TWY\$
\$25.00	TWV\$
\$50.00	FFTY\$
\$100	ONHN
\$5,000	FVTH

E. Serial Number - A unique thirteen (13) 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 twenty-four (24) 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 fourteen (14) digit number consisting of the four (4) digit game number (2252), 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: 2252-0000001-001.

H. Pack - A Pack of the "\$5,000 EXTREME Cash" Scratch Ticket Game contains 150 Tickets, packed in plastic shrink-wrapping and fan-folded 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 "\$5,000 EXTREME Cash" Scratch Ticket Game No. 2252.

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 "\$5,000 EXTREME Cash" 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 "STAR" Play Symbol, the player wins the prize for that symbol instantly. If the player reveals a "DIAMOND" 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 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. Consecutive Non-Winning Tickets within a Pack will not have matching patterns, in the same order, of either Play Symbols or Prize Symbols.

B. The top Prize Symbol will appear on every Ticket, unless restricted by other parameters, play action or prize structure.

C. No prize amount in a non-winning spot will correspond with the YOUR NUMBERS Play Symbol (i.e., 01 and \$1).

D. A non-winning Prize Symbol will never match a winning Prize Symbol.

E. No matching non-winning Prize Symbols on a Ticket, unless restricted by other parameters, play action or prize structure.

F. The "DIAMOND" (WINX5) Play Symbol will only appear on intended winning Tickets, as dictated by the prize structure.

G. No matching non-winning YOUR NUMBERS Play Symbols on a Ticket.

H. The "STAR" (WIN\$) Play Symbol may appear multiple times on intended winning Tickets, unless restricted by other parameters, play action or prize structure.

2.3 Procedure for Claiming Prizes.

A. To claim a "\$5,000 EXTREME Cash" Scratch Ticket Game prize of \$1.00, \$2.00, \$3.00, \$5.00, \$10.00, \$25.00 or \$100, a claimant shall sign the back of the Scratch Ticket in the space designated on the Scratch Ticket and may 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 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 "\$5,000 EXTREME Cash" Scratch Ticket Game prize of \$5,000, the claimant must sign the winning Scratch Ticket and may 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 "\$5,000 EXTREME Cash" Scratch Ticket Game prize the claimant may submit the signed winning Scratch Ticket and a thoroughly completed claim form via mail. If a prize value is \$1,000,000 or more, the claimant must also provide proof of Social Security number or Tax Payer Identification (for U.S. Citizens or Resident Aliens). Mail all 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 "\$5,000 EXTREME Cash" Scratch Ticket Game, the Texas Lottery shall deliver to an adult member of the minor's family or the minor's guardian a check or warrant in the amount of the prize payable to the order of the minor.

2.6 If a person under the age of 18 years is entitled to a cash prize of \$600 or more from the "\$5,000 EXTREME Cash" Scratch Ticket Game, the Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.7 Scratch Ticket Claim Period. All Scratch Ticket prizes must be claimed within 180 days following the end of the Scratch Ticket Game or within the applicable time period for certain eligible military personnel as set forth in Texas Government Code §466.408. Any rights to a prize that is not claimed within that period, and in the manner specified in these Game Procedures and on the back of each Scratch Ticket, shall be forfeited.

2.8 Disclaimer. The number of prizes in a game is approximate based on the number of Scratch Tickets ordered. The number of actual prizes available in a game may vary based on number of Scratch Tickets manufactured, testing, distribution, sales and number of prizes claimed. A Scratch Ticket Game may continue to be sold even when all the top prizes have been claimed.

3.0 Scratch Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of a Scratch Ticket in the space designated, a Scratch Ticket shall be owned by the physical possessor of said Scratch Ticket. When a signature is placed on the back of the Scratch Ticket in the space designated, the player whose signature appears in that area shall be the owner of the Scratch Ticket and shall be entitled to any prize attributable thereto. Notwithstanding any name or names submitted on a claim form, the Executive Director shall make payment to the player whose signature appears on the back of the Scratch Ticket in the space designated. If more than one name appears on the back of the Scratch Ticket, the Executive Director will require that one of those players whose name appears thereon be designated by such players to receive payment.

B. The Texas Lottery shall not be responsible for lost or stolen Scratch Tickets and shall not be required to pay on a lost or stolen Scratch Ticket.

4.0 Number and Value of Scratch Prizes. There will be approximately 12,000,000 Scratch Tickets in Scratch Ticket Game No. 2252. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 2252 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$1.00	1,080,000	11.11
\$2.00	560,000	21.43
\$3.00	320,000	37.50
\$5.00	160,000	75.00
\$10.00	280,000	42.86
\$25.00	7,500	1,600.00
\$100	2,000	6,000.00
\$5,000	12	1,000,000.00

*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 4.98. 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. 2252 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. 2252, 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-202003064

Bob Biard

General Counsel

Texas Lottery Commission

Filed: July 28, 2020



Scratch Ticket Game Number 2253 is "\$200,000 EXTREME Cash"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 2253 is "\$200,000 EXTREME Cash". The play style is "key number match".

1.1 Price of Scratch Ticket Game.

A. The price for Scratch Ticket Game No. 2253 shall be \$5.00 per Scratch Ticket.

1.2 Definitions in Scratch Ticket Game No. 2253.

A. Display Printing - That area of the Scratch Ticket outside of the area where the overprint and Play Symbols appear.

B. Latex Overprint - The removable scratch-off covering over the Play Symbols on the front of the Scratch Ticket.

C. Play Symbol - The printed data under the latex on the front of the Scratch Ticket that is used to determine eligibility for a prize. Each Play Symbol is printed in Symbol font in black ink in positive except for dual-image games. The possible black Play Symbols are: 01, 02, 03, 04, 05, 06, 07, 08, 09, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, STAR SYMBOL, DIAMOND SYMBOL, \$5.00, \$10.00, \$15.00, \$20.00, \$25.00, \$50.00, \$100, \$250, \$300, \$500, \$1,000 and \$200,000.

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. 2253 - 1.2D

PLAY SYMBOL	CAPTION
01	ONE
02	TWO
03	THR
04	FOR
05	FIV
06	SIX
07	SVN
08	EGT
09	NIN
10	TEN
11	ELV
12	TLV
13	TRN
14	FTN
15	FFN
16	SXN
17	SVT
18	ETN
19	NTN
20	TWY
21	TWON
22	TWTO
23	TWTH
24	TWFR
25	TWV
26	TWSX
27	TWSV
28	TWET
29	TWNI
30	TRTY
31	TRON
32	TRTO
33	TRTH
34	TRFR
35	TRFV
36	TRSX
37	TRSV
38	TRET

39	TRNI
40	FRTY
STAR SYMBOL	WIN\$
DIAMOND SYMBOL	WINX5
\$5.00	FIV\$
\$10.00	TEN\$
\$15.00	FFN\$
\$20.00	TWY\$
\$25.00	TWV\$
\$50.00	FFTY\$
\$100	ONHN
\$250	TOFF
\$300	THHN
\$500	FVHN
\$1,000	ONTH
\$200,000	200TH

E. Serial Number - A unique thirteen (13) 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 twenty-four (24) 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 fourteen (14) digit number consisting of the four (4) digit game number (2253), 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: 2253-0000001-001.

H. Pack - A Pack of the "\$200,000 EXTREME Cash" Scratch Ticket Game contains 075 Tickets, packed in plastic shrink-wrapping and fan-folded in pages of one (1). The Packs will alternate. One will show the front of Ticket 001 and back of 075 while the other fold will show the back of Ticket 001 and front of 075.

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 "\$200,000 EXTREME Cash" Scratch Ticket Game No. 2253.

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 "\$200,000 EXTREME Cash" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose forty-five (45) 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 "STAR" Play Symbol, the player wins the prize for that symbol instantly. If the player reveals a "DIAMOND" 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 forty-five (45) 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 forty-five (45) 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 forty-five (45) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the forty-five (45) Play Symbols on the Scratch Ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the Scratch Ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Game-Pack-Ticket Number must be printed in the Game-Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;

18. The Display Printing on the Scratch Ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and

19. The Scratch Ticket must have been received by the Texas Lottery by applicable deadlines.

B. The Scratch Ticket must pass all additional validation tests provided for in these Game Procedures, the Texas Lottery's Rules governing the award of prizes of the amount to be validated, and any confidential validation and security tests of the Texas Lottery.

C. Any Scratch Ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Executive Director may, solely at the Executive Director's discretion, refund the retail sales price of the Scratch Ticket. In the event a defective Scratch Ticket is purchased, the only responsibility or liability of the Texas Lottery shall be to replace the defective Scratch Ticket with another unplayed Scratch Ticket in that Scratch Ticket Game (or a Scratch Ticket of equivalent sales price from any other current Texas Lottery Scratch Ticket Game) or refund the retail sales price of the Scratch Ticket, solely at the Executive Director's discretion.

2.2 Programmed Game Parameters.

A. Consecutive Non-Winning Tickets within a Pack will not have matching patterns, in the same order, of either Play Symbols or Prize Symbols.

B. The top Prize Symbol will appear on every Ticket, unless restricted by other parameters, play action or prize structure.

C. No prize amount in a non-winning spot will correspond with the YOUR NUMBERS Play Symbol (i.e., 05 and \$5).

D. No matching non-winning YOUR NUMBERS Play Symbols on a Ticket, unless restricted by other parameters, play action or prize structure.

E. No matching WINNING NUMBERS Play Symbols on a Ticket, unless restricted by other parameters, play action or prize structure.

F. A non-winning Prize Symbol will never match a winning Prize Symbol.

G. A Ticket may have up to three (3) matching non-winning Prize Symbols, unless restricted by other parameters, play action or prize structure.

H. The "DIAMOND" (WINX5) Play Symbol will only appear on intended winning Tickets, as dictated by the prize structure.

I. The "STAR" (WIN\$) Play Symbol may appear multiple times on intended winning Tickets, unless restricted by other parameters, play action or prize structure.

2.3 Procedure for Claiming Prizes.

A. To claim a "\$200,000 EXTREME Cash" Scratch Ticket Game prize of \$5.00, \$10.00, \$15.00, \$20.00, \$25.00, \$50.00, \$100 or \$300, a claimant shall sign the back of the Scratch Ticket in the space designated on the Scratch Ticket and may 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 \$300 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 "\$200,000 EXTREME Cash" Scratch Ticket Game prize of \$1,000 or \$200,000, the claimant must sign the winning Scratch Ticket and may 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 "\$200,000 EXTREME Cash" Scratch Ticket Game prize the claimant may submit the signed winning Scratch Ticket and a thoroughly completed claim form via mail. If a prize value is \$1,000,000 or more, the claimant must also provide proof of Social Security number or Tax Payer Identification (for U.S. Citizens or Resident Aliens). Mail all 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 "\$200,000 EXTREME Cash" Scratch Ticket Game, the Texas Lottery shall deliver to an adult member of the minor's family or the minor's guardian a check or warrant in the amount of the prize payable to the order of the minor.

2.6 If a person under the age of 18 years is entitled to a cash prize of \$600 or more from the "\$200,000 EXTREME Cash" Scratch Ticket Game, the Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.7 Scratch Ticket Claim Period. All Scratch Ticket prizes must be claimed within 180 days following the end of the Scratch Ticket Game

or within the applicable time period for certain eligible military personnel as set forth in Texas Government Code §466.408. Any rights to a prize that is not claimed within that period, and in the manner specified in these Game Procedures and on the back of each Scratch Ticket, shall be forfeited.

2.8 Disclaimer. The number of prizes in a game is approximate based on the number of Scratch Tickets ordered. The number of actual prizes available in a game may vary based on number of Scratch Tickets manufactured, testing, distribution, sales and number of prizes claimed. A Scratch Ticket Game may continue to be sold even when all the top prizes have been claimed.

3.0 Scratch Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of a Scratch Ticket in the space designated, a Scratch Ticket shall be owned by the physical possessor of said Scratch Ticket. When a signature is placed on the back of the Scratch Ticket in the space designated, the player whose signature appears in that area shall be the owner of the Scratch Ticket and shall be entitled to any prize attributable thereto. Notwithstanding any name or names submitted on a claim form, the Executive Director shall make payment to the player whose signature appears on the back of the Scratch Ticket in the space designated. If more than one name appears on the back of the Scratch Ticket, the Executive Director will require that one of those players whose name appears thereon be designated by such players to receive payment.

B. The Texas Lottery shall not be responsible for lost or stolen Scratch Tickets and shall not be required to pay on a lost or stolen Scratch Ticket.

4.0 Number and Value of Scratch Prizes. There will be approximately 14,040,000 Scratch Tickets in Scratch Ticket Game No. 2253. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 2253 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$5.00	1,310,400	10.71
\$10.00	702,000	20.00
\$15.00	561,600	25.00
\$20.00	187,200	75.00
\$25.00	280,800	50.00
\$50.00	187,200	75.00
\$100	35,100	400.00
\$300	2,457	5,714.29
\$1,000	25	561,600.00
\$200,000	7	2,005,714.29

*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 4.30. 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. 2253 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. 2253, 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.

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 Bob Biard
 General Counsel
 Texas Lottery Commission
 Filed: July 28, 2020



Scratch Ticket Game Number 2254 "\$500,000 EXTREME Cash"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 2254 is "\$500,000 EXTREME Cash". The play style is "key number match".

1.1 Price of Scratch Ticket Game.

A. The price for Scratch Ticket Game No. 2254 shall be \$10.00 per Scratch Ticket.

1.2 Definitions in Scratch Ticket Game No. 2254.

A. Display Printing - That area of the Scratch Ticket outside of the area where the overprint and Play Symbols appear.

B. Latex Overprint - The removable scratch-off covering over the Play Symbols on the front of the Scratch Ticket.

C. Play Symbol - The printed data under the latex on the front of the Scratch Ticket that is used to determine eligibility for a prize. Each Play Symbol is printed in Symbol font in black ink in positive except for dual-image games. The possible black Play Symbols are: 01, 02, 03, 04, 05, 06, 07, 08, 09, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 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, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, STAR SYMBOL, DIAMOND SYMBOL, \$10.00, \$20.00, \$30.00, \$50.00, \$100, \$150, \$200, \$300, \$500, \$5,000, \$10,000, \$50,000 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. 2254 - 1.2D

PLAY SYMBOL	CAPTION
01	ONE
02	TWO
03	THR
04	FOR
05	FIV
06	SIX
07	SVN
08	EGT
09	NIN
10	TEN
11	ELV
12	TLV
13	TRN
14	FTN
15	FFN
16	SXN
17	SVT
18	ETN
19	NTN
20	TWY
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
51	FFON
52	FFTO
53	FFTH
54	FFFR
55	FFFV
56	FFSX
57	FFSV
58	FFET
59	FFNI
60	SXTY
STAR SYMBOL	WIN\$
DIAMOND SYMBOL	WINX5
\$10.00	TEN\$
\$20.00	TWY\$
\$30.00	TRTY\$
\$50.00	FFTY\$
\$100	ONHN
\$150	ONFF
\$200	TOHN
\$300	THHN
\$500	FVHN
\$5,000	FVTH
\$10,000	10TH
\$50,000	50TH
\$500,000	500TH

E. Serial Number - A unique thirteen (13) 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 twenty-four (24) 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 fourteen (14) digit number consisting of the four (4) digit game number (2254), 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: 2254-0000001-001.

H. Pack - A Pack of the "\$500,000 EXTREME Cash" Scratch Ticket Game contains 050 Tickets, packed in plastic shrink-wrapping and fan-folded in pages of one (1). Ticket back 001 and 050 will both 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 "\$500,000 EXTREME Cash" Scratch Ticket Game No. 2254.

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 "\$500,000 EXTREME Cash" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose sixty-seven (67) 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 "STAR" Play Symbol, the player wins the prize for that symbol instantly. If the player reveals a "DIAMOND" 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 sixty-seven (67) 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-seven (67) 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-seven (67) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the sixty-seven (67) Play Symbols on the Scratch Ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the Scratch Ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Game-Pack-Ticket Number must be printed in the Game-Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;

18. The Display Printing on the Scratch Ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and

19. The Scratch Ticket must have been received by the Texas Lottery by applicable deadlines.

B. The Scratch Ticket must pass all additional validation tests provided for in these Game Procedures, the Texas Lottery's Rules governing the award of prizes of the amount to be validated, and any confidential validation and security tests of the Texas Lottery.

C. Any Scratch Ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Executive Director may, solely at the Executive Director's discretion, refund the retail sales price of the Scratch Ticket. In the event a defective Scratch Ticket is purchased, the only responsibility or liability of the Texas Lottery shall be to replace the defective Scratch Ticket with another unplayed Scratch Ticket in that Scratch Ticket Game (or a Scratch Ticket of equivalent sales price from any other current Texas Lottery Scratch Ticket Game) or refund the retail sales price of the Scratch Ticket, solely at the Executive Director's discretion.

2.2 Programmed Game Parameters.

A. Consecutive Non-Winning Tickets within a Pack will not have matching patterns, in the same order, of either Play Symbols or Prize Symbols.

B. The top Prize Symbol will appear on every Ticket, unless restricted by other parameters, play action or prize structure.

C. No prize amount in a non-winning spot will correspond with the YOUR NUMBERS Play Symbol (i.e., 10 and \$10).

D. No matching non-winning YOUR NUMBERS Play Symbols on a Ticket, unless restricted by other parameters, play action or prize structure.

E. No matching WINNING NUMBERS Play Symbols on a Ticket, unless restricted by other parameters, play action or prize structure.

F. A non-winning Prize Symbol will never match a winning Prize Symbol.

G. A Ticket may have up to five (5) matching non-winning Prize Symbols, unless restricted by other parameters, play action or prize structure.

H. The "DIAMOND" (WINX5) Play Symbol will only appear on intended winning Tickets, as dictated by the prize structure.

I. The "STAR" (WIN\$) Play Symbol may appear multiple times on intended winning Tickets, unless restricted by other parameters, play action or prize structure.

2.3 Procedure for Claiming Prizes.

A. To claim a "\$500,000 EXTREME Cash" Scratch Ticket Game prize of \$10.00, \$20.00, \$30.00, \$50.00, \$100, \$150 or \$300, a claimant shall sign the back of the Scratch Ticket in the space designated on the Scratch Ticket and may 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 or \$300 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 "\$500,000 EXTREME Cash" Scratch Ticket Game prize of \$5,000, \$50,000 or \$500,000, the claimant must sign the winning Scratch Ticket and may 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 "\$500,000 EXTREME Cash" Scratch Ticket Game prize the claimant may submit the signed winning Scratch Ticket and a thoroughly completed claim form via mail. If a prize value is \$1,000,000 or more, the claimant must also provide proof of Social Security number or Tax Payer Identification (for U.S. Citizens or Resident Aliens). Mail all 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 "\$500,000 EXTREME Cash" Scratch Ticket Game, the Texas Lottery shall deliver to an adult member of the minor's family or the minor's guardian a check or warrant in the amount of the prize payable to the order of the minor.

2.6 If a person under the age of 18 years is entitled to a cash prize of \$600 or more from the "\$500,000 EXTREME Cash" Scratch Ticket Game, the Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.7 Scratch Ticket Claim Period. All Scratch Ticket prizes must be claimed within 180 days following the end of the Scratch Ticket Game or within the applicable time period for certain eligible military personnel as set forth in Texas Government Code §466.408. Any rights to a prize that is not claimed within that period, and in the manner specified in these Game Procedures and on the back of each Scratch Ticket, shall be forfeited.

2.8 Disclaimer. The number of prizes in a game is approximate based on the number of Scratch Tickets ordered. The number of actual prizes available in a game may vary based on number of Scratch Tickets manufactured, testing, distribution, sales and number of prizes claimed. A Scratch Ticket Game may continue to be sold even when all the top prizes have been claimed.

3.0 Scratch Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of a Scratch Ticket in the space designated, a Scratch Ticket shall be owned by the physical possessor of said Scratch Ticket. When a signature is placed on the back of the Scratch Ticket in the space designated, the player whose signature appears in that area shall be the owner of the Scratch Ticket and shall be entitled to any prize attributable thereto. Notwithstanding any name or names submitted on a claim form, the Executive Director shall make payment to the player whose signature appears on the back of the Scratch Ticket in the space designated. If more than one name appears on the back of the Scratch Ticket, the Executive Director will require that one of those players whose name appears thereon be designated by such players to receive payment.

B. The Texas Lottery shall not be responsible for lost or stolen Scratch Tickets and shall not be required to pay on a lost or stolen Scratch Ticket.

4.0 Number and Value of Scratch Prizes. There will be approximately 11,040,000 Scratch Tickets in Scratch Ticket Game No. 2254. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 2254 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$10.00	1,324,800	8.33
\$20.00	772,800	14.29
\$30.00	441,600	25.00
\$50.00	220,800	50.00
\$100	143,520	76.92
\$150	27,600	400.00
\$300	9,476	1,165.05
\$5,000	20	552,000.00
\$50,000	8	1,380,000.00
\$500,000	5	2,208,000.00

*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 3.75. 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. 2254 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. 2254, 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-202003066
 Bob Biard
 General Counsel
 Texas Lottery Commission
 Filed: July 28, 2020



Scratch Ticket Game Number 2255 "\$1,000,000 EXTREME Cash"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 2255 is "\$1,000,000 EXTREME Cash". The play style is "key number match".

1.1 Price of Scratch Ticket Game.

A. The price for Scratch Ticket Game No. 2255 shall be \$20.00 per Scratch Ticket.

1.2 Definitions in Scratch Ticket Game No. 2255.

A. Display Printing - That area of the Scratch Ticket outside of the area where the overprint and Play Symbols appear.

B. Latex Overprint - The removable scratch-off covering over the Play Symbols on the front of the Scratch Ticket.

C. Play Symbol - The printed data under the latex on the front of the Scratch Ticket that is used to determine eligibility for a prize. Each Play Symbol is printed in Symbol font in black ink in positive except for dual-image games. The possible black Play Symbols are: 01, 02, 03, 04, 05, 06, 07, 08, 09, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 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, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, STAR SYMBOL, DIAMOND SYMBOL, \$10.00, \$20.00, \$30.00, \$50.00, \$75.00, \$100, \$150, \$500, \$2,500, \$10,000, \$20,000, \$100,000 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. 2255 - 1.2D

PLAY SYMBOL	CAPTION
01	ONE
02	TWO
03	THR
04	FOR
05	FIV
06	SIX
07	SVN
08	EGT
09	NIN
10	TEN
11	ELV
12	TLV
13	TRN
14	FTN
15	FFN
16	SXN
17	SVT
18	ETN
19	NTN
20	TWY
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
51	FFON
52	FFTO
53	FFTH
54	FFFR
55	FFFV
56	FFSX
57	FFSV
58	FFET
59	FFNI
60	SXTY
STAR SYMBOL	WIN\$
DIAMOND SYMBOL	WINX5
\$10.00	TEN\$
\$20.00	TWY\$
\$30.00	TRTY\$
\$50.00	FFTY\$
\$75.00	SVFV\$
\$100	ONHN
\$150	ONFF
\$500	FVHN
\$2,500	25HN
\$10,000	10TH
\$20,000	20TH
\$100,000	100TH
\$1,000,000	TPPZ

E. Serial Number - A unique thirteen (13) 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 twenty-four (24) 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 fourteen (14) digit number consisting of the four (4) digit game number (2255), 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: 2255-0000001-001.

H. Pack - A Pack of the "\$1,000,000 EXTREME Cash" Scratch Ticket Game contains 025 Tickets, packed in plastic shrink-wrapping and fan-folded in pages of one (1). The Packs will alternate. One will show the front of Ticket 001 and back of 025 while the other fold will show the back of Ticket 001 and front of 025.

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 "\$1,000,000 EXTREME Cash" Scratch Ticket Game No. 2255.

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 "\$1,000,000 EXTREME Cash" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose sixty-seven (67) 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 "STAR" Play Symbol, the player wins the prize for that symbol instantly. If the player reveals a "DIAMOND" 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 sixty-seven (67) 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-seven (67) 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-seven (67) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the sixty-seven (67) 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., 20 and \$20).

D. KEY NUMBER MATCH: No matching non-winning YOUR NUMBERS Play Symbols on a Ticket, unless restricted by other parameters, play action or prize structure.

E. KEY NUMBER MATCH: No matching WINNING NUMBERS Play Symbols on a Ticket, unless restricted by other parameters, play action or prize structure.

F. KEY NUMBER MATCH: A non-winning Prize Symbol will never match a winning Prize Symbol.

G. KEY NUMBER MATCH: A Ticket may have up to five (5) matching non-winning Prize Symbols, unless restricted by other parameters, play action or prize structure.

H. KEY NUMBER MATCH: The "DIAMOND" (WINX5) Play Symbol will only appear on intended winning Tickets, as dictated by the prize structure.

I. KEY NUMBER MATCH: The "STAR" (WIN\$) Play Symbol may appear multiple times on intended winning Tickets, unless restricted by other parameters, play action or prize structure.

J. KEY NUMBER MATCH: The \$10 Prize Symbol will only appear on winning Tickets in which the \$10 prize is a part of a winning pattern.

2.3 Procedure for Claiming Prizes.

A. To claim a "\$1,000,000 EXTREME Cash" Scratch Ticket Game prize of \$20.00, \$50.00, \$75.00, \$100, \$150 or \$500, a claimant shall sign the back of the Scratch Ticket in the space designated on the Scratch Ticket and may 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, \$75.00, \$100, \$150 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 "\$1,000,000 EXTREME Cash" Scratch Ticket Game prize of \$10,000, \$100,000 or \$1,000,000, the claimant must sign the winning Scratch Ticket and may 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 "\$1,000,000 EXTREME Cash" Scratch Ticket Game prize the claimant may submit the signed winning Scratch Ticket and a thoroughly completed claim form via mail. If a prize value is \$1,000,000 or more, the claimant must also provide proof of Social Security number or Tax Payer Identification (for U.S. Citizens or Resident Aliens). Mail all 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 "\$1,000,000 EXTREME Cash" Scratch Ticket Game, the Texas Lottery shall deliver to an adult member of the minor's family or the minor's guardian a check or warrant in the amount of the prize payable to the order of the minor.

2.6 If a person under the age of 18 years is entitled to a cash prize of \$600 or more from the "\$1,000,000 EXTREME Cash" Scratch Ticket Game, the Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.7 Scratch Ticket Claim Period. All Scratch Ticket prizes must be claimed within 180 days following the end of the Scratch Ticket Game or within the applicable time period for certain eligible military personnel as set forth in Texas Government Code §466.408. Any rights to a prize that is not claimed within that period, and in the manner specified in these Game Procedures and on the back of each Scratch Ticket, shall be forfeited.

2.8 Disclaimer. The number of prizes in a game is approximate based on the number of Scratch Tickets ordered. The number of actual prizes available in a game may vary based on number of Scratch Tickets manufactured, testing, distribution, sales and number of prizes claimed. A Scratch Ticket Game may continue to be sold even when all the top prizes have been claimed.

3.0 Scratch Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of a Scratch Ticket in the space designated, a Scratch Ticket shall be owned by the physical possessor of said Scratch Ticket. When a signature is placed on the back of the Scratch Ticket in the space designated, the player whose signature appears in that area shall be the owner of the

Scratch Ticket and shall be entitled to any prize attributable thereto. Notwithstanding any name or names submitted on a claim form, the Executive Director shall make payment to the player whose signature appears on the back of the Scratch Ticket in the space designated. If more than one name appears on the back of the Scratch Ticket, the Executive Director will require that one of those players whose name appears thereon be designated by such players to receive payment.

B. The Texas Lottery shall not be responsible for lost or stolen Scratch Tickets and shall not be required to pay on a lost or stolen Scratch Ticket.

4.0 Number and Value of Scratch Prizes. There will be approximately 9,000,000 Scratch Tickets in Scratch Ticket Game No. 2255. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 2255 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$20.00	990,000	9.09
\$50.00	900,000	10.00
\$75.00	360,000	25.00
\$100	180,000	50.00
\$150	72,000	125.00
\$500	19,125	470.59
\$10,000	35	257,142.86
\$100,000	7	1,285,714.29
\$1,000,000	4	2,250,000.00

*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 3.57. 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. 2255 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. 2255, 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-202003067
 Bob Biard
 General Counsel
 Texas Lottery Commission
 Filed: July 28, 2020



Scratch Ticket Game Number 2268 "ROYAL WINNINGS"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 2268 is "ROYAL WINNINGS". The play style is "key number match".

1.1 Price of Scratch Ticket Game.

A. The price for Scratch Ticket Game No. 2268 shall be \$10.00 per Scratch Ticket.

1.2 Definitions in Scratch Ticket Game No. 2268.

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: \$10.00, \$20.00, \$30.00, \$50.00, \$100, \$200, \$400, \$4,000, \$20,000, \$250,000, 01, 02, 03, 04, 05, 06, 07, 08, 09, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, GOLD BAR SYMBOL and DIAMOND SYMBOL.

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. 2268 - 1.2D

PLAY SYMBOL	CAPTION
\$10.00	TEN\$
\$20.00	TWY\$
\$30.00	TRTY\$
\$50.00	FFTY\$
\$100	ONHN
\$200	TOHN
\$400	FRHN
\$4,000	FRTH
\$20,000	20TH
\$250,000	250TH
01	ONE
02	TWO
03	THR
04	FOR
05	FIV
06	SIX
07	SVN
08	EGT
09	NIN
10	TEN
11	ELV
12	TLV
13	TRN
14	FTN
15	FFN
16	SXN
17	SVT
18	ETN
19	NTN
20	TWY
21	TWON
22	TWTO
23	TWTH
24	TWFR
25	TWV
26	TWSX
27	TWSV
28	TWET

29	TWNI
30	TRTY
31	TRON
32	TRTO
33	TRTH
34	TRFR
35	TRFV
36	TRSX
37	TRSV
38	TRET
39	TRNI
40	FRTY
41	FRON
42	FRTO
43	FRTH
44	FRFR
45	FRFV
46	FRSX
47	FRSV
48	FRET
49	FRNI
50	FFTY
51	FFON
52	FFTO
53	FFTH
54	FFFR
55	FFFV
56	FFSX
57	FFSV
58	FFET
59	FFNI
60	SXTY
61	SXON
62	SXTO
63	SXTH
64	SXFR
65	SXFV
GOLD BAR SYMBOL	WIN\$
DIAMOND SYMBOL	DBL

E. Serial Number - A unique thirteen (13) 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 twenty-four (24) 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 fourteen (14) digit number consisting of the four (4) digit game number (2268), 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: 2268-0000001-001.

H. Pack - A Pack of the "ROYAL WINNINGS" 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 "ROYAL WINNINGS" Scratch Ticket Game No. 2268.

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 "ROYAL WINNINGS" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose seventy-two (72) Play Symbols. BONUS Play Area: If a player reveals matching prize amounts in the same BONUS, the player wins that amount. Main Play Area: 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 "GOLD BAR" Play Symbol, the player wins the prize for that symbol instantly. If the player reveals a "DIAMOND" Play Symbol, the player wins DOUBLE 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 seventy-two (72) 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 seventy-two (72) 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 seventy-two (72) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the seventy-two (72) Play Symbols on the Scratch Ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the Scratch Ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Game-Pack-Ticket Number must be printed in the Game-Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;

18. The Display Printing on the Scratch Ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and

19. The Scratch Ticket must have been received by the Texas Lottery by applicable deadlines.

B. The Scratch Ticket must pass all additional validation tests provided for in these Game Procedures, the Texas Lottery's Rules governing the award of prizes of the amount to be validated, and any confidential validation and security tests of the Texas Lottery.

C. Any Scratch Ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Executive Director may, solely at the Executive Director's discretion, refund the retail sales price of the Scratch Ticket. In the event a defective Scratch Ticket is purchased, the only responsibility or liability of the Texas Lottery shall be to replace the defective Scratch Ticket with another unplayed Scratch Ticket in that Scratch Ticket Game (or a Scratch Ticket of equivalent sales price from any other current Texas Lottery Scratch Ticket Game) or refund the retail sales price of the Scratch Ticket, solely at the Executive Director's discretion.

2.2 Programmed Game Parameters.

A. GENERAL: Consecutive Non-Winning Tickets within a Pack will not have matching patterns, in the same order, of either Play Symbols or Prize Symbols.

B. GENERAL: A Ticket can win as indicated by the prize structure.

C. GENERAL: A Ticket can win up to thirty-three (33) times.

D. GENERAL: The "GOLD BAR" (WINS) and "DIAMOND" (DBL) Play Symbols will never appear in any of the three (3) BONUS play areas.

E. BONUS: A Ticket can win up to one (1) time in each of the three (3) BONUS play areas.

F. BONUS: On winning and Non-Winning Tickets, all non-winning Prize Symbols will be different across the three (3) BONUS play areas.

G. BONUS: Non-winning Prize Symbols in a BONUS play area will not be the same as winning Prize Symbols from another BONUS play area.

H. BONUS: A non-winning BONUS play area will have two (2) different Prize Symbols.

I. MAIN PLAY AREA: A Ticket can win up to thirty (30) times in the main play area.

J. MAIN PLAY AREA: All non-winning YOUR NUMBERS Play Symbols will be different.

K. MAIN PLAY AREA: 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.

L. MAIN PLAY AREA: All WINNING NUMBERS Play Symbols will be different.

M. MAIN PLAY AREA: 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.

N. MAIN PLAY AREA: All YOUR NUMBERS Play Symbols will never equal the corresponding Prize Symbol (i.e., \$10 and 10, \$20 and 20, \$30 and 30 and \$50 and 50).

O. MAIN PLAY AREA: On Non-Winning Tickets, a WINNING NUMBERS Play Symbol will never match a YOUR NUMBERS Play Symbol.

P. MAIN PLAY AREA: On winning and Non-Winning Tickets, the top cash prizes of \$4,000, \$20,000 and \$250,000 will each appear at least once, with respect to other parameters, play action or prize structure.

Q. MAIN PLAY AREA: The "GOLD BAR" (WINS) Play Symbol will never appear as a WINNING NUMBERS Play Symbol.

R. MAIN PLAY AREA: The "GOLD BAR" (WINS) Play Symbol will never appear on a Non-Winning Ticket.

S. MAIN PLAY AREA: The "GOLD BAR" (WINS) Play Symbol will win the prize for that Play Symbol.

T. MAIN PLAY AREA: The "GOLD BAR" (WINS) Play Symbol will never appear more than once on a Ticket.

U. MAIN PLAY AREA: The "DIAMOND" (DBL) Play Symbol will never appear as a WINNING NUMBERS Play Symbol.

V. MAIN PLAY AREA: The "DIAMOND" (DBL) Play Symbol will never appear on a Non-Winning Ticket.

W. MAIN PLAY AREA: The "DIAMOND" (DBL) Play Symbol will win DOUBLE the prize for that Play Symbol and will win as per the structure.

X. MAIN PLAY AREA: The "DIAMOND" (DBL) Play Symbol will never appear more than five (5) times on a Ticket.

Y. MAIN PLAY AREA: The "GOLD BAR" (WINS) and "DIAMOND" (DBL) Play Symbols will never appear on the same Ticket.

2.3 Procedure for Claiming Prizes.

A. To claim a "ROYAL WINNINGS" Scratch Ticket Game prize of \$10.00, \$20.00, \$30.00, \$40.00, \$50.00, \$100, \$200 or \$400, a claimant shall sign the back of the Scratch Ticket in the space designated on the Scratch Ticket and may present the winning Scratch Ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, if appropriate, make payment of the amount due the claimant and physically void the Scratch Ticket; provided that the Texas Lottery Retailer may, but is not required, to pay a \$30.00, \$40.00, \$50.00, \$100, \$200 or \$400 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 "ROYAL WINNINGS" Scratch Ticket Game prize of \$4,000, \$20,000 or \$250,000, the claimant must sign the winning Scratch Ticket and may 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 "ROYAL WINNINGS" Scratch Ticket Game prize the claimant may submit the signed winning Scratch Ticket and a thoroughly completed claim form via mail. If a prize value is \$1,000,000 or more, the claimant must also provide proof of Social Security number or Tax Payer Identification (for U.S. Citizens or Resident Aliens). Mail all 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 "ROYAL WINNINGS" 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 "ROYAL WINNINGS" 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 8,040,000 Scratch Tickets in Scratch Ticket Game No. 2268. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 2268 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$10.00	964,800	8.33
\$20.00	385,920	20.83
\$30.00	192,960	41.67
\$40.00	160,800	50.00
\$50.00	225,120	35.71
\$100	88,440	90.91
\$200	22,110	363.64
\$400	2,345	3,428.57
\$4,000	30	268,000.00
\$20,000	8	1,005,000.00
\$250,000	4	2,010,000.00

*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 3.94. 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. 2268 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. 2268, 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-202003059
 Bob Biard
 General Counsel
 Texas Lottery Commission
 Filed: July 28, 2020

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Panhandle Regional Planning Commission

Legal Notice

The Panhandle Regional Planning Commission (PRPC) is seeking proposals from qualified organizations with demonstrated competence, knowledge, qualifications, successful performance, and reasonable fees to provide fiscal monitoring services for the workforce develop-

ment programs administered in the Panhandle Workforce Development Area (PWDA). The purpose of this solicitation is to enable PRPC to evaluate and select an entity capable of performing these services and to enter into negotiation for a contract at a fair and reasonable price.

Interested proposers may obtain a copy of the solicitation packet by contacting Leslie Hardin, at (806) 372-3381/ (800) 477-4562 or lhardin@theprpc.org. The proposals must be submitted to PRPC no later than August 14, 2020.

TRD-202003018
 Leslie Hardin
 WFD Contracts Coordinator
 Panhandle Regional Planning Commission
 Filed: July 23, 2020

◆ ◆ ◆
South East Texas Regional Planning Commission

9-1-1 Electrician Services Request for Proposals (RFP)

Purpose of RFP:

To obtain firm, fixed hourly pricing for the procurement of Licensed and Bonded Electrician Services for the period September 15, 2020, through August 31, 2023. To the extent deemed necessary by the Director (or his designee), the successful bidder will be utilized by the 9-1-1 Emergency Network for general electrical installation, maintenance, generator repair, grounding, lighting suppression and repair primarily at (or in support of) 14 (fourteen) 9-1-1 answering sites.

For complete information, please visit: <https://www.setrpc.org/request-for-proposal-invitation-for-bids/>

If you have any questions, please contact:

Arthur Klauss

(409) 899-8444 ext. 6101

E-Mail: aklauss@setrpc.org

Each proposal must be received at the following address no later than 10:00 a.m., Tuesday, September 1, 2020:

South East Texas Regional Planning Commission

9-1-1 Electrician Source Competition

2210 Eastex Freeway

Beaumont, Texas 77703

Proposals received after the indicated date and time (Tuesday, September 1, 2020, at 10:00 a.m.) will not be accepted or considered for award. Proposals will not be accepted via e-mail. Timely delivery of bids to SETRPC is the sole responsibility of the offeror.

Proposals will be opened at 10:00 a.m., Wednesday, September 2, 2020, at the SETRPC office at 2210 Eastex Freeway, Beaumont, Texas.

TRD-202003017

Pete De La Cruz

Director 9-1-1 Emergency Network

South East Texas Regional Planning Commission

Filed: July 23, 2020



Legal Notice For Economic Development Services RFP

NOTICE OF REQUEST FOR PROPOSALS

Regional Economic Development Services

The South East Texas Economic Development District (SETEDD) is seeking professional economic development services to assist in preparation of economic development plans and activities. The SETEDD is asking the successful candidate to prepare a Corona Virus (COVID-19) pandemic short- and long-term Economic Recovery and Resiliency Plan for our Southeast Texas Region and to create a Corona Virus (COVID-19) pandemic resiliency component for our South East Texas Economic Development District (SETEDD) Comprehensive Economic Development Strategy (CEDS).

If your firm is interested and qualified to provide the requested economic development services, please contact our office to express your interest:

Bob Dickinson

Director

Transportation and Environmental Resources Division

South East Texas Regional Planning Commission

2210 Eastex Freeway

Fax: (409) 729-6511

E-mail: bdickinson@setrpc.org

An RFP package can be downloaded at www.setrpc.org/ter/ under the Latest News section.

Proposals must be properly sealed, marked, and received no later than 3:00 p.m. CST on Friday, September 4, 2020. Proposals received after this time will not be considered and will be returned to the proposer unopened. All other proposals will be publicly opened and announced at 3:30 p.m. CST on September 4, 2020, in the SETRPC-Transportation Conference Room at 2210 Eastex Freeway, Beaumont, TX 77703.

TRD-202003086

Bob Dickinson

Director

South East Texas Regional Planning Commission

Filed: July 29, 2020



Request for Proposals

The South East Texas Regional Planning Commission (SETRPC) is seeking a consultant to update the Hardin County, Jefferson County, Orange County and SETRPC Mitigation Action Plans and possibly the Jasper County Mitigation Action Plan (TBD) to current Federal Emergency Management Agency (FEMA) and Texas Division of Emergency Management (TDEM) approved standards.

The following qualifications are deemed most critical to the success of the update of the plans:

- Flooding/disaster/emergency management specialization research skills;
- Experience with prior Mitigation Action Plan creating/writing/updating;
- Technical writing ability with emphasis on formatting specialized tables, maps, graphics and other special skills that represent data in a professional, comprehensive and accurate manner;
- Experience with county and/or city planning, preferably;
- Ability to produce editable, updated Mitigation Action Plans for four (4) counties and one (1) region that meet FEMA and State standards for approval.

For a complete Request for Proposals package, please contact Steve Curran via mail or e-mail addressed to: Steve Curran, SETRPC, 2210 Eastex Freeway, Beaumont, Texas 77703 or scurran@setrpc.org. Final proposals will be due by Friday, August 28, 2020.

Proposals will be reviewed by a technical sub-committee with selection based on Consultant Selection Criteria included in the Request for Proposals package.

This RFP is released in anticipation of Hazard Mitigation Grant Program (HMGP). A contract award will only be made upon receipt of HMGP funding.

TRD-202003019

Stephen L. Curran

Director, Criminal Justice and Homeland Security Division

South East Texas Regional Planning Commission

Filed: July 23, 2020



Open Meetings

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

Meeting agendas are available on the *Texas Register's* Internet site:
<https://www.sos.texas.gov/open/index.shtml>

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

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

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

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

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

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

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

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

How to Use the Texas Register

Information Available: The sections of the *Texas Register* represent various facets of state government. Documents contained within them include:

Governor - Appointments, executive orders, and proclamations.

Attorney General - summaries of requests for opinions, opinions, and open records decisions.

Texas Ethics Commission - summaries of requests for opinions and opinions.

Emergency Rules - sections adopted by state agencies on an emergency basis.

Proposed Rules - sections proposed for adoption.

Withdrawn Rules - sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the Texas Register six months after the proposal publication date.

Adopted Rules - sections adopted following public comment period.

Texas Department of Insurance Exempt Filings - notices of actions taken by the Texas Department of Insurance pursuant to Chapter 5, Subchapter L of the Insurance Code.

Review of Agency Rules - notices of state agency rules review.

Tables and Graphics - graphic material from the proposed, emergency and adopted sections.

Transferred Rules - notice that the Legislature has transferred rules within the *Texas Administrative Code* from one state agency to another, or directed the Secretary of State to remove the rules of an abolished agency.

In Addition - miscellaneous information required to be published by statute or provided as a public service.

Specific explanation on the contents of each section can be found on the beginning page of the section. The division also publishes cumulative quarterly and annual indexes to aid in researching material published.

How to Cite: Material published in the *Texas Register* is referenced by citing the volume in which the document appears, the words "TexReg" and the beginning page number on which that document was published. For example, a document published on page 2402 of Volume 43 (2018) is cited as follows: 43 TexReg 2402.

In order that readers may cite material more easily, page numbers are now written as citations. Example: on page 2 in the lower-left hand corner of the page, would be written "43 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 43 TexReg 3."

How to Research: The public is invited to research rules and information of interest between 8 a.m. and 5 p.m. weekdays at the *Texas Register* office, James Earl Rudder Building, 1019 Brazos, Austin. Material can be found using *Texas Register* indexes, the *Texas Administrative Code* section numbers, or TRD number.

Both the *Texas Register* and the *Texas Administrative Code* are available online at: <http://www.sos.state.tx.us>. The *Texas Register* is available in an .html version as well as a .pdf version through the internet. For website information, call the Texas Register at (512) 463-5561.

Texas Administrative Code

The *Texas Administrative Code (TAC)* is the compilation of all final state agency rules published in the *Texas Register*. Following its effective date, a rule is entered into the *Texas Administrative Code*. Emergency rules, which may be adopted by an agency on an interim basis, are not codified within the *TAC*.

The *TAC* volumes are arranged into Titles and Parts (using Arabic numerals). The Titles are broad subject categories into which the agencies are grouped as a matter of convenience. Each Part represents an individual state agency.

The complete *TAC* is available through the Secretary of State's website at <http://www.sos.state.tx.us/tac>.

The Titles of the *TAC*, and their respective Title numbers are:

1. Administration
4. Agriculture
7. Banking and Securities
10. Community Development
13. Cultural Resources
16. Economic Regulation
19. Education
22. Examining Boards
25. Health Services
26. Health and Human Services
28. Insurance
30. Environmental Quality
31. Natural Resources and Conservation
34. Public Finance
37. Public Safety and Corrections
40. Social Services and Assistance
43. Transportation

How to Cite: Under the *TAC* scheme, each section is designated by a *TAC* number. For example in the citation 1 TAC §27.15: 1 indicates the title under which the agency appears in the *Texas Administrative Code*; *TAC* stands for the *Texas Administrative Code*; §27.15 is the section number of the rule (27 indicates that the section is under Chapter 27 of Title 1; 15 represents the individual section within the chapter).

How to Update: To find out if a rule has changed since the publication of the current supplement to the *Texas Administrative Code*, please look at the *Index of Rules*.

The *Index of Rules* is published cumulatively in the blue-cover quarterly indexes to the *Texas Register*.

If a rule has changed during the time period covered by the table, the rule's *TAC* number will be printed with the *Texas Register* page number and a notation indicating the type of filing (emergency, proposed, withdrawn, or adopted) as shown in the following example.

TITLE 1. ADMINISTRATION Part 4. Office of the Secretary of State Chapter 91. Texas Register

1 TAC §91.1.....950 (P)

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