

---

# TEXAS REGISTER

*Volume 45 Number 44*

*October 30, 2020*

*Pages 7649 - 7784*

---



# TEXAS REGISTER

a section of the  
Office of the Secretary of State  
P.O. Box 12887  
Austin, Texas 78711  
(512) 463-5561  
FAX (512) 463-5569

<https://www.sos.texas.gov>  
[register@sos.texas.gov](mailto:register@sos.texas.gov)

***Texas Register***, (ISSN 0362-4781, USPS 12-0090), is published weekly (52 times per year) for \$340.00 (\$502.00 for first class mail delivery) by Matthew Bender & Co., Inc., 3 Lear Jet Lane Suite 104, P. O. Box 1710, Latham, NY 12110.

Material in the *Texas Register* is the property of the State of Texas. However, it may be copied, reproduced, or republished by any person without permission of the *Texas Register* director, provided no such republication shall bear the legend *Texas Register* or "Official" without the written permission of the director.

The *Texas Register* is published under the Government Code, Title 10, Chapter 2002. Periodicals Postage Paid at Easton, MD and at additional mailing offices.

**POSTMASTER:** Send address changes to the *Texas Register*, 4810 Williamsburg Road, Unit 2, Hurlock, MD 21643.

***Secretary of State*** - Ruth R. Hughs

***Director*** - Robert Summers

***Editor-in-Chief*** - Jill S. Ledbetter

***Editors***

Liz Cordell

Eddie Feng

Belinda Kirk

Cecilia Mena

Joy L. Morgan

Breanna Mutschler

Barbara Strickland

# IN THIS ISSUE

## **GOVERNOR**

Appointments .....7655

## **ATTORNEY GENERAL**

Opinions .....7657

## **EMERGENCY RULES**

### **COUNCIL ON SEX OFFENDER TREATMENT**

#### COUNCIL ON SEX OFFENDER TREATMENT

22 TAC §810.3 .....7659

### **HEALTH AND HUMAN SERVICES COMMISSION**

#### COVID-19 EMERGENCY HEALTH CARE FACILITY LICENSING

26 TAC §500.3 .....7659

26 TAC §§500.41 - 500.44 .....7660

26 TAC §500.51 .....7662

#### INTERMEDIATE CARE FACILITIES FOR INDIVIDUALS WITH AN INTELLECTUAL DISABILITY OR RELATED CONDITIONS

26 TAC §551.47 .....7663

#### LICENSING STANDARDS FOR ASSISTED LIVING FACILITIES

26 TAC §553.2003 .....7668

## **PROPOSED RULES**

### **OFFICE OF THE STATE ENTOMOLOGIST**

#### BEES

4 TAC §§7.1, 7.9, 7.10 .....7675

4 TAC §71.7 .....7676

4 TAC §71.11, §71.12 .....7676

4 TAC §71.21 .....7676

4 TAC §71.22, §71.23 .....7676

4 TAC §71.51, §71.53 .....7677

### **FINANCE COMMISSION OF TEXAS**

#### STATE BANK REGULATION

7 TAC §3.37 .....7677

### **TEXAS DEPARTMENT OF BANKING**

#### TRUST COMPANY LOANS AND INVESTMENTS

7 TAC §19.51 .....7679

### **OFFICE OF CONSUMER CREDIT COMMISSIONER**

#### MOTOR VEHICLE INSTALLMENT SALES

7 TAC §84.201 .....7683

7 TAC §§84.604, 84.611, 94.613 .....7684

7 TAC §§84.707 - 84.709 .....7686

7 TAC §§84.802, 84.803, 84.809 .....7688

### **TEXAS DEPARTMENT OF PUBLIC SAFETY**

#### EQUIPMENT AND VEHICLE SAFETY STANDARDS

37 TAC §21.7 .....7689

## **WITHDRAWN RULES**

### **HEALTH AND HUMAN SERVICES COMMISSION**

#### COVID-19 EMERGENCY HEALTH CARE FACILITY LICENSING

26 TAC §500.43, §500.44 .....7691

26 TAC §500.51 .....7691

#### INTERMEDIATE CARE FACILITIES FOR INDIVIDUALS WITH AN INTELLECTUAL DISABILITY OR RELATED CONDITIONS

26 TAC §551.47 .....7691

#### LICENSING STANDARDS FOR ASSISTED LIVING FACILITIES

26 TAC §553.2003 .....7691

### **TEXAS DEPARTMENT OF PUBLIC SAFETY**

#### EQUIPMENT AND VEHICLE SAFETY STANDARDS

37 TAC §21.7 .....7692

## **ADOPTED RULES**

### **TEXAS ANIMAL HEALTH COMMISSION**

#### CHRONIC WASTING DISEASE

4 TAC §40.6 .....7693

### **OFFICE OF CONSUMER CREDIT COMMISSIONER**

#### ADMINISTRATION

7 TAC §82.1, §82.2 .....7702

#### REGULATED LENDERS AND CREDIT ACCESS BUSINESSES

7 TAC §83.2003 .....7708

7 TAC §83.4003 .....7708

7 TAC §83.4007 .....7709

7 TAC §§83.5001, 83.5003 - 83.5005 .....7710

7 TAC §83.6007 .....7710

#### PROPERTY TAX LENDERS

7 TAC §89.701 .....7713

7 TAC §89.805 .....7713

### **COMPTROLLER OF PUBLIC ACCOUNTS**

#### TAX ADMINISTRATION

34 TAC §3.27 .....7715

PROPERTY TAX ADMINISTRATION	
34 TAC §9.4001.....	7715
<b>TEXAS DEPARTMENT OF PUBLIC SAFETY</b>	
EQUIPMENT AND VEHICLE SAFETY STANDARDS	
37 TAC §21.6.....	7716
37 TAC §21.8.....	7717
STANDARDS FOR AN APPROVED MOTORCYCLE OPERATOR TRAINING COURSE	
37 TAC §§31.1 - 31.12 .....	7717
ALL-TERRAIN VEHICLE OPERATOR EDUCATION AND CERTIFICATION PROGRAM	
37 TAC §§33.1 - 33.5 .....	7717
<b>DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES</b>	
CHILD PROTECTIVE SERVICES	
40 TAC §700.1311 .....	7718
<b>TRANSFERRED RULES</b>	
<b>Department of Aging and Disability Services</b>	
Rule Transfer.....	7721
<b>RULE REVIEW</b>	
<b>Proposed Rule Reviews</b>	
Office of the Governor .....	7723
Office of the Governor, Economic Development and Tourism Office.....	7723
Texas Film Commission .....	7725
<b>Adopted Rule Reviews</b>	
Office of Consumer Credit Commissioner .....	7726
<b>TABLES AND GRAPHICS</b>	
.....	7727
<b>IN ADDITION</b>	
<b>Texas State Affordable Housing Corporation</b>	
Draft Bond Program Policies and Request for Proposals Available for Public Comment .....	7737
<b>Office of the Attorney General</b>	
Texas Health and Safety Code and Texas Water Code Settlement Notice.....	7737
<b>Office of Consumer Credit Commissioner</b>	
Notice of Rate Ceilings.....	7737
<b>Credit Union Department</b>	
Application to Expand Field of Membership.....	7737
Notice of Final Action Taken.....	7738

Notice of Final Action Taken.....	7738
<b>Texas Education Agency</b>	
Notice of Correction Concerning the 2021 - 2022 Nita M. Lowey 21st Century Community Learning Centers, Cycle 11, Year 1 Grant Program under Request for Applications (RFA) #701-21-102 .....	7738
<b>Office of the State Entomologist</b>	
Notice of Agency Name Change .....	7739
<b>Texas Commission on Environmental Quality</b>	
Agreed Orders.....	7739
Enforcement Orders.....	7741
Enforcement Orders.....	7742
Notice of District Petition.....	7743
Notice of Public Meeting for Air Quality Permits: Proposed Air Quality Permit Numbers 1467, PSDTX1090M1, N284, and GHGPS-DTX199 .....	7744
Notice of Water Rights Application.....	7745
Request for Nominations for Appointment to Serve on the Irrigator Advisory Council.....	7746
<b>Texas Ethics Commission</b>	
List of Late Filers.....	7747
<b>General Land Office</b>	
Notice and Opportunity to Comment on Requests for Consistency Agreement/Concurrence Under the Texas Coastal Management Program .....	7747
<b>Texas Health and Human Services Commission</b>	
Revised Notice of Public Hearing on Proposed Medicaid Payment Rates for the Medicaid Biennial Calendar Fee Review .....	7748
<b>Department of State Health Services</b>	
Licensing Actions for Radioactive Materials .....	7749
Licensing Actions for Radioactive Materials .....	7754
Licensing Actions for Radioactive Materials .....	7759
Licensing Actions for Radioactive Materials .....	7763
<b>Texas Department of Housing and Community Affairs</b>	
Announcement of the Public Comment Period for the Draft 2020 State of Texas Consolidated Plan Annual Performance Report - Reporting on Program Year 2019 .....	7770
<b>Texas Lottery Commission</b>	
Scratch Ticket Game Number 2247 "BONUS BREAK THE BANK" .....	7770
Scratch Ticket Game Number 2272 "MAD MONEY".....	7775
<b>Permian Basin Metropolitan Planning Organization</b>	
Request for Proposals - Outer Loop Corridor Study .....	7780
<b>Department of Savings and Mortgage Lending</b>	
Notice of Application for Change of Control of a Savings Bank ..	7780

**State Securities Board**

Revised Rule Review Plan.....7780

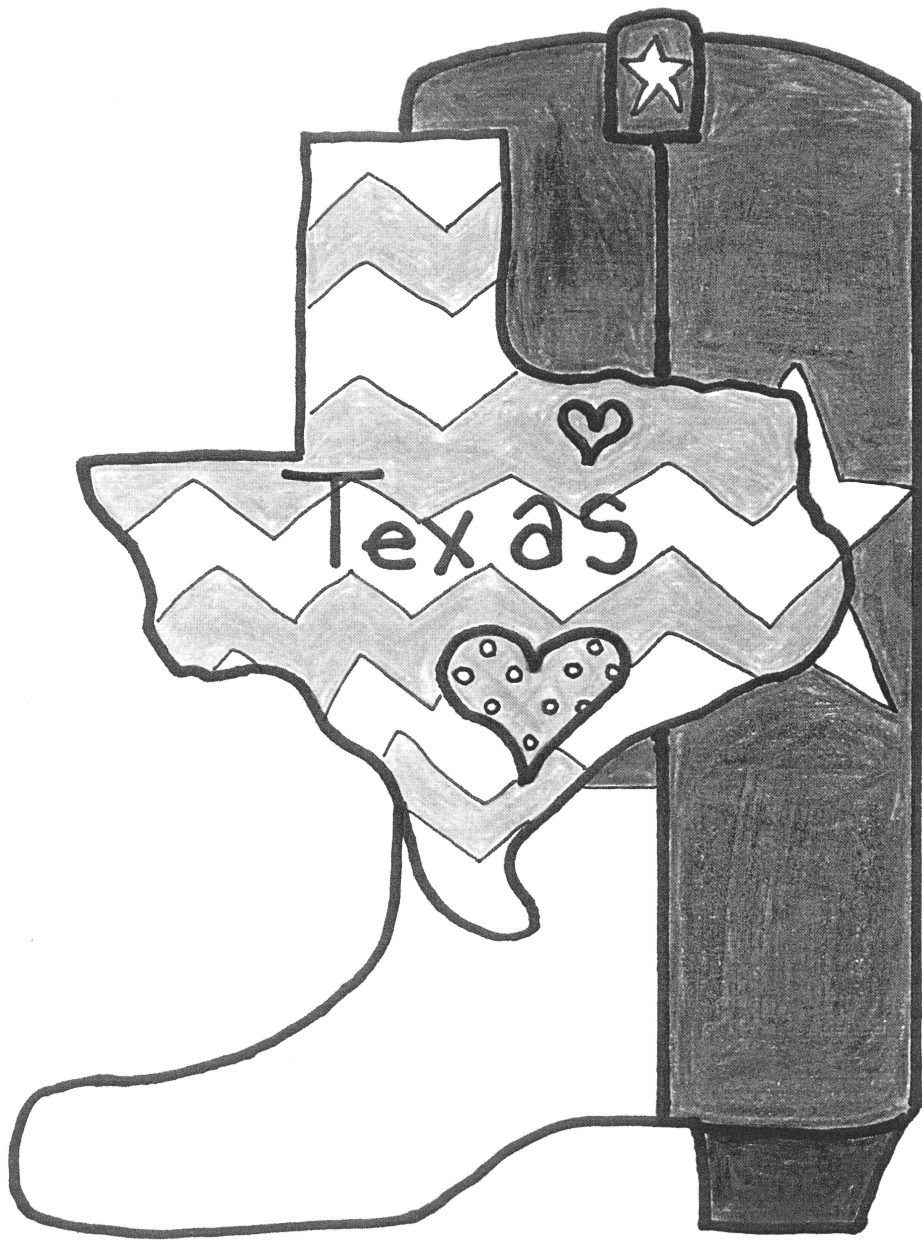
**Supreme Court of Texas**

Order Approving Protective Order Registry Form .....7781

**Workforce Solutions for the Heart of Texas**

Request for Quotes (RFQ #13210401) Short-Term Technical Skills

Training Services .....7784



# 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 October 14, 2020

Appointed to the Task Force on Disaster Issues Affecting Persons who are Elderly and Persons with Disabilities, for a term to expire February 1, 2021, Stephanie Duke of Houston, Texas (Ms. Duke is appointed pursuant to SB 982, 86th Legislature, Regular Session).

Appointed to the Task Force on Disaster Issues Affecting Persons who are Elderly and Persons with Disabilities, for a term to expire February 1, 2021, Barbara "Kay" Kizer of Lufkin, Texas (Ms. Kizer is appointed pursuant to SB 982, 86th Legislature, Regular Session).

Appointed to the Task Force on Disaster Issues Affecting Persons who are Elderly and Persons with Disabilities, for a term to expire February 1, 2021, John D. Spann of Midlothian, Texas (Mr. Spann is appointed pursuant to SB 982, 86th Legislature, Regular Session).

Appointed to the Task Force on Disaster Issues Affecting Persons who are Elderly and Persons with Disabilities, for a term to expire February 1, 2023, Becky L. Ames of Beaumont, Texas (Ms. Ames is appointed pursuant to SB 982, 86th Legislature, Regular Session).

Appointed to the Task Force on Disaster Issues Affecting Persons who are Elderly and Persons with Disabilities, for a term to expire February 1, 2023, Neva M. Fairchild of Flower Mound, Texas (Ms. Fairchild is appointed pursuant to SB 982, 86th Legislature, Regular Session).

Appointed to the Task Force on Disaster Issues Affecting Persons who are Elderly and Persons with Disabilities, for a term to expire February 1, 2023, Carlos L. Garcia of Brownsville, Texas (Chief Garcia is appointed pursuant to SB 982, 86th Legislature, Regular Session).

Appointed to the Task Force on Disaster Issues Affecting Persons who are Elderly and Persons with Disabilities, for a term to expire February 1, 2023, Patrick D. Sturdivant of San Antonio, Texas (Mr. Sturdivant is appointed pursuant to SB 982, 86th Legislature, Regular Session).

Appointed to the Task Force on Disaster Issues Affecting Persons who are Elderly and Persons with Disabilities, for a term to expire Febru-

ary 1, 2025, Kristina M. Henning of Orange, Texas (Ms. Henning is appointed pursuant to SB 982, 86th Legislature, Regular Session).

Appointed to the Task Force on Disaster Issues Affecting Persons who are Elderly and Persons with Disabilities, for a term to expire February 1, 2025, Timothy W. "Tim" McIntosh of Port Aransas, Texas (Mr. McIntosh is appointed pursuant to SB 982, 86th Legislature, Regular Session).

Appointed to the Task Force on Disaster Issues Affecting Persons who are Elderly and Persons with Disabilities, for a term to expire February 1, 2025, Marco A. Treviño of Edinburg, Texas (Mr. Treviño is appointed pursuant to SB 982, 86th Legislature, Regular Session).

Chief Carlos L. Garcia is designated as presiding officer of the task force.

### Appointments for October 19, 2020

Appointed to the Governor's Committee to Support the Military, for a term to expire at the pleasure of the Governor, Byron A. Bradford of North Richland Hills, Texas (replacing Paul F. Paine of Fort Worth, who resigned).

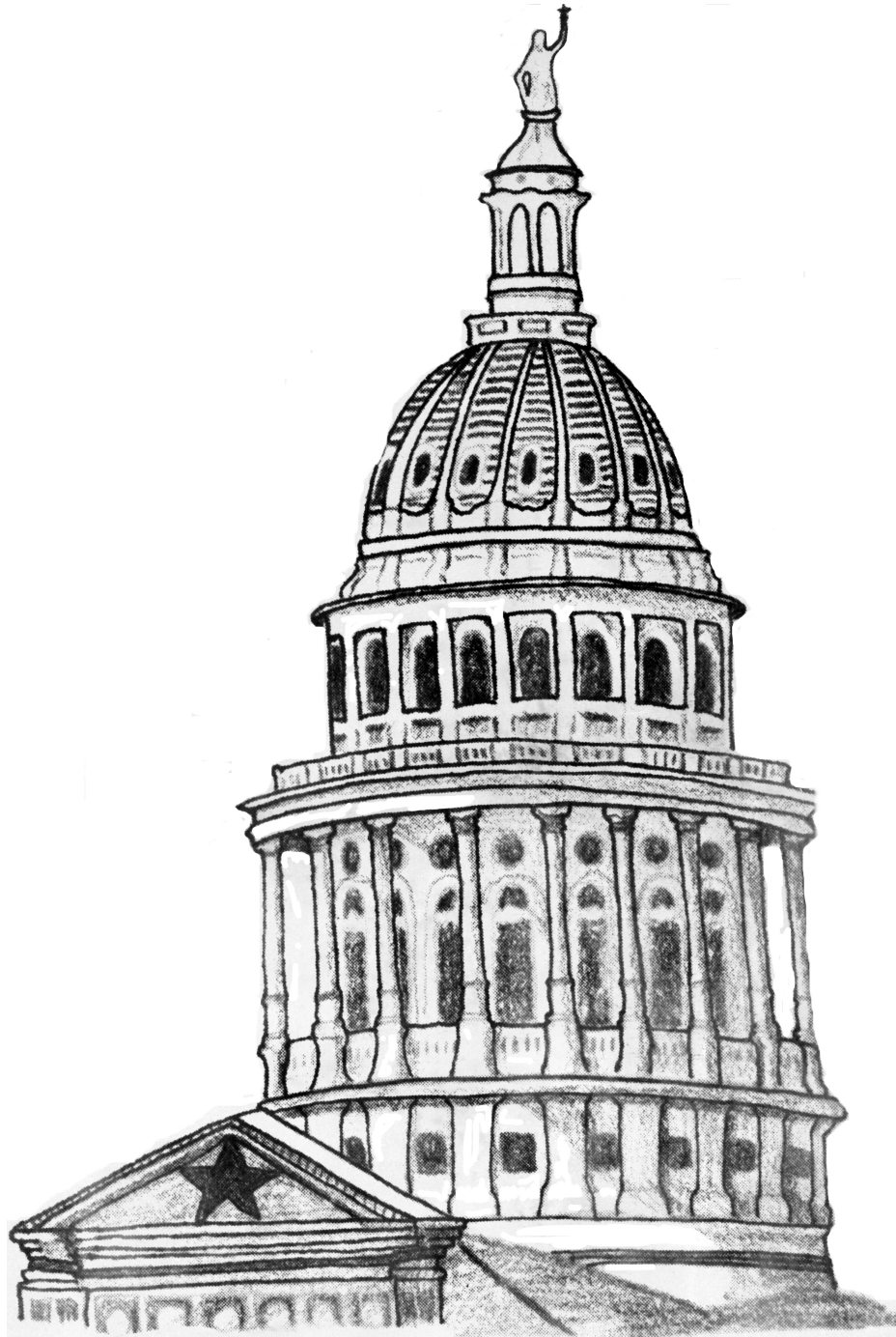
Appointed to the Governor's Committee to Support the Military, for a term to expire at the pleasure of the Governor, Michael B. Cervone of Boerne, Texas (replacing Boyd W. Sartin of Maud, who resigned).

Appointed to the Governor's Committee to Support the Military, for a term to expire at the pleasure of the Governor, David G. Toogood of Wichita Falls, Texas (replacing Ashley E. "Ash" Cannon of Burkburnett, who resigned).

Greg Abbott, Governor

TRD-202004432







# 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>.)

## Opinions

### Opinion No. KP-0335

The Honorable Elmer C. Beckworth, Jr.

Cherokee County District Attorney

Post Office Box 450

Rusk, Texas 75785

Re: Whether a search warrant and "warrant return" are subject to disclosure under the Public Information Act, or any other law or regulation of the State of Texas, when there is an ongoing criminal investigation (RQ-0344-KP).

### S U M M A R Y

The Public Information Act does not apply to a district clerk holding a search warrant, warrant return, and property inventory on behalf of the judiciary. Instead, the Code of Criminal Procedure governs public access to such documents.

Based on language in Code of Criminal Procedure article 18.011(d)(1) that a court order temporarily sealing a search warrant affidavit "may not . . . prohibit the disclosure of information relating to the contents of a search warrant, the return of a search warrant, or the inventory of property taken pursuant to a search warrant," a court would likely conclude that such documents are subject to public disclosure by a district clerk.

### Opinion No. KP-0336

Mr. Charles G. Cooper

Banking Commissioner

Texas Department of Banking

2601 North Lamar Boulevard

Austin, Texas 78705

Re: Whether a professional employer organization that conducts money transmission as defined in the Finance Code is subject to licensure under the Finance Code, notwithstanding licensure as a professional employer organization under the Labor Code (RQ-0348-KP).

### S U M M A R Y

A person or entity must obtain a money transmission license from the Commissioner of Banking to engage in the money transmission business under chapter 151 of the Texas Finance Code. A person or entity must obtain a license from the Department of Licensing and Regulation

to engage in professional employer services involving the compensation of covered employees under chapter 91 of the Labor Code. A professional employer organization's performance of its statutory duties under chapter 91 of the Labor Code pursuant to a professional employer services agreement does not constitute money transmission for which a separate license is required under chapter 151 of the Finance Code.

### Opinion No. KP-0337

The Honorable Donna Campbell, M.D.

Chair, Committee on Veteran Affairs and Border Security

Texas State Senate

Post Office Box 12068

Austin, Texas 78711-2068

Re: Whether Paycheck Protection Program loans are authorized investments under subsection 2256.009(a)(4) the Public Funds Investment Act (RQ-0349-KP).

### S U M M A R Y

To qualify as an authorized investment under subsection 2256.009(a)(4) of the Texas Public Funds Investment Act, an investment must be "unconditionally guaranteed or insured by, or backed by the full faith and credit of, this state or the United States or their respective agencies."

The federal Paycheck Protection Program authorizes loans to small businesses to pay their employees during the COVID-19 disaster. The Small Business Administration currently guarantees 100 percent of those loans, and they are available for purchase on the secondary market. Thus, Paycheck Protection Program loans fully guaranteed by the Small Business Administration generally satisfy the statutory requirements of an authorized investment under subsection 2256.009(a)(4).

Section 2256.006 requires that public investments "be made with judgment and care, under prevailing circumstances, that a person of prudence, discretion, and intelligence would exercise in the management of the person's own affairs, not for speculation, but for investment, considering the probable safety of capital and the probable income to be derived." Whether any specific investment satisfies this standard of care required in the Public Funds Investment Act must be determined by the investing entity in the first instance, after reviewing the entity's policies and the specific investment under consideration.

### Opinion No. KP-0338

The Honorable Sharen Wilson

Tarrant County Criminal District Attorney

401 West Belknap

Fort Worth, Texas 76196

Re: Whether an independent school district may enter into a long-term ground lease with a private entity that intends to develop surplus property owned by the district for non-educational purposes, where the expected financial benefit to the district will exceed the current value of a sale of the property (RQ-0350-KP)

**S U M M A R Y**

Under the common law, an independent school district may lease school district real property to a private entity provided the lease does not interfere with the property's use for district purposes or divest the school district of the exclusive right to manage and control the property. That the real property is surplus and no longer necessary for the operation of the school district is a factor relevant to the district's determination that a proposed lease complies with these limitations.

Texas Constitution article III, section 52(a) prohibits gifts of public funds for private purposes. The District's agreement to permit a pri-

vate entity to use its land constitutes a thing of value within the scope of article III, section 52(a) but does not violate that provision so long as the District: (1) ensures the expenditure is to accomplish a public purpose of the school district, not to benefit private parties; (2) retains sufficient control over the public funds to ensure the public purpose is accomplished; and (3) ensures the school district receives a return benefit. Whether a particular lease agreement satisfies this three-part test is a determination for the District in the first instance.

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

TRD-202004392

Lesley French

General Counsel

Office of the Attorney General

Filed: October 20, 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 22. EXAMINING BOARDS

### PART 36. COUNCIL ON SEX OFFENDER TREATMENT

#### CHAPTER 810. COUNCIL ON SEX OFFENDER TREATMENT

##### SUBCHAPTER A. LICENSED SEX OFFENDER TREATMENT PROVIDERS

###### 22 TAC §810.3

The Council on Sex Offender Treatment is renewing the effectiveness of emergency amended §810.3 for a 60-day period. The text of the emergency rule was originally published in the July 17, 2020, issue of the *Texas Register* (45 TexReg 4854).

Filed with the Office of the Secretary of State on October 19, 2020.

TRD-202004350

Aaron Pierce, PhD, LPC, LSOTP-S  
Chairman

Council on Sex Offender Treatment

Original effective date: July 2, 2020

Expiration date: December 28, 2020

For further information, please call: (512) 231-5721



## TITLE 26. HEALTH AND HUMAN SERVICES

### PART 1. HEALTH AND HUMAN SERVICES COMMISSION

#### CHAPTER 500. COVID-19 EMERGENCY HEALTH CARE FACILITY LICENSING

##### SUBCHAPTER A. HOSPITALS

###### 26 TAC §500.3

The Executive Commissioner of the Texas Health and Human Services Commission (HHSC) adopts on an emergency basis in Title 26 Texas Administrative Code, Chapter 500, COVID-19 Emergency Health Care Facility Licensing, new §500.3, concerning an emergency rule in response to COVID-19 in order to designate licensed hospital space to allow hospitals to treat and house patients more effectively. As authorized by Texas Government Code §2001.034, the Commission may adopt an emergency rule without prior notice or hearing upon finding that an imminent peril to the public health, safety, or welfare requires adoption on fewer than 30 days' notice. Emergency rules adopted un-

der Texas 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. HHSC accordingly finds that an imminent peril to the public health, safety, and welfare of the state requires immediate adoption of this emergency rule for Designation of Licensed Hospital Space During the COVID-19 Pandemic.

To protect hospital patients and the public health, safety, and welfare of the state during the COVID-19 pandemic, HHSC is adopting an emergency rule to temporarily permit a currently licensed hospital to designate a specific part of its hospital for use as an off-site facility by another hospital, and to allow another currently licensed hospital to apply to use the first hospital's designated hospital space as an off-site facility for inpatient care.

#### STATUTORY AUTHORITY

The emergency rulemaking is adopted under Texas Government Code §2001.034 and §531.0055 and Texas Health and Safety Code §241.026. Texas 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. Texas Government Code §531.0055 authorizes the Executive Commissioner of HHSC to adopt rules and policies necessary for the operation and provision of health and human services by the health and human services system. Texas Health and Safety Code §241.026 authorizes the Executive Commissioner of HHSC to adopt rules governing development, establishment, and enforcement standards for the construction, maintenance, and operation of licensed hospitals.

The new section implements Texas Government Code §531.0055 and Texas Health and Safety Code §241.026.

§500.3. Designation of Licensed Hospital Space During the COVID-19 Pandemic.

(a) Based on Governor Greg Abbott's March 13, 2020 declaration of a state of disaster in all Texas counties, the Texas Health and Human Services Commission (HHSC) adopts this emergency rule to establish continuing requirements and flexibilities to protect public health and safety during the COVID-19 pandemic. The requirements and flexibilities established in this section are applicable during an active declaration of a state of disaster in all Texas counties due to the

COVID-19 pandemic, declared pursuant to Texas Government Code §418.014.

(b) Using a form prescribed by HHSC, a hospital currently licensed under Texas Health and Safety Code Chapter 241 may designate a specific portion of its facility for use as an off-site facility by another hospital. A portion of the facility designated under this subsection may not be used under the designating hospital's license while the designation is effective.

(c) Another hospital currently licensed under Texas Health and Safety Code Chapter 241 may apply to use a portion of the facility designated under subsection (b) of this section as an off-site facility for inpatient care under §500.1 of this chapter (relating to Hospital Off-Site Facilities in Response to COVID-19) in the same manner as it would apply to use a facility described by §500.1(c)(2) of this chapter.

(d) A hospital that uses a portion of the facility designated under subsection (b) of this section as an off-site facility for inpatient care is responsible under its license for complying with all applicable federal and state statutes and rules, including §500.1 of this chapter, while using the portion of the facility.

(e) A hospital may withdraw its designation of the portion of the facility upon 10 days' notice to HHSC and to the hospital using the portion of the facility as an offsite facility. HHSC, at its sole discretion, may withdraw a hospital's designation of the portion of the facility at any time. Any patients being treated in the portion of the facility shall be safely relocated or transferred as soon as practicable, according to the policies and procedures of the hospital using the portion of the facility as an off-site facility.

(f) If an executive order or other direction is issued by the Governor of Texas, the President of the United States, or another applicable authority that is more restrictive than this section or any minimum standard relating to a hospital, the hospital must comply with the executive order or other direction.

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 October 16, 2020.

TRD-202004329

Karen Ray

Chief Counsel

Health and Human Services Commission

Effective date: October 20, 2020

Expiration date: February 16, 2021

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



## SUBCHAPTER D. CHEMICAL DEPENDENCY TREATMENT FACILITIES

### 26 TAC §§500.41 - 500.44

The Executive Commissioner of the Texas Health and Human Services Commission (HHSC) adopts on an emergency basis in Title 26 Texas Administrative Code, Chapter 500 COVID-19 Emergency Health Care Facility Licensing, new §500.41, concerning an emergency rule on telemedicine and telehealth in order to reduce the risk of transmission of COVID-19; new §500.42, concerning an emergency rule on maximum caseloads in order to permit an intensive residential program in a chemical

dependency treatment facility (CDTF) to temporarily increase counselor caseloads to twenty clients per counselor; new §500.43, concerning an emergency rule on service delivery via two-way, real-time internet or telephone communications in order to reduce the risk of transmission of COVID-19; and new §500.44, concerning an emergency rule on treatment planning and service provision documentation deadlines in order to provide CDTFs additional time to document service delivery, as counselor caseloads may have increased in intensive residential treatment programs in response to the COVID-19 pandemic. As authorized by Texas Government Code §2001.034, HHSC may adopt an emergency rule without prior notice or hearing upon finding that an imminent peril to the public health, safety, or welfare requires adoption on fewer than 30 days' notice. Emergency rules adopted under Texas 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. HHSC accordingly finds that an imminent peril to the public health, safety, and welfare of the state requires immediate adoption of these emergency rules.

To protect patients and the public health, safety, and welfare of the state during the COVID-19 pandemic, HHSC is adopting emergency rules to temporarily adjust CDTF operational requirements to: (1) permit a licensed CDTF to provide telehealth and telemedicine treatment services to clients in order to reduce the risk of transmission of COVID-19; (2) permit an intensive residential program in a CDTF to increase counselor caseloads from 10 to 20 clients per counselor due to CDTF staff shortages; (3) permit a licensed CDTF to provide treatment services through two-way, real-time internet or telephone communications to clients in order to reduce the risk of transmission of COVID-19; and (4) extend treatment planning and service provision documentation deadlines to provide CDTFs additional time to document service delivery, as counselor caseloads may have increased in intensive residential treatment programs. These emergency rules will address staff shortages, reduce the risk of transmission of COVID-19, and reduce barriers to treatment for patients seeking treatment for substance use disorders and chemical dependency.

### STATUTORY AUTHORITY

The emergency rulemaking is adopted under Texas Government Code §2001.034 and §531.0055 and Health and Safety Code §464.009. Texas 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. Texas Government Code §531.0055 authorizes the Executive Commissioner of HHSC to adopt rules and policies necessary for the operation and provision of health and human services by the health and human services system. Health and Safety Code §464.009 authorizes the Executive Commissioner of HHSC to adopt rules governing organization and structure, policies and procedures, staffing requirements, services, client

rights, records, physical plant requirements, and standards for licensed CDTFs.

The new sections implement Texas Government Code §531.0055 and Health and Safety Code §464.009.

§500.41. CDTF Telemedicine or Telehealth During the COVID-19 Pandemic.

(a) Based on Governor Greg Abbott's March 13, 2020 declaration of a state of disaster in all Texas counties, the Texas Health and Human Services Commission (HHSC) adopts this emergency rule to establish continuing requirements and flexibilities to protect public health and safety during the COVID-19 pandemic. The requirements and flexibilities established in this section are applicable during an active declaration of a state of disaster in all Texas counties due to the COVID-19 pandemic, declared pursuant to Texas Government Code §418.014.

(b) In this section, telehealth service has the meaning assigned by Texas Occupations Code §111.001(3), and telemedicine medical service has the meaning assigned by Texas Occupations Code §111.001(4).

(c) A physician, physician assistant, nurse practitioner, registered nurse, or licensed vocational nurse (LVN) may use telemedicine medical service or telehealth service to screen a client for admission to a detoxification program as required by 25 TAC §448.801(e) (relating to Screening), provided all other requirements of that subsection are met. The physician who examines a client screened by a LVN, as required by 25 TAC §448.801(e)(4), may use telemedicine medical service or telehealth service to examine the client.

(d) The medical director or their designee (physician assistant, nurse practitioner) may use telemedicine medical service or telehealth service to conduct the examination of a client for admission to a detoxification program, as required by 25 TAC §448.902(e) (relating to Requirements Applicable to Detoxification Services), provided all other requirements of that subsection are met.

(e) A counselor or counselor intern may use electronic means that meet the criteria of 25 TAC §448.911 (relating to Treatment Services Provided by Electronic Means) to conduct the comprehensive psychosocial assessment of a client admitted to the facility, as required by 25 TAC §448.803 (relating to Assessment), provided all other requirements of §448.803 are met, and to review information from an outside source with the client, as required by 25 TAC §448.803(f), provided all other requirements of that subsection are met.

(f) A qualified credentialed counselor, licensed professional counselor, licensed chemical dependency counselor, licensed marriage and family therapist, or licensed clinical social worker may provide outpatient chemical dependency treatment program services by electronic means under 25 TAC §448.911, provided all other requirements of that section are met.

(g) Any use of telemedicine medical service or telehealth service under this section shall comply with all applicable professional statutes and rules.

(h) If an executive order or other direction is issued by the Governor of Texas, the President of the United States, or another applicable authority that is more restrictive than this section or any minimum standard relating to a chemical dependency treatment facility, the facility must comply with the executive order or other direction.

§500.42. CDTF Maximum Caseloads During the COVID-19 Pandemic.

(a) Based on Governor Greg Abbott's March 13, 2020 declaration of a state of disaster in all Texas counties, the Texas Health

and Human Services Commission (HHSC) adopts this emergency rule to establish continuing requirements and flexibilities to protect public health and safety during the COVID-19 pandemic. The requirements and flexibilities established in this section are applicable during an active declaration of a state of disaster in all Texas counties due to the COVID-19 pandemic, declared pursuant to Texas Government Code §418.014.

(b) Notwithstanding 25 TAC §448.903(f) (relating to Requirements Applicable to Residential Services), counselor caseloads in intensive residential programs shall be limited to 20 clients for each counselor. To the extent this emergency rule conflicts with 25 TAC Chapter 448, this emergency rule controls while it remains in effect.

(c) If an executive order or other direction is issued by the Governor of Texas, the President of the United States, or another applicable authority that is more restrictive than this section or any minimum standard relating to a chemical dependency treatment facility, the facility must comply with the executive order or other direction.

§500.43. CDTF Service Delivery Through Two-Way, Real-Time Internet or Telephone Communications During the COVID-19 Pandemic.

(a) Based on Governor Greg Abbott's March 13, 2020 declaration of a state of disaster in all Texas counties, the Texas Health and Human Services Commission (HHSC) adopts this emergency rule to establish continuing requirements and flexibilities to protect public health and safety during the COVID-19 pandemic. The requirements and flexibilities established in this section are applicable during an active declaration of a state of disaster in all Texas counties due to the COVID-19 pandemic, declared pursuant to Texas Government Code §418.014.

(b) A qualified credentialed counselor, licensed professional counselor, licensed chemical dependency counselor, licensed marriage and family therapist, licensed clinical social worker, or licensed professional counselor intern may provide intensive residential services required by 25 TAC §448.903(d)(1) - (2) (relating to Requirements Applicable to Residential Services), supportive residential services required by 25 TAC §448.903(g)(1) - (2), intensive residential services in therapeutic communities required by 25 TAC §448.1401(g)(1) - (2) (relating to Therapeutic Communities), and adult supportive residential services in therapeutic communities required by 25 TAC §448.1401(k)(1) - (2) using two-way, real-time internet or telephone communications to provide services.

(c) A licensed professional counselor intern may provide outpatient chemical dependency treatment program services using two-way, real-time internet or telephone communications to provide services.

(d) Notwithstanding the provisions of 25 TAC §448.911 (relating to Treatment Services Provided by Electronic Means), the professionals listed in subsection (b) of this section and in §500.41(f) of this subchapter (relating to CDTF Telemedicine or Telehealth in Response to COVID-19 Pandemic) may use two-way, real-time internet or telephone communications to provide services.

(e) Any provision of services under this section shall comply with all applicable state and federal statutes and rules regarding record-keeping, confidentiality, and privacy, including 25 TAC §448.508 (relating to Client Records), 25 TAC §448.210 (relating to Confidentiality), and 42 Code of Federal Regulations Part 2.

(f) If an executive order or other direction is issued by the Governor of Texas, the President of the United States, or another applicable authority that is more restrictive than this section or any minimum standard relating to a chemical dependency treatment facility, the facility must comply with the executive order or other direction.

§500.44. CDTF Treatment Planning and Service Provision Documentation Deadlines During the COVID-19 Pandemic.

(a) Based on Governor Greg Abbott's March 13, 2020 declaration of a state of disaster in all Texas counties, the Texas Health and Human Services Commission (HHSC) adopts this emergency rule to establish continuing requirements and flexibilities to protect public health and safety during the COVID-19 pandemic. The requirements and flexibilities established in this section are applicable during an active declaration of a state of disaster in all Texas counties due to the COVID-19 pandemic, declared pursuant to Texas Government Code §418.014.

(b) Notwithstanding the deadline provision of 25 TAC §448.804(f) (relating to Treatment Planning, Implementation and Review), the client treatment plan required by 25 TAC §448.804 shall be completed and filed in the client record within seven business days of admission.

(c) Notwithstanding the deadline provision of 25 TAC §448.804(l), program staff shall document all treatment services (counseling, chemical dependency education, and life skills training) in the client record within seven business days, including the date, nature, and duration of the contact, the signature and credentials of the person providing the service, and the information required by 25 TAC §448.804(l)(1) - (2).

(d) If an executive order or other direction is issued by the Governor of Texas, the President of the United States, or another applicable authority that is more restrictive than this section or any minimum standard relating to a chemical dependency treatment facility, the facility must comply with the executive order or other direction.

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 October 16, 2020.

TRD-202004337

Karen Ray

Chief Counsel

Health and Human Services Commission

Effective date: October 17, 2020

Expiration date: February 13, 2020

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



## SUBCHAPTER E. LICENSED CHEMICAL DEPENDENCY COUNSELORS

### 26 TAC §500.51

The Executive Commissioner of the Texas Health and Human Services Commission (HHSC) adopts on an emergency basis in Title 26 Texas Administrative Code, Chapter 500 COVID-19 Emergency Health Care Facility Licensing, new §500.51, concerning an emergency rule for supervision of licensed chemical dependency counselor (LCDC) interns in response to COVID-19 in order to permit supervisors of interns to provide required supervision through the use of two-way, real-time internet or telephone communications to reduce the risk of transmission of COVID-19. As authorized by Texas Government Code §2001.034, HHSC may adopt an emergency rule without prior notice or hearing upon finding that an imminent peril to the public health, safety, or welfare requires adoption on fewer

than 30 days' notice. Emergency rules adopted under Texas 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. HHSC accordingly finds that an imminent peril to the public health, safety, and welfare of the state requires immediate adoption of this emergency rule for Supervision of LCDC Interns During the COVID-19 Pandemic.

To protect patients and the public health, safety, and welfare of the state during the COVID-19 pandemic, HHSC is adopting an emergency rule to temporarily permit: (1) counselor interns with more than 1,000 hours of supervised work experience to provide services in person or through two-way, real-time internet or telephone communications; (2) supervisors of LCDC interns with less than 2,000 hours of supervised work experience to provide supervision in person or through two-way, real-time internet or telephone communications; and (3) a certified clinical supervisor, or the clinical training institution coordinator or intern's supervising qualified credentialed counselor at a clinical training institution, to provide supervision to a counselor intern using two-way, real-time internet or telephone communications to observe and document the intern performing assigned activities and to provide and document one hour of face-to-face individual or group supervision. This emergency rule will address staff shortages, reduce the risk of transmission of COVID-19, and reduce barriers to treatment for patients seeking treatment for substance use disorders and chemical dependency.

### STATUTORY AUTHORITY

The emergency rulemaking is adopted under Texas Government Code §2001.034 and §531.0055 and Occupations Code §504.051. Texas 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. Texas Government Code §531.0055 authorizes the Executive Commissioner of HHSC to adopt rules and policies necessary for the operation and provision of health and human services by the health and human services system. Occupations Code, §504.051 authorizes the Executive Commissioner of HHSC to adopt rules as necessary for the performance of its duties under the chapter, establish standards of conduct and ethics for persons licensed under the chapter, and establish any additional criteria for peer assistance programs for chemical dependency counselors that the Executive Commissioner of HHSC determines necessary.

The new section implements Texas Government Code §531.0055 and Occupations Code §504.051.

§500.51. Supervision of LCDC Interns During the COVID-19 Pandemic.

(a) Based on Governor Greg Abbott's March 13, 2020 declaration of a state of disaster in all Texas counties, the Texas Health and Human Services Commission (HHSC) adopts this emergency rule to establish continuing requirements and flexibilities to protect public

health and safety during the COVID-19 pandemic. The requirements and flexibilities established in this section are applicable during an active declaration of a state of disaster in all Texas counties due to the COVID-19 pandemic, declared pursuant to Texas Government Code §418.014.

(b) A counselor intern with more than 1,000 hours of supervised work experience may provide services in person or using two-way, real-time internet or telephone communications.

(c) Notwithstanding 25 TAC §140.422(c), the supervisor of a counselor intern with less than 2,000 hours of supervised work experience must be on site or immediately accessible by two-way, real-time internet or telephone communications when the intern is providing services.

(d) When supervising a counselor intern as required by 25 TAC §140.422(d), (e), (g), and (h), the certified clinical supervisor, or the clinical training institution coordinator or intern's supervising qualified credentialed counselor at a clinical training institution, may use two-way, real-time internet or telephone communications to observe and document the intern performing assigned activities and to provide and document one hour of face-to-face individual or group supervision.

(e) If an executive order or other direction is issued by the Governor of Texas, the President of the United States, or another applicable authority that is more restrictive than this section or any minimum standard relating to a licensed chemical dependency counselor, the licensee must comply with the executive order or other direction.

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 October 16, 2020.

TRD-202004338

Karen Ray

Chief Counsel

Health and Human Services Commission

Effective date: October 17, 2020

Expiration date: February 13, 2021

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



## CHAPTER 551. INTERMEDIATE CARE FACILITIES FOR INDIVIDUALS WITH AN INTELLECTUAL DISABILITY OR RELATED CONDITIONS

### SUBCHAPTER C. STANDARDS FOR LICENSURE

#### 26 TAC §551.47

The Executive Commissioner of the Health and Human Services Commission (HHSC) adopts on an emergency basis in Title 26, Texas Administrative Code, Chapter 551, Intermediate Care Facilities for Individuals with an Intellectual Disability or Related Conditions, Subchapter C, Standards for Licensure, new §551.47, concerning an emergency rule in response

to COVID-19 describing requirements for limited indoor and outdoor visitation in a facility. As authorized by Texas Government Code §2001.034, the Commission may adopt an emergency rule without prior notice or hearing upon finding that an imminent peril to the public health, safety, or welfare requires adoption on fewer than 30 days' notice. Emergency rules adopted under Texas 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. This emergency rulemaking reflects the continued reopening of the State of Texas. HHSC accordingly finds that an imminent peril to the public health, safety, and welfare of the state requires immediate adoption of this emergency rule for Intermediate Care Facility COVID-19 Response--Expansion of Reopening Visitation.

To protect intermediate care facility individuals and the public health, safety, and welfare of the state during the COVID-19 pandemic, HHSC is adopting an emergency rule to require limited indoor and outdoor visitation in an intermediate care facility. The purpose of the new rule is to describe the requirements related to such visits.

#### STATUTORY AUTHORITY

The emergency rulemaking is adopted under Texas Government Code, §2001.034 and §531.0055, and Texas Health and Safety Code §§252.031 - 252.033 and §252.043. Texas 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. Texas Government Code §531.0055 authorizes the Executive Commissioner of HHSC to adopt rules and policies necessary for the operation and provision of health and human services by the health and human services system. Texas Health and Safety Code §§252.031 - and 252.033 require the Executive Commissioner of HHSC to establish rules prescribing the minimum standards and process for licensure as an intermediate care facility. Texas Health and Safety Code §252.043 establishes HHSC's authority to conduct an inspection, survey, or investigation at an intermediate care facility to determine if the intermediate care facility is in compliance with the minimum acceptable levels of care for individuals who are living in an intermediate care facility, and the minimum acceptable life safety code and physical environment requirements.

The new section implements Texas Government Code §531.0055 and §531.021 and Chapter 252 of Texas Health and Safety Code Chapter 252.

§551.47. Intermediate care facility COVID-19 Response--Expansion of Reopening Visitation.

(a) The following words and terms, when used in this subchapter, have the following meanings.

(1) Closed window visit--A personal visit between a visitor and an individual during which the individual and visitor are separated

by a closed window and the visitor does not enter the building. A closed window visit is permitted at all facilities for all individuals.

(2) COVID-19 negative--The status of a person who has tested negative for COVID-19, is not exhibiting symptoms of COVID-19, and has had no known exposure to the virus since the negative test.

(3) COVID-19 positive--The status of a person who has tested positive for COVID-19 and does not yet meet Centers for Disease Control and Prevention (CDC) guidance for the discontinuation of transmission-based precautions.

(4) End-of-life visit--A personal visit between a visitor and an individual who is actively dying. An end-of-life visit is permitted in all facilities for all individuals at the end of life.

(5) Essential caregiver--A family member or other outside caregiver, including a friend, volunteer, private personal caregiver or court appointed guardian, who is at least 18 years old, and has been designated by the individual or legal representative to provide regular care and support to an individual.

(6) Essential caregiver visit--A personal visit between an individual and a designated essential caregiver, as described in subsection (e) of this section. An essential caregiver visit is permitted in all facilities for COVID-19 negative and unknown COVID-19 status individuals.

(7) Facility-acquired COVID-19 infection--COVID-19 infection that is acquired after admission in an intermediate care facility and was not present at the end of the 14-day quarantine period following admission or readmission.

(8) Individual--A person enrolled in the intermediate care facilities for individuals with an intellectual disability or related conditions program.

(9) Large intermediate care facility--An intermediate care facility serving 17 or more individuals in one or more buildings.

(10) Open window visit--A personal visit between a visitor and an individual during which the individual and personal visitor are separated by an open window.

(11) Outbreak--One or more laboratory confirmed cases of COVID-19 identified in either an individual or paid or unpaid staff.

(12) Outdoor visit--A personal visit between an individual and one or more personal visitors that occurs in-person in a dedicated outdoor space.

(13) Persons providing critical assistance--Providers of essential services, persons with legal authority to enter, and family members or friends of individuals at the end of life and two designated essential caregivers as described in subsection (o) of this section.

(14) Persons with legal authority to enter--Law enforcement officers, representatives of the long-term care ombudsman's office, and government personnel performing their official duties.

(15) Plexiglass indoor visit--A personal visit between an individual and one or more personal visitors, during which the individual and the visitor are both inside the facility but within a booth separated by a plexiglass barrier and the individual remains on one side of the barrier and the visitor remains on the opposite side of the barrier.

(16) Providers of essential services--Contract doctors, contract nurses, hospice workers, and individuals operating under the authority of a local intellectual and developmental disability authority (LIDDA) or a local mental health authority (LMHA) whose services are necessary to ensure individual health and safety.

(17) Salon services visit--A personal visit between an individual and a salon services visitor as described in subsection (q) of this section. All facilities may permit salon services visits for COVID-19 negative residents.

(18) Salon services visitor--A barber, beautician, or cosmetologist providing hair care or personal grooming services to an individual.

(19) Small intermediate care facility--An intermediate care facility serving 16 or fewer individuals.

(20) Unknown COVID-19 status--The status of a person who is a new admission or readmission, has spent one or more nights away from the facility, has had known exposure or close contact with a person who is COVID-19 positive, or who is exhibiting symptoms of COVID-19 while awaiting test results.

(21) Vehicle parade--A personal visit between an individual and one or more personal visitors, during which the individual remains outdoors on the intermediate care facility campus, and a visitor drives past in a vehicle.

(b) An intermediate care facility must screen all visitors prior to allowing them to enter the facility, as described in subsection (c) of this section. Visitor screenings must be documented in a log kept at the entrance to the facility, which must include the name of each person screened, the date and time of the screening, and the results of the screening. The visitor screening log may contain protected health information and must be protected in accordance with applicable state and federal law. An intermediate care facility is not required to screen emergency services personnel entering the facility or facility campus in an emergency and personal visitors participating in a vehicle parade or a closed window visit.

(c) Visitors who meet any of the following screening criteria must leave the intermediate care facility campus and reschedule the visit:

(1) fever defined as a temperature of 100.4 Fahrenheit and above;

(2) signs or symptoms of COVID-19, including chills, cough, shortness of breath or difficulty breathing, fatigue, muscle or body aches, headache, new loss of taste or smell, sore throat, congestion or runny nose, nausea or vomiting, or diarrhea;

(3) any other signs and symptoms, as outlined by the CDC in Symptoms of Coronavirus at [cdc.gov](https://www.cdc.gov);

(4) contact in the last 14 days with someone who has a confirmed diagnosis of COVID-19, is under investigation for COVID-19, or is ill with a respiratory illness, unless the visitor is seeking entry to provide critical assistance; or

(5) has a positive COVID-19 test result from a test performed in the last 10 days.

(d) An intermediate care facility must allow persons providing critical assistance, including essential caregivers, to enter the intermediate care facility if they pass the screening in subsection (c) of this section, except as provided in subsection (o)(8)(H) and (o)(9)(F) of this section.

(e) An intermediate care facility must allow essential caregiver visits, end-of-life visits and closed window visits in accordance with this section. Approved visitation designation for a facility is not required for a closed window visit, end-of-life visit, or visits by persons providing critical assistance including essential caregivers, as defined in subsection (a)(1) and (a)(4) - (5) of this section.



(f) Except as approved by HHSC under subsection (k) of this section, an intermediate care facility with an approved visitation designation by HHSC must allow outdoor visits, open window visits, vehicle parades, and plexiglass indoor visits with individuals with COVID-19 negative status.

(g) Each intermediate care facility must submit a completed Long-term Care Regulation (LTCR) form 2195, COVID-19 Status Attestation Form, including a facility map indicating which areas, units, wings, halls, or buildings accommodate COVID-19 negative, COVID-19 positive, and unknown COVID-19 status individuals, to the Regional Director in the LTCR Region where the facility is located, whether the facility meets or does not meet the criteria for expansion of reopening visitation. A facility with previous approval for visitation designation does not have to submit Form 2195 and a facility map, unless the previous visitation approval has been withdrawn, rescinded, or cancelled.

(h) To receive a facility visitation designation, an intermediate care facility must demonstrate:

(1) there are separate areas, units, wings, halls, or buildings designated for COVID-19 positive, COVID-19 negative, or unknown COVID-19 status individual cohorts;

(2) separate dedicated staff are working exclusively in the separate areas, units, wings, halls, or buildings for individuals who are COVID-19 positive, COVID-19 negative, or unknown COVID-19 status;

(3) there have been no confirmed COVID-19 cases for at least 14 consecutive days in staff working in the area, unit, wing, hall, or building which accommodates individuals who are COVID-19 negative;

(4) there have been no facility-acquired COVID-19 confirmed cases for at least 14 consecutive days in individuals in the COVID-19 negative area, unit, wing, hall, or building;

(5) staff are designated to work with only one individual cohort and the designation does not change from one day to another; and

(6) if an intermediate care facility has had previous cases of COVID-19 in staff or individuals in the area, unit, wing, hall, or building which accommodates individuals who are COVID-19 negative, HHSC LTCR may conduct a verification survey and confirm the following:

(A) all staff and individuals in the COVID-19 negative area, unit, wing, hall, or building have fully recovered;

(B) the intermediate care facility has adequate staffing to continue care for all individuals and supervise visits permitted by this section; and

(C) the intermediate care facility is in compliance with infection control requirements and emergency rules related to COVID-19.

(i) A small intermediate care facility that cannot provide separate areas, units, wings, halls, or buildings for individuals who are COVID-19 positive, COVID-19 negative, or unknown COVID-19 status must demonstrate:

(1) there have been no confirmed COVID-19 cases for at least 14 consecutive days in staff;

(2) there have been no facility-acquired COVID-19 confirmed cases for at least 14 consecutive days in individuals; and

(3) if an intermediate care facility has had previous cases of COVID-19 in staff or individuals, HHSC LTCR may conduct a verification survey and confirm the following:

(A) all staff and individuals have fully recovered;

(B) the intermediate care facility has adequate staffing to continue care for all individuals and supervise visits permitted by this section; and

(C) the intermediate care facility is in compliance with infection control requirements and emergency rules related to COVID-19.

(j) An intermediate care facility that does not meet the criteria, in subsection (h) or (i) of this section, to receive a visitation designation must:

(1) permit closed window visits, persons providing critical assistance, including essential caregivers, and end-of-life visits;

(2) develop and implement a plan describing the steps the facility intends to take to meet the visitation designation criteria in subsection (h) or (i) of this section; and

(3) submit the plan to the Regional Director in the LTCR Region where the facility is located within five business days of submitting the form or of receiving notification from HHSC that the intermediate care facility was not approved for visitation designation.

(k) An intermediate care facility may request exemption from the requirements in this section, including that a facility with a visitation designation must allow certain personal visits. Intermediate care facilities may not request, and HHSC will not approve, an exemption from closed window visits or visits by persons providing critical assistance, including essential caregivers and end-of-life visits. If the intermediate care facility determines it is unable to meet one or more of the other visitation requirements of this section, the facility must request exemption from that requirement and explain its inability to meet the visitation requirement on the COVID-19 Status Attestation Form. HHSC will notify the intermediate care facility if a temporary exemption for a specific visit type is granted and the time period for exemption.

(l) Except if approved by HHSC for an exemption under subsection (k) of this section, an intermediate care facility with a facility visitation designation must allow outdoor visits, open window visits, vehicle parades, and plexiglass indoor visits involving individuals and personal visitors. The following requirements apply to all visitation allowed under this subsection, and all other visitation types as specified:

(1) Visits must be scheduled in advance and are by appointment only.

(2) Visitation appointments must be scheduled to allow time for cleaning and sanitization of the visitation area between visits.

(3) An intermediate care facility must allow open window visits, vehicle parades, outdoor visits, and plexiglass indoor visits for individuals who are COVID-19 negative. Individuals with unknown COVID-19 status or COVID-19 positive status cannot participate in outdoor visits, open window visits, vehicle parades, or plexiglass indoor visits.

(4) An intermediate care facility must allow closed window visits and end-of-life visits for individuals who are COVID-19 negative, COVID-19 positive, or unknown COVID-19 status.

(5) Physical contact between individuals and visitors is prohibited, except for essential caregiver visits and end-of-life visits.

(6) An intermediate care facility must allow visits where adequate space is available that meets criteria and when adequate staff are available to monitor visits. Essential caregiver visits and end-of-life visits can take place in the individual's room or other area of the facility separated from other individuals. The intermediate care facility must limit the movement of the visitor through the facility to ensure interaction with other individuals is minimized.

(7) The visitor must wear a facemask or face covering over both the mouth and nose throughout the visit, except visitors participating in a vehicle parade or closed window visit.

(8) The individual must wear a facemask or face covering over both the mouth and nose (if tolerated) throughout the visit.

(9) The intermediate care facility must ensure physical distancing of at least six feet is maintained between visitors and individuals at all times and limit the number of visitors and individuals in the visitation area as needed to ensure physical distancing is maintained. Essential caregiver and end-of-life visitors do not have to maintain physical distancing between themselves and the individual they are visiting but must maintain physical distancing between themselves and all other individuals, staff, and other visitors.

(10) The intermediate care facility must limit the number of visitors per individual per week, and the length of time per visit, to ensure equal access by all individuals to visitors.

(11) Cleaning and disinfecting of the visitation area, furniture, and all other items must be performed, per CDC guidance, before and after each visit.

(12) The intermediate care facility must ensure a comfortable and safe outdoor visiting area for outdoor visits and vehicle parades, considering outside air temperatures and ventilation.

(13) For outdoor visits, the intermediate care facility must designate an outdoor area for visitation that is separated from individuals and limits the ability of the visitor to interact with individuals.

(14) An intermediate care facility must provide hand washing stations, or hand sanitizer, to the visitor and individual before and after visits, except visitors participating in a vehicle parade or closed window visit.

(15) The visitor and the individual must practice hand hygiene before and after the visit, except visitors participating in a vehicle parade or closed window visit.

(m) The following requirements apply to vehicle parades:

(1) Visitors must remain in their vehicles throughout the parade.

(2) The intermediate care facility must ensure physical distancing of at least six feet is maintained between individuals throughout the parade.

(3) The intermediate care facility must ensure individuals are not closer than 10 feet to the vehicles for safety reasons.

(4) The individual must wear a facemask or face covering over both the mouth and nose (if tolerated) throughout the visit.

(n) The following requirements apply to plexiglass indoor visits:

(1) The plexiglass booth must be installed in an area of the facility where it does not impede a means of egress, does not impede or interfere with any fire safety equipment or system, and does not offer access to the rest of the facility or contact between the visitors and other individuals.

(2) Prior to using the booth, the facility must submit for approval a photo of the plexiglass visitation booth and its location in the facility to the Life Safety Code Program Manager in the LTCR Region in which the facility is located and must receive approval from HHSC.

(3) The visit must be supervised by facility staff for the duration of the visit.

(4) The individual must wear a facemask or face covering over both the mouth and nose (if tolerated) throughout the visit.

(5) The visitor must wear a facemask or face covering over both the mouth and nose throughout the visit.

(6) The facility shall limit the number of visitors and individuals in the visitation area as needed.

(o) The following requirements apply to essential caregiver visits:

(1) There may be up to two permanently designated essential caregiver visitors per resident.

(2) Only one essential caregiver at a time may visit an individual.

(3) Each visit is limited to one essential caregiver at a time.

(4) Each visit is limited to two hours, unless the intermediate care facility determines that it can only accommodate a visit for a shorter duration or that it can accommodate a longer duration and adjusts the duration of the visit accordingly.

(5) The visit may occur outdoors, in the individual's bedroom, or in another area in the facility that limits visitor movement through the facility and interaction with other individuals.

(6) Essential caregiver visitors do not have to maintain physical distancing between themselves and the individual they are visiting, but they must maintain physical distancing between themselves and all other individuals and staff.

(7) The individual must wear a facemask or face covering over both the mouth and nose (if tolerated) throughout the visit.

(8) The intermediate care facility must develop and enforce essential caregiver visitation policies and procedures, which include:

(A) a testing strategy for designated essential caregivers;

(B) a written agreement that the essential caregiver understands and agrees to follow the applicable policies, procedures, and requirements;

(C) training each designated essential caregiver on proper personal protective equipment (PPE) usage and infection control measures, hand hygiene and cough and sneeze etiquette;

(D) the essential caregiver must wear a facemask and any other appropriate PPE recommended by CDC guidance and the facility's policy while in the intermediate care facility;

(E) expectations regarding using only designated entrances and exits as directed;

(F) limiting visitation to the area designated by the facility in accordance with paragraph (4) of this subsection;

(G) facility staff must escort the essential caregiver from the facility entrance to the designated visitation area at the start of each visit; and

(H) facility staff must escort the essential caregiver from the designated visitation area to the facility exit at the end of each visit.

(9) The intermediate care facility must:

(A) inform the essential caregiver visitor of applicable policies, procedures, and requirements;

(B) approve the visitor's facemask and any other appropriate PPE recommended by CDC guidance and the facility's policy, or provide an approved facemask and other appropriate PPE;

(C) maintain documentation of the essential caregiver visitor's agreement to follow the applicable policies, procedures and requirements;

(D) maintain documentation of the essential caregiver visitor's training, as required in paragraph (8)(C) of this subsection;

(E) maintain documentation of the date of last COVID-19 test as reported by the essential caregiver;

(F) document the identity of each essential caregiver in the individual's records and verify the identity of the essential caregiver by creating an essential caregiver visitor badge;

(G) maintain a record of each essential caregiver visit, including:

(i) the date and time of the arrival and departure of the essential caregiver visitor;

(ii) the name of the essential caregiver visitor;

(iii) the name of the individual being visited; and

(iv) attestation that the identity of the essential caregiver visitor was confirmed; and

(H) prevent visitation by the essential caregiver if the individual has an active COVID-19 infection.

(10) The essential caregiver must:

(A) wear a facemask over both the mouth and nose, and any other appropriate PPE recommended by CDC guidance and the facility's policy, while in the intermediate care facility;

(B) have a negative COVID-19 test result from a test performed no more than 14 days before the first essential caregiver visit, unless the intermediate care facility chooses to perform a rapid test prior to entry in the intermediate care facility;

(C) sign an agreement to leave the facility at the appointed time unless otherwise approved by the facility;

(D) self-monitor for signs and symptoms of COVID-19;

(E) not participate in visits if the designated essential caregiver has signs and symptoms of COVID-19 or an active COVID-19 infection; and

(F) not participate in visits if the individual has an active COVID-19 infection.

(11) The facility may cancel the essential caregiver visit if the essential caregiver fails to comply with the facility's policy regarding essential caregiver visits or applicable requirements in this section.

(p) A facility may allow a salon services visitor to enter the facility to provide services to an individual only if:

(1) The salon services visitor passes the screening described in subsection (c) of this section;

(2) the salon services visitor agrees to comply with the most current version of the Minimum Standard Health Protocols - Checklist for Cosmetology Salons/Hair Salons, located online at [open.texas.gov](http://open.texas.gov); and the requirements of subsection (q) of this section are met.

(q) The following requirements apply to salon services visits:

(1) Each visit is limited to two hours, unless the intermediate care facility determines that it can only accommodate a visit for a shorter duration or that it can accommodate a longer duration and adjusts the duration of the visit accordingly.

(2) The visit may occur outdoors, in the individual's bedroom, or in another area in the facility that limits visitor movement through the facility and interaction with other individuals.

(3) Salon services visitors do not have to maintain physical distancing between themselves and each individual they are visiting, but they must maintain physical distancing between themselves and all other individuals and staff.

(4) The individual must wear a facemask or face covering over both the mouth and nose (if tolerated) throughout the visit.

(5) The intermediate care facility must develop and enforce salon services visitation policies and procedures, which include:

(A) a testing strategy for salon services visitors;

(B) a written agreement that the salon services visitor understands and agrees to follow the applicable policies, procedures, and requirements;

(C) training each salon services visitor on proper PPE usage and infection control measures, hand hygiene, and cough and sneeze etiquette;

(D) the salon services visitor must wear a facemask and any other appropriate PPE recommended by CDC guidance and the facility's policy while in the intermediate care facility;

(E) expectations regarding using only designated entrances and exits, as directed;

(F) limiting visitation to the area designated by the facility, in accordance with paragraph (2) of this subsection;

(G) facility staff must escort the salon services visitor from the facility entrance to the designated visitation area at the start of each visit; and

(H) facility staff must escort the salon services visitor from the designated visitation area to the facility exit at the end of each visit;

(6) The intermediate care facility must:

(A) inform the salon services visitor of applicable policies, procedures, and requirements;

(B) approve the visitor's facemask or provide an approved facemask;

(C) maintain documentation of the salon services visitor's agreement to follow the applicable policies, procedures and requirements;

(D) maintain documentation of the salon services visitor's training, as required in paragraph (5)(C) of this subsection;

(E) maintain documentation of the date of last COVID-19 test, as reported by the salon services visitor;

(F) document the identity of each salon services visitor in the facility's records and verify the identity of the salon services visitor by creating a salon services visitor badge;

(G) maintain a record of each salon services visit, including:

(i) the date and time of the arrival and departure of the salon services visitor;

(ii) the name of the salon services visitor;

(iii) the name of the individual being visited; and

(iv) attestation that the identity of the salon services visitor was confirmed; and

(H) prevent visitation by the salon services visitor if the individual has an active COVID-19 infection.

(7) The salon services visitor must:

(A) wear a facemask over both the mouth and nose and any other appropriate PPE recommended by CDC guidance and the facility's policy while in the intermediate care facility;

(B) have a negative COVID-19 test result from a test performed no more than 14 days before the first salon services visit, unless the intermediate care facility chooses to perform a rapid test prior to entry in the intermediate care facility;

(C) sign an agreement to leave the facility at the appointed time, unless otherwise approved by the facility;

(D) self-monitor for signs and symptoms of COVID-19;

(E) not participate in visits if the salon services visitor has signs and symptoms of COVID-19 or an active COVID-19 infection; and

(F) not participate in visits if the individual has an active COVID-19 infection.

(8) The facility may cancel the salon services visit if the salon services visitor fails to comply with the facility's policy regarding salon services visits or applicable requirements in this section.

(r) An intermediate care facility must provide instructional signage throughout the facility and proper visitor education regarding:

(1) the signs and symptoms of COVID-19 signs;

(2) infection control precautions; and

(3) other applicable facility practices (e.g., use of facemask or other appropriate PPE, specified entries and exits, routes to designated visitation areas, hand hygiene).

(s) If, at any time after facility visitation designation is approved by HHSC, the area, unit, wing, hall, or building accommodating individuals who are COVID-19 negative, or facility-wide for small intermediate care facilities that received visitation designation in accordance with subsection (i) of this section, experiences an outbreak of COVID-19, the facility must notify the Regional Director in the LTRC Region where the facility is located that the area, unit, wing, hall, building or facility no longer meets visitation criteria, and all visit types authorized under the facility's visitation designation, including outdoor visits, open window visits, vehicle parades, and indoor plexiglass visits, must be cancelled until the area, unit, wing, hall, building or facility meets the criteria described in subsections (h) or (i) of this section and visitation approval is provided by HHSC.

(t) If an intermediate care facility fails to comply with the requirements of this section, HHSC may rescind the visitation designation and may impose licensure remedies in accordance with Subchapter H of this chapter (relating to Enforcement).

(u) If an executive order or other direction is issued by the Governor of Texas, the President of the United States, or another applicable authority, that is more restrictive than this rule or any minimum standard relating to an intermediate care facility, the intermediate care facility must comply with the executive order or other direction.

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 October 16, 2020.

TRD-202004343

Karen Ray

Chief Counsel

Health and Human Services Commission

Effective date: October 16, 2020

Expiration date: February 12, 2021

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



## CHAPTER 553. LICENSING STANDARDS FOR ASSISTED LIVING FACILITIES SUBCHAPTER K. COVID-19 EMERGENCY RULE

### 26 TAC §553.2003

The Executive Commissioner of the Health and Human Services Commission (HHSC) adopts on an emergency basis in Title 26, Texas Administrative Code, Chapter 553, Licensing Standards for Assisted Living Facilities, Subchapter K, COVID-19 Emergency Rule, new §553.2003, an emergency rule in response to COVID-19 describing requirements for limited indoor and outdoor visitation in a facility. As authorized by Texas 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. HHSC accordingly finds that an imminent peril to the public health, safety, and welfare of the state requires immediate adoption of this emergency rule for Assisted Living Facility COVID-19 Response - Expansion of Reopening Visitation.

To protect assisted living facility residents and the public health, safety, and welfare of the state during the COVID-19 pandemic, HHSC is adopting an emergency rule to require limited indoor and outdoor visitation in an assisted living facility. The purpose of the new rule is to describe the requirements related to such visits.

#### STATUTORY AUTHORITY

The emergency rulemaking is adopted under Texas Government Code §2001.034 and §531.0055, and Texas Health and Safety Code §247.025 and §247.026. Texas 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. Texas Government Code §531.0055 authorizes the Executive Commissioner of HHSC to adopt rules and policies necessary for the operation and provision of health and human services by HHSC. Texas Health and Safety Code §247.026 requires the Executive Commissioner of HHSC to adopt rules prescribing minimum standards to protect the health and safety of assisted living facility residents.

The new section implements Texas Government Code §531.0055 and Texas Health and Safety Code Chapter 247.

*§553.2003. Assisted Living Facility COVID-19 Response - Expansion of Reopening Visitation.*

(a) The following words and terms, when used in this subchapter, have the following meanings.

(1) Closed window visit--A personal visit between a visitor and a resident during which the resident and visitor are separated by a closed window and the visitor does not enter the building permitted at all facilities, for all residents.

(2) COVID-19 negative--A person who has tested negative for COVID-19 or meets the criteria for discontinuation for transmission-based precautions, is not exhibiting symptoms of COVID-19, and has had no known exposure to the virus since the negative test.

(3) COVID-19 positive--A person who has tested positive for COVID-19 and does not yet meet Centers for Disease Control and Prevention (CDC) guidance for the discontinuation of transmission-based precautions.

(4) End-of-life visit--A personal visit between a visitor and a resident who is actively dying, permitted in all facilities for all residents at the end of life.

(5) Essential caregiver--A family member or other outside caregiver, including a friend, volunteer, private personal caregiver or court appointed guardian, who is at least 18 years old, designated to provide regular care and support to a resident.

(6) Essential caregiver visit--A personal visit between a resident and an essential caregiver as described in subsection (o) of this section. An essential caregiver visit is permitted in all facilities for COVID-19 negative and unknown COVID-19 status residents.

(7) Facility-acquired COVID-19 infection--COVID-19 infection that is acquired after admission to an assisted living facility and that was not present at the end of the 14-day quarantine period following admission or readmission.

(8) Large assisted living facility--An assisted living facility licensed for 17 or more residents.

(9) Open window visit--A personal visit between a visitor and a resident during which the resident and personal visitor are separated by an open window.

(10) Outbreak--One or more laboratory confirmed cases of COVID-19 identified in either a resident or paid or unpaid staff.

(11) Outdoor visit--A personal visit between a resident and one or more personal visitors that occurs in-person in a dedicated outdoor space.

(12) Persons providing critical assistance--Providers of essential services, persons with legal authority to enter, family members or friends of residents at the end of life, and two designated essential caregivers as described in subsection (o) of this section.

(13) Persons with legal authority to enter--Law enforcement officers, representatives of the long-term care ombudsman's office, and government personnel performing their official duties.

(14) Plexiglass indoor visit--A personal visit between a resident and one or more personal visitors, during which the resident and the visitor are both inside the facility but within a booth separated by a plexiglass barrier and the resident remains on one side of the barrier and the visitor remains on the opposite side of the barrier.

(15) Providers of essential services--Contract doctors, contract nurses, home health and hospice workers, and mental health specialists whose services are necessary to ensure resident health and safety.

(16) Salon services visit--A personal visit between a resident and a salon services visitor as described in subsection (q) of this section. All facilities may permit salon services visits for COVID-19 negative residents.

(17) Salon services visitor--A barber, beautician or cosmetologist providing hair care or personal grooming services to a resident.

(18) Small assisted living facility--An assisted living facility licensed for 16 or fewer residents.

(19) Unknown COVID-19 status--A person who is a new admission or readmission or who has spent one or more nights away from the facility, has had known exposure or close contact with a person who is COVID-19 positive, or who is exhibiting symptoms of COVID-19 while awaiting test results.

(20) Vehicle parade--A personal visit between a resident and one or more personal visitors, during which the resident remains outdoors on the assisted living facility campus, and a visitor drives past in a vehicle.

(b) An assisted living facility must screen all visitors prior to entry as described in subsection (c) of this section. Visitor screenings must be documented in a log kept at the entrance to the facility. Visitor screening logs must include the name of each person screened, the date and time of the screening, and the results of the screening. The visitor screening log may contain protected health information and must be protected in accordance with applicable state and federal law. An assisted living facility is not required to screen emergency services personnel entering the facility in an emergency or personal visitors participating in a vehicle parade or a closed window visit.

(c) Visitors who meet any of the following screening criteria must leave the assisted living facility campus and reschedule the visit:

(1) fever defined as a temperature of 100.4 Fahrenheit and above;

(2) signs or symptoms of COVID-19, including chills, cough, shortness of breath or difficulty breathing, fatigue, muscle or body aches, headache, new loss of taste or smell, sore throat, congestion or runny nose, nausea or vomiting, or diarrhea;

(3) any other signs and symptoms as outlined by the CDC in Symptoms of Coronavirus at cdc.gov; or

(4) contact in the last 14 days with someone who has a confirmed diagnosis of COVID-19, is under investigation for COVID-19, or is ill with a respiratory illness, unless the visitor is seeking entry to provide critical assistance; or

(5) has a positive COVID-19 test result from a test performed in the last 10 days.

(d) An assisted living facility must allow persons providing critical assistance, including essential caregivers, to enter the assisted living facility if they pass the screening in subsection (c) of this section, except as provided in subsection (o)(8)(H) and (o)(9)(F) of this section.

(e) An assisted living facility must allow essential caregiver visits, end-of life visits and closed window visits in accordance with this section. Approved visitation designation for a facility is not required for a closed window visit, end-of-life visit, or visits by persons providing critical assistance, including essential caregivers as defined in subsection (a)(1), (4), and (5) of this section.

(f) Except as approved by HHSC under subsection (k) of this section, an assisted living facility with an approved visitation designation by HHSC must allow outdoor visits, open window visits, vehicle parades, and plexiglass indoor visits with residents with COVID-19 negative status.

(g) An assisted living facility must request a facility visitation designation by submitting a completed Long-term Care Regulation (LTCR) Form 2196, COVID-19 Status Attestation Form, including a facility map indicating which areas, which include enclosed rooms such as bedrooms or activities rooms, units, wings, halls, or buildings which accommodate COVID-19 negative, COVID-19 positive, and unknown COVID-19 status residents, to the Regional Director in the LTCR Region where the facility is located. A facility with previous approval for visitation does not have to submit Form 2196 and a facility map, unless the previous visitation approval has been withdrawn, rescinded, or cancelled.

(h) To receive a facility visitation designation, an assisted living facility must demonstrate:

(1) there are separate areas, which include enclosed rooms such as bedrooms, or activities rooms, units, wings, halls, or buildings for resident cohorts who are COVID-19 positive, COVID-19 negative or unknown COVID-19 status;

(2) separate staff are working in the separate areas, units, wings, halls, or buildings for residents who are COVID-19 positive, COVID-19 negative or unknown COVID-19 status;

(3) there have been no confirmed COVID-19 cases for at least 14 consecutive days in staff working in the area, unit, wing, hall, or building, which accommodates residents who are COVID-19 negative;

(4) there have been no facility-acquired COVID-19 confirmed cases for at least 14 consecutive days in residents in the COVID-19 negative area, unit, wing, hall, or building;

(5) staff are designated to work with only one resident cohort and the designation does not change from one day to another;

(6) evidence upon HHSC request of daily screening for staff and residents, if a testing strategy is not used; and

(7) if an assisted living facility has had previous cases of COVID-19 in staff or residents in the area, unit, wing, hall, or building,

which accommodates residents who are COVID-19 negative, HHSC LTCR may conduct a verification survey to confirm the following:

(A) all staff and residents in the COVID-19 negative area, unit, wing, hall, or building have fully recovered;

(B) the assisted living facility has adequate staffing to continue care for all residents and monitor visits permitted by this section; and

(C) the assisted living facility is in compliance with infection control requirements and emergency rules related to COVID-19.

(i) A small assisted living facility that cannot provide separate areas, including enclosed rooms such as bedrooms or activities rooms, units, wings, halls, or buildings for residents who are COVID-19 positive, COVID-19 negative or unknown COVID-19 status must demonstrate:

(1) there have been no confirmed COVID-19 cases for at least 14 consecutive days in staff;

(2) there have been no facility-acquired COVID-19 confirmed cases for at least 14 consecutive days in residents; and

(3) if an assisted living facility has had previous cases of COVID-19 in staff or residents, HHSC LTCR may conduct a verification survey and confirm the following:

(A) all staff and residents have fully recovered;

(B) the assisted living facility has adequate staffing to continue care for all residents and monitor visits permitted by this section; and

(C) the assisted living facility is in compliance with infection control requirements and emergency rules related to COVID-19.

(j) An assisted living facility that does not meet the criteria in subsection (h) or (i) of this section to receive a visitation designation, must:

(1) continue to permit closed window visits and visits by persons providing critical assistance, including essential caregiver visits and end-of-life visits;

(2) develop and implement a plan describing the steps the facility intends to take in order to meet the criteria; and

(3) submit the plan to the Regional Director in the LTCR Region where the facility is located within five business days of submitting the form or of receiving notification from HHSC that the facility was not approved for visitation designation.

(k) An assisted living facility may request exemption from requirements of this section that a facility with a visitation designation allow certain personal visits. Facilities may not request and HHSC will not approve an exemption from closed window visits or visits by persons providing critical assistance, including essential caregivers and end-of-life visits. If the assisted living facility determines it is unable to meet one or more of the other visitation requirements of this section, the facility must request exemption from that requirement and explain its inability to meet the visitation requirement on the COVID-19 Status Attestation Form. HHSC will notify the assisted living facility if a temporary exemption for a specific visit type is granted and the time period for exemption.

(l) Except if approved by HHSC for an exemption under subsection (k) of this section, an assisted living facility with a facility visitation designation must allow outdoor visits, open window visits,

vehicle parades, and plexiglass indoor visits involving residents and personal visitors. The following requirements apply to all visitation required under this subsection, and other visitation types as specified:

(1) Visits must be scheduled in advance and are by appointment only.

(2) Visitation appointments must be scheduled to allow time for cleaning and sanitation of the visitation area between visits.

(3) An assisted living facility must allow outdoor visits, open window visits, vehicle parades, and plexiglass indoor visits for residents who are COVID-19 negative, as can be accommodated by the assisted living facility. Residents with unknown COVID-19 status or COVID-19 positive status cannot participate in outdoor visits, open window visits, vehicle parades, or plexiglass indoor visits.

(4) The assisted living facility must allow closed window visits and end-of-life visits for residents who are COVID-19 negative, COVID-19 positive, or unknown COVID-19 status, as can be accommodated by the assisted living facility.

(5) Physical contact between residents and visitors is prohibited, except for essential caregiver and end-of-life visits.

(6) An assisted living facility must allow visits where adequate space is available that meets criteria and when adequate staff are available to monitor visits. Essential caregiver visits and end-of-life visits can take place in the resident's room or other area of the facility separated from other residents. The assisted living facility must limit the movement of the visitor through the facility to ensure interaction with other residents is minimized.

(7) The visitor must wear a facemask or face covering over both the mouth and nose throughout the visit, except visitors participating in a vehicle parade or closed window visit.

(8) The resident must wear a facemask or face covering over both the mouth and nose (if tolerated) throughout the visit.

(9) The assisted living facility must ensure physical distancing of at least six feet is maintained between visitors and residents at all times and limit the number of visitors and residents in the visitation area as needed to ensure physical distancing is maintained. Essential caregiver and end-of-life visitors do not have to maintain physical distancing between themselves and the resident they are visiting but must maintain physical distancing between themselves and all other residents, staff, and other visitors.

(10) The assisted living facility must limit the number of visitors per resident per week, and the length of time per visit, to ensure equal access by all residents to visitors.

(11) Cleaning and disinfecting of the visitation area, furniture, and all other items must be performed, per CDC guidance, before and after each visit.

(12) The assisted living facility must ensure a comfortable and safe outdoor visiting area for outdoor visits, and vehicle parades, considering outside air temperatures and ventilation.

(13) For outdoor visits, the assisted living facility must designate an outdoor area for visitation that is separated from residents and limits the ability of the visitor to interact with residents.

(14) The assisted living facility must provide hand washing stations, or hand sanitizer, to the visitor and resident before and after visits, except visitors participating in a vehicle parade or closed window visit.

(15) The visitor and the resident must practice hand hygiene before and after the visit, except visitors participating in a vehicle parade or closed window visit.

(m) The following requirements apply to vehicle parades:

(1) Visitors must remain in their vehicles throughout the parade.

(2) The assisted living facility must ensure physical distancing of at least six feet is maintained between residents throughout the parade.

(3) The assisted living facility must ensure residents are not closer than 10 feet to the vehicles for safety reasons.

(4) The resident must wear a facemask or face covering over both the mouth and nose (if tolerated) throughout the visit.

(n) The following requirements apply to plexiglass indoor visits:

(1) The plexiglass booth must be installed in an area of the facility where it does not impede a means of egress, does not impede or interfere with any fire safety equipment or system, and does not offer access to the rest of the facility or contact between the visitors and other residents.

(2) Prior to using the booth, the facility must submit for approval a photo of the plexiglass visitation booth and its location in the facility to the Life Safety Code Program Manager in the LTCR Region in which the facility is located.

(3) The visit must be monitored by facility staff for the duration of the visit.

(4) The resident must wear a facemask or face covering over both the mouth and nose (if tolerated) throughout the visit.

(5) The visitor must wear a facemask or face covering over both the mouth and nose throughout the visit.

(6) The facility shall limit the number of visitors and residents in the visitation area as needed.

(o) The following requirements apply to essential caregiver visits:

(1) There may be up to two permanently designated essential caregiver visitors per resident.

(2) Only one essential caregiver at a time may visit a resident.

(3) Each visit is limited to two hours, unless the assisted living facility can only accommodate a visit for a shorter duration or that it can accommodate a longer duration and adjusts the duration of the visit accordingly.

(4) The visit may occur outdoors, in the resident's bedroom, or in another area in the facility that limits visitor movement through the facility and interaction with other residents.

(5) Essential caregiver visitors do not have to maintain physical distancing between themselves and the resident they are visiting but must maintain physical distancing between themselves and all other residents and staff.

(6) The resident must wear a facemask or face covering over both the mouth and nose (if tolerated) throughout the visit.

(7) The assisted living facility must develop and enforce essential caregiver visitation policies and procedures, which include:

(A) a testing strategy for designated essential caregivers;

(B) a written agreement that the essential caregiver understands and agrees to follow the applicable policies, procedures, and requirements;

(C) training each designated essential caregiver on proper personal protective equipment (PPE) usage and infection control measures, hand hygiene, and cough and sneeze etiquette;

(D) wearing a facemask and other appropriate PPE recommended by CDC guidance and the facility's policy while in the assisted living facility;

(E) expectations regarding using only designated entrances and exits as directed;

(F) limiting visitation to the outdoor visitation area, the resident's room, or other area of the facility that limits the visitor's movement through the facility and interaction with other residents;

(G) facility staff must escort the essential caregiver from the facility entrance to the designated visitation area at the start of each visit; and

(H) facility staff must escort the essential caregiver from the designated visitation area to the facility exit at the end of each visit.

(8) The assisted living facility must:

(A) inform the essential caregiver of applicable policies, procedures, and requirements;

(B) approve the visitor's facemask and any other appropriate PPE recommended by CDC guidance and the facility's policy or provide an approved facemask and other PPE;

(C) maintain documentation of the essential caregiver visitor's agreement to follow the applicable policies, procedures, and requirements;

(D) maintain documentation of the essential caregiver visitor's training as required in paragraph (7)(C) of this subsection;

(E) maintain documentation of the date of the last COVID-19 test as reported by the essential caregiver.

(F) document the identity of each essential caregiver in the resident's records and verify the identity of the essential caregiver by creating an essential caregiver visitor badge;

(G) maintain a record of each essential caregiver visit, including:

(i) the date and time of the arrival and departure of the essential caregiver visitor;

(ii) the name of the essential caregiver visitor;

(iii) the name of the resident being visited; and

(iv) attestation that the identity of the essential caregiver visitor was confirmed; and

(H) prohibit visitation by the essential caregiver if the resident has an active COVID-19 infection.

(9) The essential caregiver must:

(A) wear a facemask over both the mouth and nose and any other appropriate PPE recommended by CDC guidance and the facility's policy while in the assisted living facility;

(B) have a negative COVID-19 test no more than 14 days before the first essential caregiver visit, unless the assisted living facility chooses to perform a rapid test prior to entry in the assisted living facility;

(C) sign an agreement to leave the facility at the appointed time unless otherwise approved by the facility;

(D) self-monitor for signs and symptoms of COVID-19;

(E) not participate in visits if the designated essential caregiver has signs and symptoms of COVID-19 or an active COVID-19 infection; and

(F) not participate in visits if the resident has an active COVID-19 infection.

(p) A facility may allow a salon services visitor to enter the facility to provide services to a resident only if:

(1) the salon services visitor passes the screening described in subsection (c) of this section;

(2) the salon services visitor agrees to comply with the most current version of the Minimum Standard Health Protocols-Checklist for Cosmetology Salons/Hair Salons, located on website: <https://open.texas.gov/>; and

(3) the requirements of subsection (q) of this section are met.

(q) The following requirements apply to salon services visits:

(1) Each visit is limited to two hours, unless the assisted living facility determines that it can only accommodate a visit for a shorter duration or that it can accommodate a longer duration and adjusts the duration of the visit accordingly.

(2) The visit may occur outdoors, in the resident's bedroom, or in another area in the facility that limits visitor movement through the facility and interaction with other residents.

(3) Salon services visitors do not have to maintain physical distancing between themselves and each resident they are visiting but must maintain physical distancing between themselves and all other residents and staff.

(4) The resident must wear a facemask or face covering over both the mouth and nose (if tolerated) throughout the visit.

(5) The assisted living facility must develop and enforce salon services visitation policies and procedures, which include:

(A) a testing strategy for salon services visitors;

(B) a written agreement that the salon services visitor understands and agrees to follow the applicable policies, procedures, and requirements;

(C) training each salon services visitor on proper PPE usage and infection control measures, hand hygiene, and cough and sneeze etiquette;

(D) the salon services visitor must wear a facemask and any other appropriate PPE recommended by CDC guidance and the facility's policy while in the assisted living facility;

(E) expectations regarding using only designated entrances and exits as directed;

(F) limiting visitation to the area designated by the facility in accordance with (o)(2) of this subsection;



(G) facility staff must escort the salon services visitor from the facility entrance to the designated visitation area at the start of each visit; and

(H) facility staff must escort the salon services visitor from the designated visitation area to the facility exit at the end of each visit;

(6) The assisted living facility must:

(A) inform the salon services visitor of applicable policies, procedures, and requirements;

(B) approve the visitor's facemask or provide an approved facemask;

(C) maintain documentation of the salon services visitor's agreement to follow the applicable policies, procedures and requirements;

(D) maintain documentation of the salon services visitor's training as required in paragraph (5)(C) of this subsection;

(E) maintain documentation of the date of last COVID-19 test as reported by the salon services visitor;

(F) document the identity of each salon services visitor in the facility's records and verify the identity of the salon services visitor by creating a salon services visitor badge; and

(G) maintain a record of each salon services visit, including:

(i) the date and time of the arrival and departure of the salon services visitor;

(ii) the name of the salon services visitor;

(iii) the name of the resident being visited; and

(iv) attestation that the identity of the salon services visitor was confirmed; and

(H) prevent visitation by the salon services visitor if the resident has an active COVID-19 infection.

(7) The salon services visitor must:

(A) wear a facemask over both the mouth and nose and any other appropriate PPE recommended by CDC guidance and the facility's policy while in the assisted living facility;

(B) have a negative COVID-19 test result from a test performed no more than 14 days before the first salon services visit, unless the assisted living facility chooses to perform a rapid test prior to entry in the assisted living facility.

(C) sign an agreement to leave the facility at the appointed time unless otherwise approved by the facility.

(D) self-monitor for signs and symptoms of COVID-19;

(E) not participate in visits if the salon services visitor has signs and symptoms of COVID-19, active COVID-19 infection; and

(F) not participate in visits if the resident has an active COVID-19 infection.

(8) The facility may cancel the salon services visit if the salon services visitor fails to comply with the facility's policy regarding salon services visits or applicable requirements in this section.

(r) An assisted living facility must provide instructional signage throughout the facility and proper visitor education regarding:

(1) the signs and symptoms of COVID-19 signs;

(2) infection control precautions; and

(3) other applicable facility practices (e.g. use of facemask or other appropriate PPE, specified entries and exits, routes to be designated visitation areas, hand hygiene).

(s) If, at any time after facility visitation designation is approved by HHSC, the area, unit, wing, hall, or building accommodating residents who are COVID-19 negative, or facility-wide for small assisted living facilities that received visitation designation in accordance with subsection (g) of this section, experiences an outbreak of COVID-19, the facility must notify the Regional Director in the LTCR Region where the facility is located that the area, unit, wing, hall, building or facility no longer meets visitation criteria, and all visit types authorized under the facility's visitation designation, including outdoor visits, open window visits, vehicle parades, and indoor plexiglass visits, must be cancelled until the area, unit, wing, hall, building or facility meets the criteria described in subsections (h) or (i) of this section.

(t) If an assisted living fails to comply with the requirements of this section, HHSC may rescind the visitation designation and may impose licensure remedies in accordance with Subchapter H of this chapter.

(u) If an executive order or other direction is issued by the Governor of Texas, the President of the United States, or another applicable authority, that is more restrictive than this rule or any minimum standard relating to an assisted living facility, the assisted living facility must comply with the executive order or other direction.

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 October 16, 2020.

TRD-202004342

Karen Ray

Chief Counsel

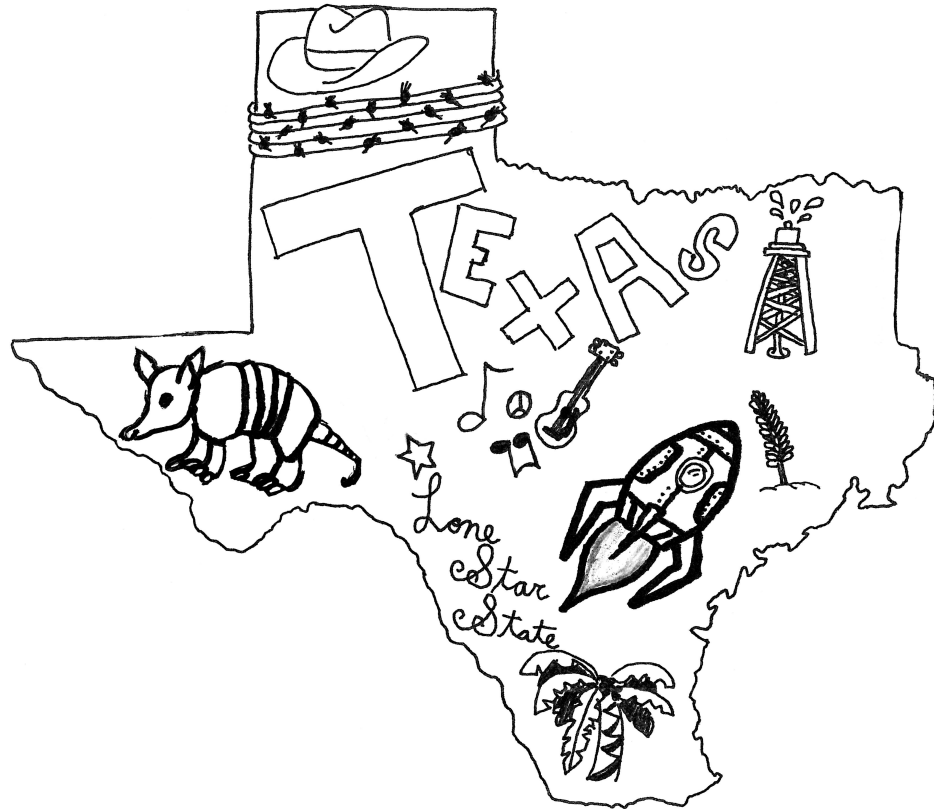
Health and Human Services Commission

Effective date: October 16, 2020

Expiration date: February 12, 2021

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 4. AGRICULTURE

### PART 4. OFFICE OF THE STATE ENTOMOLOGIST

#### CHAPTER 71. BEES

The Texas Apiary Inspection Service (TAIS) proposes amendments to 4 TAC §§71.1, 71.11, 71.22, 71.23, 71.51, and 71.53 to modernize outdated information and provide further clarification on the operations of TAIS. TAIS also proposes the sections 4 TAC §§71.9, 71.10, and 71.12 be added to clarify the permit, inspection, and quarantine requirements provided in the Texas Agriculture Code, Chapter 131, Bees and Honey. TAIS proposes to repeal 4 TAC §71.7 due to the defunding of the certification program. TAIS also proposes to repeal 4 TAC §71.21 to reduce the restrictions and financial consequences set upon beekeepers who wish to request a queen apiary inspection. The need for these alterations reflect the changes within the apiary industry and TAIS over the past decade.

Comments on the proposal may be submitted in writing to Mary Reed, Chief Apiary Inspector, 2475 TAMU, College Station, Texas 77843-2475. Comments may also be submitted electronically to mary.reed@tamu.edu or faxed to (979) 845-0983.

#### SUBCHAPTER A. GENERAL PROVISIONS

##### 4 TAC §§7.1, 7.9, 7.10

The amendments, as well as the addition of §71.9 and §71.10, are proposed under the Texas Agriculture Code, §§131.021, which authorizes the Chief Apiary Inspector to adopt rules with the goal of treating, eradicating, and suppressing infectious diseases of honey bees.

The proposed amendments and new §71.9 and §71.10 implement the Texas Agriculture Code, §§131.001 - 131.122.

##### §71.1. Definitions.

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

- (1) Act--Texas Bee Law, Texas Agricultural Code, Chapter 131, (1981), as amended.
- (2) Apiary--A place where six or more colonies of bees or nuclei of bees are kept.
- (3) Bee--Any stage of the common honeybee, *Apis mellifera* species.
- (4) Chief Apiary Inspector--The Chief Apiary Inspector, formerly known as State Entomologist, appointed by the director or his designee.

(5) [(4)] Colony--The hive and its equipment and appurtenances, including bees, comb, honey, pollen, and brood.

(6) [(5)] Director--The director of Texas A&M AgriLife Research, formerly known as the Texas Agricultural Experiment Station.

(7) [(6)] Disease--American foulbrood, European foulbrood, or any other contagious or infectious disease of bees, or parasite or pest that affects bees or brood.

(8) [(7)] Equipment--Hives, supers, frames, veils, gloves, tools, machines, including bee removal vacuums, or other devices for the handling and manipulation of bees, honey, pollen, wax, or hives, including storage or transporting containers for pollen, honey, or wax, or other apiary supplies used in the operation of an apiary or honey house.

(9) [(8)] Governing board--The Board of Regents of the Texas A&M University System.

(10) [(9)] Honey--The nectar of plants that has been transferred by, and is the natural product of, bees and that is in the comb or has been taken from the comb and is packaged in a liquid, crystallized, or granular form.

(11) [(10)] Nucleus--A small mass of bees and combs used in forming a new colony.

(12) [(11)] Person--Any individual, partnership, corporation, association, governmental subdivision, or public or private organization of any character.

(13) [(12)] Pollen--Dust-like grains formed in the anthers of flowering plants in which the male elements or sperm are produced.

(14) [(13)] Queen apiary--An apiary in which queen bees are reared or kept for sale, barter, or exchange.

[(14)] State entomologist--The state entomologist appointed by the director or the designee of the state entomologist.]

(15) Reportable Diseases--a disease that presents a significant threat to the population of honey bees and that has been designated by the Chief Apiary Inspector as a disease or pest that must be reported under §131.025 of the Act. The Chief Apiary Inspector shall publish a list of reportable diseases.

##### §71.9. Permits for Shipment.

(a) Permits authorizing exportation of bees or equipment from Texas to another state may be issued as provided in §131.042 of the Act. An affidavit provided under subsection (b)(2) of that section shall be filed with the office of the Chief Apiary Inspector and shall be valid only for a period of one year from the date of filing.

(b) Permits authorizing intrastate shipment of bees or equipment may be issued as provided in §131.043 of the Act.

##### §71.10. Inspection and Certification.

(a) Inspections may be requested at any point during the year. An inspection may be requested in accordance to §131.044(a) or via telephone at (979) 845-9713.

(b) Certificates of inspection are valid for one year from the inspection date.

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 October 15, 2020.

TRD-202004273

Lynda Cook

Assistant General Counsel

Office of the State Entomologist

Earliest possible date of adoption: November 29, 2020

For further information, please call: (979) 845-9713



#### 4 TAC §71.7

The repeal of §71.7 is proposed under the Texas Agriculture Code, §§131.021, which authorizes the Chief Apiary Inspector to adopt rules with the goal of treating, eradicating, and suppressing infectious diseases of honey bees.

The proposed repeal of §71.7 implements the Texas Agriculture Code, §§131.001 - 131.122.

*§71.7. European Honey Bee Certification.*

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

Filed with the Office of the Secretary of State on October 15, 2020.

TRD-202004274

Lynda Cook

Assistant General Counsel

Office of the State Entomologist

Earliest possible date of adoption: November 29, 2020

For further information, please call: (979) 845-9713



### SUBCHAPTER B. DISEASE CONTROL

#### 4 TAC §71.11, §71.12

The amendments, as well as the new §71.12, are proposed under the Texas Agriculture Code, §§131.021, which authorizes the Chief Apiary Inspector to adopt rules with the goal of treating, eradicating, and suppressing infectious diseases of honey bees.

The proposed amendments and addition of §71.12 implement the Texas Agriculture Code, §§131.001 - 131.122.

*§71.11. Apiary Quarantine.*

(a) All apiaries wherein a reportable disease is known to exist may be quarantined by the Chief Apiary Inspector [state entomologist].

(b) A quarantine of an apiary by the Chief Apiary Inspector [state entomologist] shall be established by:

(1) notifying the person having custody or control of the apiary of the presence of the reportable disease; or

(2) placing quarantine signs on the location quarantined.

(c) No bees, nuclei, combs, or equipment may be removed from a quarantined apiary except upon written authorization of the Chief Apiary Inspector [state entomologist].

(d) A quarantine established by the Chief Apiary Inspector [state entomologist] shall remain in force and effect until the Chief Apiary Inspector [state entomologist] shall declare the quarantined apiary or location to be free from disease. The Chief Apiary Inspector [state entomologist] shall review a quarantined apiary or location at least once every 30 days for the continued presence of disease.

*§71.12. Area Quarantine.*

If the Chief Apiary Inspector determines that the public welfare requires the establishment of a quarantine, the inspector may declare a protective quarantine of a district, county, precinct, or other defined area as provided in the §131.022 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.

Filed with the Office of the Secretary of State on October 15, 2020.

TRD-202004278

Lynda Cook

Assistant General Counsel

Office of the State Entomologist

Earliest possible date of adoption: November 29, 2020

For further information, please call: (979) 845-9713



### SUBCHAPTER C. PERMITS AND REGISTRATION

#### 4 TAC §71.21

The repeal of §71.21 is proposed under the Texas Agriculture Code, §§131.021, which authorizes the Chief Apiary Inspector to adopt rules with the goal of treating, eradicating, and suppressing infectious diseases of honey bees.

The proposed repeal of §71.21 implements the Texas Agriculture Code, §§131.001 - 131.122.

*§71.21. Inspection of Queen Apiary.*

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 October 15, 2020.

TRD-202004279

Lynda Cook

Assistant General Counsel

Office of the State Entomologist

Earliest possible date of adoption: November 29, 2020

For further information, please call: (979) 845-9713



#### 4 TAC §71.22, §71.23

The amendments are proposed under the Texas Agriculture Code, §§131.021, which authorizes the Chief Apiary Inspector to adopt rules with the goal of treating, eradicating, and suppressing infectious diseases of honey bees.

The proposed amendments implement the Texas Agriculture Code, §§131.001 - 131.122.

*§71.22. Payment of Fees.*

(a) Payment of fees may be made electronically or by check or money order. All checks or money orders remitted for the payment of any fees specified in Subchapter C of the Act, shall be made payable to the "Texas Apiary Inspection Service." Fees shall be collected in the same manner that other fees of the Texas A&M AgriLife Research agency are collected.

(b) In the event of delinquent payment for such fees, the Chief Apiary Inspector [state entomologist] may:

- (1) sue to collect the delinquent fee;
- (2) revoke or rescind the permit or registration; and/or
- (3) require a \$10 penalty for delinquent payment from the registrant or permittee.

*§71.23. Exemption from Fees.*

A person [An individual] owning no more than 12 colonies of bees will be exempt from the \$25 intrastate permit fee provided for in the Act, §131.043 [131.043].

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 October 15, 2020.

TRD-202004280

Lynda Cook

Assistant General Counsel

Office of the State Entomologist

Earliest possible date of adoption: November 29, 2020

For further information, please call: (979) 845-9713



## SUBCHAPTER D. QUARANTINES

### 4 TAC §71.51, §71.53

The amendments are proposed under the Texas Agriculture Code, §§131.021, which authorizes the Chief Apiary Inspector to adopt rules with the goal of treating, eradicating, and suppressing infectious diseases of honey bees.

The proposed amendments implement the Texas Agriculture Code, §§131.001 - 131.122.

*§71.51. Complaints and Notification.*

(a) Beekeepers or other persons with a knowledge of or a formal complaint concerning the disease status of an apiary or relating to apiary equipment may notify: the Chief Apiary Inspector, Entomology Department, 2475 TAMU, Texas A&M University, College Station, TX 77843-2475, (979) 845-9713, TAIS@TAMU.EDU[77843, (409) 845-9714].

(b) Complaints or notification should be submitted in writing and include the following information, to the extent it is known:

- (1) name of beekeeper, person, or firm;
- (2) address and phone number;
- (3) location or site where the problem or receipt of diseased bees was noted;
- (4) other information or evidence, as may be helpful to the Texas Apiary Inspection Service in identifying and resolving a complaint.

(c) Receipt of complaints will be acknowledged and the complainant periodically notified of progress and the final resolution. Firm(s) or person(s) designated or involved in the complaint may be notified, if it is in the best public interest in resolving the complaint.

*§71.53. Public Testimony.*

(a) Persons interested in commenting or reviewing action or activities of the Texas Apiary Inspection Service are requested to notify the Texas Apiary Inspection Service. Interested parties will be notified when meetings are scheduled or may request to meet with the Chief Apiary Inspector [chief apiary inspector].

(b) The Texas Apiary Inspection Service will notify the president of the Texas Beekeepers Association at least three working days prior to a public meeting. Other organizations interested in honey bees may contact the Texas Apiary Inspection Service in writing, requesting advance meeting notification.

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 October 15, 2020.

TRD-202004281

Lynda Cook

Assistant General Counsel

Office of the State Entomologist

Earliest possible date of adoption: November 29, 2020

For further information, please call: (979) 845-9713



## TITLE 7. BANKING AND SECURITIES

### PART 1. FINANCE COMMISSION OF TEXAS

#### CHAPTER 3. STATE BANK REGULATION

##### SUBCHAPTER B. GENERAL

###### 7 TAC §3.37

The Finance Commission of Texas (the commission), on behalf of the Texas Department of Banking (the department), proposes to amend §3.37, concerning the calculation of annual assessment for banks. The proposed amendment will update the bank assessment calculation table incorporated into §3.37(a) and correct certain typographical errors in §3.37(b)(1).

Effective November 5, 2015, §3.37 was amended to adjust the manner in which assessments applicable to state banks are calculated, see the October 30, 2015, issue of the *Texas Register* (40 TexReg 7620). The annual assessment for a state bank is calculated as described in §3.37, based on the values in the incorporated bank assessment calculation table as such values

are annually adjusted for inflation. The incorporated assessment table therefore becomes obsolete after the first annual adjustment for inflation, although sufficient information is provided in the section to permit a user to calculate updated values for the table. Pursuant to §3.37(b)(2), each year the department is required to "calculate and prepare a revised table reflecting the inflation-adjusted values to be applied effective the following September 1, and ... provide each state bank with notice of and access to the revised table."

Although the section provides the public enough information to verify the department's calculation of inflationary adjustments to the marginal assessment factor and the base assessment amount for each assessable asset group in the table, the accumulation of sequential annual adjustments will eventually make such verification extraordinarily difficult. For that reason, §3.37(b)(2) further provides that "every four years, the department shall propose amendments to this section for the purpose of substituting a current revised table in subsection (a) of this section..." This proposal will replace the obsolete bank assessment calculation table in §3.37(a) with an updated table reflecting current assessment rates as of September 1, 2020.

In addition, the commission is proposing to amend §3.37(b)(1)(A) and §3.37(b)(1)(B) to correct certain typographical errors. "GDIPD" is an acronym that stands for "the Gross Domestic Product Implicit Price Deflator," the inflation index used for inflationary adjustments to the assessment table that is published quarterly by the Bureau of Economic Analysis, United States Department of Commerce. Currently, these clauses erroneously refer to "GDIPD."

Kurt Purdom, Deputy Commissioner, Texas Department of Banking, has determined that for the first five-year period the proposed rule as amended is in effect, there will be no fiscal implications for state government or for local government as a result of enforcing or administering the rule.

Mr. Purdom has also determined that, for each year of the first five years the rule as proposed to be amended is in effect, the public benefit anticipated as a result of enforcing the rule is simplification of the calculation of currently applicable assessment factors through substitution of a more current bank assessment calculation table.

For each year of the first five years that the rule will be in effect, there will be no economic costs to persons required to comply with the rule as proposed. There will be no adverse economic effect on small businesses or micro-businesses. There will be no difference in the cost of compliance for small businesses as compared to large businesses.

Pursuant to Government Code §2001.0221, the department provides the following Government Growth Impact Statement for the proposed amendment. During the first five years that the rule as amended will be in effect, the rule will not create or eliminate a government program, require the creation of new employee positions or the elimination of existing employee positions, require an increase or decrease in future legislative appropriations to the department, require an increase or decrease in fees paid to the department, create a new regulation; expand, limit or repeal an existing regulation; increase or decrease the number of individuals subject to the rule's applicability, or positively or adversely affect this state's economy.

To be considered, comments on the proposed amendment must be submitted no later than 5:00 p.m. on November 30, 2020.

Comments should be addressed to General Counsel, Texas Department of Banking, Legal Division, 2601 North Lamar Boulevard, Suite 300, Austin, Texas 78705-4294. Comments may also be submitted by email to [legal@dob.texas.gov](mailto:legal@dob.texas.gov).

The amendment is proposed pursuant to Texas Finance Code (Finance Code) §31.003(a)(4) and §31.106, which authorize the commission to adopt rules necessary or reasonable to recover the cost of supervision and regulation by imposing and collecting ratable and equitable fees. As required by Finance Code §31.003(b), the commission considered the need to promote a stable banking environment, provide the public with convenient, safe, and competitive banking services, preserve and promote the competitive position of state banks with regard to national banks and other depository institutions in this state consistent with the safety and soundness of state banks and the state bank system, and allow for economic development in this state.

Finance Code §31.106 is affected by the proposed amendment.

*§3.37. Calculation of Annual Assessment for Banks.*

(a) Bank assessment calculation table. The annual assessment for a state bank is calculated as described in this section and paid as provided by §3.36 of this title (relating to Annual Assessments and Specialty Examination Fees), based on the values in the following table, as such values may be periodically adjusted in the manner provided by Subsection (b) of this section. Certain terms used in this section and in the following table are defined in §3.36(b). The unadjusted values in the following table are effective until September 1, 2021 [2017]:

Figure: 7 TAC §3.37(a)  
[Figure: 7 TAC §3.37(a)]

(b) (No change.)

(1) (No change.)

(A) each [~~Eaeh~~] marginal assessment factor listed in Step 3 of the table is increased (or decreased) by an amount proportionate to the measure of inflation (or deflation) reflected in the annual GDPIPD [~~GDIPD~~] factor, rounded to six decimal places;

(B) the base assessment amount listed in Step 4 for assessable asset group 1 is increased (or decreased) by an amount proportionate to the measure of inflation (or deflation) reflected in the annual GDPIPD [~~GDIPD~~] factor, rounded to whole dollars; and

(C) (No change.)

(2) (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 October 16, 2020.

TRD-202004318  
Catherine Reyer  
General Counsel

Finance Commission of Texas

Earliest possible date of adoption: November 29, 2020

For further information, please call: (512) 475-1301



## PART 2. TEXAS DEPARTMENT OF BANKING

CHAPTER 19. TRUST COMPANY LOANS  
AND INVESTMENTS  
SUBCHAPTER C. REAL ESTATE

7 TAC §19.51

The Finance Commission of Texas (the commission), on behalf of the Texas Department of Banking (the department), proposes to amend §19.51 of Title 7 of the Texas Administrative Code, concerning other real estate owned. The amended rule is proposed to reduce the scope of the rule with regard to mandatory appraisals of certain real estate assets owned by state trust companies and to extend various deadlines for those appraisals.

BACKGROUND AND PURPOSE

Section 19.51 regulates "other real estate owned" (OREO). Among other things, this rule limits the ability of trust companies to acquire OREO using their restricted capital, prevents trust companies from holding such OREO indefinitely, and requires trust companies to take steps to ensure that their books and records accurately reflect the reasonably fair market value of the OREO.

Instances of ownership of OREO by trust companies are currently rare. Presently trust companies are required to obtain formal appraisals of OREO within 60 days of acquisition unless the recorded book value of the OREO is less than \$250,000 without exception. Trust companies are required to perform formal, written evaluations of the true market value of all of their OREO assets at least once a year. In addition, for trust companies that record OREO assets on their books at values above a certain dollar threshold, a formal re-appraisal of that OREO is currently required every three years.

Under the current rule, while the department has authority to require additional OREO appraisals, it does not have authority to extend the initial 60-day appraisal deadline or the three-year OREO re-appraisal deadline.

The proposed amendments, if adopted, would extend the initial appraisal deadline from within 60 days of OREO acquisition to within 90 days and give the Texas Banking Commissioner (the commissioner) authority to extend all appraisal deadlines where appropriate. These changes would not adversely impact trust company safety or soundness—expanding the window for initial appraisals by 30 days would not materially reduce initial appraisal accuracy or otherwise negatively affect trust companies, and the commissioner would have full discretion to deny or conditionally grant extension requests as appropriate to protect safety and soundness.

The proposed amendments also reduce the scope of the OREO appraisal rule by raising the recorded book value threshold for OREO subject to the rule. Specifically, the proposed amendments, if adopted, would only require an initial appraisal, and then re-appraisal every three years, of OREO with recorded book values of more than \$500,000. This raises the existing threshold from \$250,000.

These proposed adjustments to the book-value threshold in the trust company OREO appraisal rule follow recent similar amendments by the commission to OREO appraisal rules for state banks and state savings banks, as published in the September 4, 2020, issue of the *Texas Register* (45 TexReg 6228).

These amendments in turn all follow similar amendments to similar federal rules regarding appraisals of real estate supporting commercial loans adopted jointly by the United States Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve (Board), and the Federal Deposit Insurance Corporation (FDIC) in recent years to their regulations at Title 12 of the Code of Federal Regulations, §§34.43, 225.63, and 323.3, respectively.

The \$250,000 threshold in the department's current OREO appraisal rule was adopted in 1998 based on these federal regulations regarding valuations of real estate-related assets. This threshold has not been modified since the rule was promulgated in 1998.

The federal banking agencies recently raised their threshold for requiring formal appraisals of the real estate involved in loan transactions. The department incorporates by reference the extensive analysis and discussion by the federal banking agencies in adopting the federal amendments, published in the Federal Register (Real Estate Appraisals, 84 Fed. Reg. 53,579 (October 8, 2019); Real Estate Appraisals, 83 Fed. Reg. 15,019 (April 9, 2018)).

As was aptly discussed by the federal banking agencies in adopting the federal amendments, real estate prices have risen significantly since the 1990s.

According to national data from the Federal Reserve Commercial Real Estate Price Index, a commercial property that sold for \$250,000 as of June 30, 1994 would be expected to sell for approximately \$760,000 as of December 2016, and the average price of that property during the low-point of the aftermath of the 2008 financial crisis in March 2010 was \$423,000. Data from the Standard & Poor's Case-Shiller Home Price Index and the Federal Housing Finance Agency show similar increases in the prices of residential properties during these time periods.

Taking the foregoing into consideration, the department concurs with the federal banking agencies in concluding that the dollar threshold last established in the 1990s for certain formal real estate appraisal requirements can be raised to the levels in the proposed amendments without resulting in substantially increased risks for trust companies. This would reduce appraisal expenses for trust companies.

Finally, the proposed amendments also clarify that the scope of the OREO appraisal rule is limited, and the rule only applies to OREO acquired by a trust company with restricted capital. The Texas Trust Company Act (Trust Company Act), subtitle F of the Texas Finance Code (Finance Code), provides that a trust company may only invest restricted capital in certain limited circumstances, including as permitted by the Trust Company Act or commission rule. Accordingly, the primary scope of the OREO appraisal rule is limited to OREO acquired with restricted capital.

The banking commissioner will continue to have express authority under the OREO appraisal rule to require an appraisal of any OREO held by a trust company if deemed necessary to address safety and soundness concerns.

Moreover, other safety-and-soundness regulations do exist for OREO acquired by trust companies with secondary capital. Under Finance Code, §184.003(e), a trust company may invest its secondary capital in real property subject to the exercise of prudent judgment and the general Trust Company Act requirements for prudential investment management. Commission rules also require trust companies to comply with regulatory accounting

principles in accounting for all OREO investments. See 7 TAC §19.51(j)(2).

#### SUMMARY OF CHANGES

As discussed above, the proposed amendments, if adopted, would extend the initial appraisal deadline to within 90 days of OREO acquisition and enable the commissioner to extend this deadline and the three-year re-appraisal deadline where appropriate.

The proposed amendments also reduce the scope of the OREO appraisal rule by raising the recorded book value threshold for OREO subject to the rule. Specifically, the proposed amendments, if adopted, would only require initial appraisals and three-year re-appraisals for OREO with recorded book values of more than \$500,000, raising the existing threshold amount from \$250,000.

The proposed amendments also clarify that the OREO appraisal rule only applies to OREO acquired by a trust company with restricted capital.

#### FISCAL IMPACT ON STATE AND LOCAL GOVERNMENT

W. Kurt Purdom, Deputy Banking Commissioner, has determined that for the first five-year period the proposed amended rule is in effect, there will be no foreseeable increases or reductions in costs or other fiscal implications to state or local government as a result of enforcing or administering the rule as amended.

Mr. Purdom has further determined that for the first five-year period the proposed amended rule is in effect, there will be no foreseeable loss in revenue for state or local government as a result of enforcing or administering the rule as amended.

#### PUBLIC BENEFITS/COSTS TO REGULATED PERSONS

Mr. Purdom has determined that for each of the first five years the proposed amended rule is in effect, the public benefit anticipated from the amendments to the rule will be reducing regulatory complexity and potential operating costs for trust companies, thereby potentially improving the financial condition of those trust companies, their returns to investors, and their ability to provide cost-effective financial services to customers.

More importantly, the proposed amendments will not risk the interests of the public by reducing the safety and soundness of trust companies--all trust companies must still have prudent OREO valuation policies in accordance with regulatory accounting principles, and the department will continue to have authority under these regulations to require additional appraisals of OREO as deemed necessary to address safety and soundness concerns.

Mr. Purdom has further determined that for the first five years the rule amendments are in effect, there are no costs anticipated for persons required to comply with the rule as amended. The proposed amendments can only reduce costs to trust companies by decreasing the number of mandatory OREO appraisals trust companies would need to conduct. Real estate appraisals are typically significantly more costly than the alternative option of evaluation in terms of actual expenses and personnel time, so reducing the mandatory appraisals a trust company must pay for could result in savings to the trust company. Further, trust companies are free to conduct an appraisal rather than an evaluation should the trust company determine that to be more cost-effective or otherwise prudent.

#### ONE-FOR-ONE RULE ANALYSIS

Pursuant to Finance Code, §16.002, the department is a self-directed and semi-independent agency and thus not subject to the requirements of Texas Government Code (Government Code), §2001.0045. Further, since the proposed amended rule will not increase costs upon any trust company or other regulated person, and is instead amended to reduce costs for compliance, the requirements of Government Code, §2001.0045 would be satisfied if applicable.

#### GOVERNMENT GROWTH IMPACT STATEMENT

For each of the first five years the proposed amendments are in effect, the department has determined the following: (1) the rule amendments do not create or eliminate a government program; (2) implementation of the rule amendments does not require the creation of new employee positions or the elimination of existing employee positions; (3) implementation of the rule amendments does not require an increase or decrease in future legislative appropriations to the agency; (4) the rule amendments do not require an increase or decrease in fees paid to the agency; (5) the rule amendments do not create any new regulations; (6) the rule amendments neither expand nor eliminate existing regulations, but do limit existing regulation; and (7) the rule amendments do not increase or decrease the number of individuals subject to the rule's applicability. The proposed rule if amended may positively affect this state's economy by increasing competitiveness and reducing operating costs for state trust companies.

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

Mr. Purdom has determined the rule, if amended, will not have an adverse economic effect on small or micro-businesses, or rural communities because there are no costs or other adverse economic effects to the trust companies who are required to comply with the rule. Because there is no adverse impact on micro-businesses or small businesses from the proposed amendments, the department asserts preparation of an economic impact statement and a regulatory flexibility analysis, as provided by Government Code, §2006.002, are not required.

Mr. Purdom has determined the proposed amendments, if adopted, may indirectly have a minimal adverse economic impact on small and micro-businesses that conduct real estate appraisals. The proposed amendments, if adopted, have the potential to reduce the number of real estate appraisals required by trust companies and thereby reduce demand for appraisals, some of which are conducted by small businesses or micro-businesses. However, Mr. Purdom, in accordance with guidelines established by the Office of the Attorney General as provided by Government Code, §2006.002(g), has determined that such potential adverse economic impact only concerns appraisal services not regulated by the department and thus is only indirectly related to the rule amendment, and does not require the additional analysis for a direct adverse economic effect contemplated by Government Code, §2006.002(c).

Further, Mr. Purdom finds that any such loss of business to appraisal firms that are small or micro-businesses from the proposed amendments would be unrelated to the business's status as a small or micro-business. Businesses other than a small- or micro-business performing appraisals will be similarly affected proportionate to the amount of work derived from appraisals performed for trust companies.



The department further asserts the public benefits of the proposed rule, as discussed above, outweigh any potential adverse impact on small or micro-businesses.

#### PUBLIC COMMENTS

To be considered, comments on the proposed amendment must be submitted no later than 5:00 p.m. on November 30, 2020. Comments should be addressed to General Counsel, Texas Department of Banking, Legal Division, 2601 North Lamar Boulevard, Suite 300, Austin, Texas 78705-4294. Comments may also be submitted by email to [legal@dob.texas.gov](mailto:legal@dob.texas.gov).

#### STATUTORY AUTHORITY

This proposal is made under the authority of Finance Code, §11.301, which authorizes the commission to adopt rules applicable to trust companies, and Finance Code, §31.003, which authorizes the commission to adopt rules necessary to preserve or protect the safety and soundness of trust companies.

This proposal affects the statutes administered and enforced by the department's commissioner with respect to trust companies, contained in Finance Code, Subtitle A. No other statute is affected by this proposal.

*§19.51. Other Real Estate Owned.*

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

(e) Appraisal requirements. Paragraphs (1) - (3) of this subsection apply to OREO acquired with the restricted capital of the trust company.

(1) Subject to paragraph (2) of this subsection, when OREO is acquired, a trust company must substantiate the market value of the OREO by obtaining an appraisal within 90 [60] days of the date of acquisition, unless extended by the banking commissioner. An evaluation may be substituted for an appraisal if the recorded book value of the OREO is \$500,000 or less [less than \$250,000].

(2) An additional appraisal or evaluation is not required when a trust company acquires OREO if a valid appraisal or appropriate evaluation was made in connection with the real estate loan that financed the acquisition of the OREO and the appraisal or evaluation is less than one year old.

(3) An evaluation shall be made on all OREO at least once a year. An appraisal shall be made at least once every three years, unless extended by the banking commissioner, on OREO with a recorded book value in excess of \$500,000 [250,000].

(4) Notwithstanding another provision of this section, the banking commissioner may require an appraisal of OREO if the banking commissioner considers an appraisal necessary to address safety and soundness concerns.

(f) - (j) (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 October 16, 2020.

TRD-202004321

Catherine Reyer

General Counsel

Texas Department of Banking

Earliest possible date of adoption: November 29, 2020

For further information, please call: (512) 475-1301

## PART 5. OFFICE OF CONSUMER CREDIT COMMISSIONER

### CHAPTER 84. MOTOR VEHICLE INSTALLMENT SALES

The Finance Commission of Texas (commission) proposes amendments to §84.201 (relating to Time Price Differential), §84.604 (relating to Transfer of License; New License Application on Transfer of Ownership), §84.611 (relating to Fees), §84.613 (relating to Denial, Suspension, or Revocation Based on Criminal History), §84.707 (relating to Files and Records Required (Retail Sellers Assigning Retail Installment Sales Contracts)), §84.708 (relating to Files and Records Required (Retail Sellers Collecting Installments on Retail Installment Sales Contracts)), §84.709 (relating to Files and Records Required (Holders Taking Assignment of Retail Installment Sales Contracts)), §84.802 (relating to Non-Standard Contract Filing Procedures), §84.803 (relating to Relationship with Federal Law), and §84.809 (relating to Permissible Changes) in 7 TAC, Chapter 84, Subchapter B, concerning Motor Vehicle Installment Sales.

The rules in 7 TAC Chapter 84 govern motor vehicle sales finance. In general, the purpose of the proposed rule changes to 7 TAC Chapter 84 is to implement changes resulting from the commission's review of the subchapter under Texas Government Code, §2001.039. The OCCC distributed an advance notice of the rule review, and received one informal comment in response. Notice of the review of 7 TAC Chapter 84 was published in July 31, 2020, issue of the *Texas Register* (45 TexReg 5365). The commission received no comments in response to the published notice.

The OCCC distributed an early precomment draft of proposed changes to interested stakeholders for review, and then held a stakeholder meeting and webinar regarding the rule changes. The OCCC received two informal precomments on the rule text draft. The OCCC appreciates the thoughtful input provided by stakeholders.

A proposed amendment to §84.201 would correct a typographical error in figure 7 TAC §84.201(d)(2)(B)(iii), which shows maximum effective rates of time price differential. Another proposed amendment at §84.201(d)(3)(E)(iii) would update a reference to the title of 7 TAC §84.809, as discussed later in this proposal.

Proposed amendments to §84.604 would clarify the responsibility of a transferor and transferee, in the event of a license transfer or a new application on transfer of ownership. The proposed language is based on the similar rule for regulated lenders at 7 TAC §83.303 (relating to Transfer of License; New License Application on Transfer of Ownership). A proposed amendment to subsections (e)(5)(B) would remove the phrase "joint and several" in referring to the responsibility accepted by the transferor and transferee, in order to use the more straightforward term "responsibility." As amended, the three paragraphs in §84.604(h) would apply to three distinct periods of time: (1) the period be-

for the transferee begins conducting business (when the transferor is responsible), (2) the period after the transferee begins conducting business and before final approval of the application (when the transferor and transferee are each responsible), and (3) the period after final approval (when the transferee is responsible). The proposed amendments are intended to ensure that licensees are aware of their responsibilities.

A proposed amendment to §84.611(e)(3) would correct a typographical error in a citation that is intended to refer to Texas Finance Code, §348.514. The current rule refers incorrectly to Texas Finance Code, §348.415, a section that does not exist.

Proposed amendments to §84.613 relate to the OCCC's review of the criminal history of a motor vehicle sales finance applicant or licensee. The OCCC is authorized to review criminal history of applicants and licensees under Texas Occupations Code, Chapter 53; Texas Finance Code, §14.109; and Texas Government Code, §411.095. The proposed amendments to §84.613 would ensure consistency with HB 1342, which the Texas Legislature enacted in 2019. HB 1342 included the following changes in Texas Occupations Code, Chapter 53: (1) the bill repealed a provision that generally allowed denial, suspension, or revocation for any offense occurring in the five years preceding the application, (2) the bill added provisions requiring an agency to consider correlation between elements of a crime and the duties and responsibilities of the licensed occupation, as well as compliance with conditions of community supervision, parole, or mandatory supervision, and (3) the bill removed previous language specifying who could provide a letter of recommendation on behalf of an applicant. Proposed amendments throughout subsections (c) and (f) of §84.613 would implement these statutory changes from HB 1342. Other proposed amendments to §84.613 include technical corrections, clarifying changes, and updates to citations.

Proposed amendments to §84.707 deal with recordkeeping requirements for retail sellers that assign retail installment contracts. Proposed amendments to subsections (b) and (d)(2)(Q) would explain that a retail seller must maintain any conditional delivery agreement signed by a buyer or provided to the buyer. These amendments are intended to ensure that retail sellers maintain documentation to show their compliance with Texas Finance Code, Chapter 348, including Texas Finance Code, §348.013, which governs conditional delivery agreements. Other proposed changes to §84.707 would correct lettering and internal references.

Proposed amendments to §84.708 deal with recordkeeping requirements for retail sellers that collect installments on retail installment contracts. Proposed amendments to subsections (b) and (e)(2)(V) would explain that a retail seller must maintain any conditional delivery agreement signed by a buyer or provided to the buyer. These amendments are intended to ensure that retail sellers maintain documentation to show their compliance with Texas Finance Code, Chapter 348, including Texas Finance Code, §348.013, which governs conditional delivery agreements. A proposed amendment to subsection (e)(7) would explain that the register or report of debt cancellation agreements must include an indication of whether the agreement was satisfied or denied. This amendment is intended to ensure that retail sellers maintain documentation to show their compliance with Texas Finance Code, Chapter 354, governing debt cancellation agreements, and to enable OCCC examiners to review compliance. Other proposed changes to §84.708 would correct lettering and internal references.

Proposed amendments to §84.709 deal with recordkeeping requirements for holders that take assignment of retail installment contracts. A proposed amendment to subsection (e)(7) would explain that the register or report of debt cancellation agreements must include an indication of whether the agreement was satisfied or denied. This amendment is intended to ensure that holders maintain documentation to show their compliance with Texas Finance Code, Chapter 354, governing debt cancellation agreements, and to enable OCCC examiners to review compliance. Other proposed changes to §84.709 would correct lettering and internal references.

Proposed amendments to §84.802 provide clarity on the process for submitting a non-standard plain language contract for a motor vehicle retail installment transaction. These amendments specify that the contract must be submitted in accordance with the OCCC's instructions, and that PDF submissions must be text-searchable, must meet a size requirement, and may not be locked in a manner that prohibits comparison of different version of the contracts. These amendments are intended to enable OCCC staff to efficiently and effectively review non-standard plain language contract submissions. If a PDF submission is not text-searchable (e.g., scanned paper contract or image-only PDF), or if the PDF has security restrictions that prohibit comparison, this prevents OCCC staff from efficiently and effectively reviewing contracts.

Proposed amendments to §84.803 deal with the relationship between federal law and the rules governing submission of plain language contracts. The proposed amendments would remove current subsection (c), which provides that the term "time price differential" may be substituted for the term "finance charge" as used in the rules' model disclosures, except in those instances where use of that term would be prohibited by controlling federal law, regulation, or interpretation. In an informal comment to the advance rule review notice, one stakeholder commented that this provision was confusing, based on how the terms "time price differential" and "finance charge" are used elsewhere in Chapter 84. After reviewing the informal comment and the relevant provisions, the commission believes that current subsection (c) is unnecessary, and may lead to confusion by stakeholders because it does not describe any circumstances under which federal Regulation Z, 12 C.F.R. parts 226 and 1026, would allow a creditor to replace the term "finance charge." Proposed amendments to current subsections (d) and (e) would clarify a licensee's authority to replace "principal balance" with "amount financed" in certain situations, and to replace "contract rate" with "annual percentage rate" in certain situations.

A proposed amendment to §84.809 would add the phrase "Model Contract" to the rule title. This rule includes a model plain language contract as an attached figure. The amendment to the rule title will help readers locate the model contract.

Mirand Diamond, Director of Licensing and Registration, has determined that for the first five-year period the proposed rule changes are in effect, there will be no fiscal implications for state or local government as a result of administering the rule changes.

Huffman Lewis, Director of Consumer Protection, has determined that for each year of the first five years the proposed amendments are in effect, the public benefits anticipated as a result of the changes will be that the commission's rules will be more easily understood by licensees required to comply with the rules, will be consistent with legislation recently passed by the legislature, will better protect consumers, will better enable

licensees to comply with Chapter 348 of the Texas Finance Code, and will ensure that licensees maintain records to show compliance with Chapter 348.

The OCCC does not anticipate economic costs to persons who are required to comply with the rule changes as proposed.

The OCCC is not aware of any adverse economic effect on small businesses, micro-businesses, or rural communities resulting from this proposal. But in order to obtain more complete information concerning the economic effect of these rule changes, the OCCC invites comments from interested stakeholders and the public on any economic impacts on small businesses, as well as any alternative methods of achieving the purpose of the proposal while minimizing adverse impacts on small businesses, micro-businesses, and rural communities.

During the first five years the proposed rule changes will be in effect, the rules will not create or eliminate a government program. Implementation of the rule changes will not require the creation of new employee positions or the elimination of existing employee positions. Implementation of the rule changes will not require an increase or decrease in future legislative appropriations to the OCCC, because the OCCC is a self-directed, semi-independent agency that does not receive legislative appropriations. The proposed rule changes do not require an increase or decrease in fees paid to the OCCC. The proposal would not create a new regulation. The proposal would expand current §84.707, §84.708, and §84.709 to specify records that licensees must maintain relating to conditional delivery agreements and debt cancellation agreements. The proposal would limit current §84.613 by amending grounds on which the OCCC may deny, suspend, or revoke a license on grounds of criminal history, and would limit current §84.803 to remove a reference to replacing the term "finance charge." The proposal would not repeal an existing regulation. The proposed rule changes do not increase or decrease the number of individuals subject to the rule's applicability. The agency does not anticipate that the proposed rule changes will have an effect on the state's economy.

Comments on the proposal may be submitted in writing to Matthew Nance, Deputy General Counsel, Office of Consumer Credit Commissioner, 2601 North Lamar Boulevard, Austin, Texas 78705 or by email to rule.comments@occc.texas.gov. To be considered, a written comment must be received on or before 5:00 p.m. central time on the 31st day after the date the proposal is published in the *Texas Register*. At the conclusion of business on the 31st day after the proposal is published in the *Texas Register*, no further written comments will be considered or accepted by the commission.

## SUBCHAPTER B. RETAIL INSTALLMENT CONTRACT

### 7 TAC §84.201

The rule changes are proposed under Texas Finance Code, §348.513, which authorizes the commission to adopt rules to enforce Texas Finance Code, Chapter 348, and under Texas Finance Code §353.513, which authorizes the commission to adopt rules to enforce Texas Finance Code, Chapter 353. The rule changes to §84.802, §84.803, and §84.809 are proposed under Texas Finance Code, §341.502, which authorizes the commission to adopt rules governing the form of plain language contracts for retail installment transactions under Chapter 348.

In addition, Texas Finance Code, §11.304 authorizes the commission to adopt rules necessary to supervise the OCCC and ensure compliance with Texas Finance Code, Title 4.

The statutory provisions affected by the proposal are contained in Texas Finance Code, Chapters 341, 348, and 353.

#### §84.201. *Time Price Differential.*

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

(d) Method of calculation.

(1) (No change.)

(2) Scheduled installment earnings method. The scheduled installment earnings method can be used for both regular and irregular payment contracts.

(A) (No change.)

(B) Maximum annualized daily rate.

(i) - (ii) (No change.)

(iii) Effective rate. The maximum annualized daily rate cannot exceed the effective rate contained in Figure: 7 TAC §84.201(d)(2)(B)(iii) for the equivalent monthly period and appropriate add-on rate per \$100 determined by the model year designated by the manufacturer of the vehicle. The effective rates contained in Figure: 7 TAC §84.201(d)(2)(B)(iii) are the current maximum annualized daily rate authorized by Texas Finance Code, §348.104 or the alternative simple time price differential rate authorized by Texas Finance Code, §348.105. The alternative simple time price differential rate authorized by Texas Finance Code, §348.105 displayed as an example in Figure: 7 TAC §84.201(d)(2)(B)(iii) is 18% per annum. If the alternative simple time price differential rate is adjusted according to Texas Finance Code, Chapter 303 and is greater than effective rate contained in Figure: 7 TAC §84.201(d)(2)(B)(iii), the published rate will be highest effective rate.

Figure: 7 TAC §84.201(d)(2)(B)(iii)

(iv) (No change.)

(C) - (D) (No change.)

(3) True daily earnings method. The true daily earnings method can be used for both regular and irregular payment contracts.

(A) - (D) (No change.)

(E) Application of payments.

(i) - (ii) (No change.)

(iii) Use of model provision sufficient. While the retail installment contract is not required to use the model provision, use of the model provision found in 7 TAC §84.808(21) (relating to Model Clauses), or a variation of it as allowed under that section or 7 TAC §84.809 (relating to Model Contract; Permissible Changes), is deemed to sufficiently prescribe the method of application of payment.

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 October 16, 2020.

TRD-202004331

◆ ◆ ◆  
**SUBCHAPTER F. LICENSING**

**7 TAC §§84.604, 84.611, 94.613**

The rule changes are proposed under Texas Finance Code, §348.513, which authorizes the commission to adopt rules to enforce Texas Finance Code, Chapter 348, and under Texas Finance Code §353.513, which authorizes the commission to adopt rules to enforce Texas Finance Code, Chapter 353. The rule changes to §84.802, §84.803, and §84.809 are proposed under Texas Finance Code, §341.502, which authorizes the commission to adopt rules governing the form of plain language contracts for retail installment transactions under Chapter 348. In addition, Texas Finance Code, §11.304 authorizes the commission to adopt rules necessary to supervise the OCCC and ensure compliance with Texas Finance Code, Title 4.

The statutory provisions affected by the proposal are contained in Texas Finance Code, Chapters 341, 348, and 353.

§84.604. *Transfer of License; New License Application on Transfer of Ownership.*

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

(d) Timing. No later than 30 days after the event of a transfer of ownership, the transferee must file a complete license transfer application or new license application on transfer of ownership in accordance with subsection (e) of this section. A transferee may file an application before this date.

(e) Application requirements.

(1) - (4) (No change.)

(5) Request for permission to operate. The application may include a request for permission to operate. The request must be in writing and signed by the transferor and transferee. The request must include all of the following:

(A) a statement by the transferor granting authority to the transferee to operate under the transferor's license while final approval of the application is pending;

(B) an acknowledgement that the transferor and transferee each accept [joint and several] responsibility to any consumer and to the OCCC for any acts performed under the license while the permission to operate is in effect; and

(C) if the application is a new license application on transfer of ownership, an acknowledgement that the transferor will immediately surrender or inactivate its license if the OCCC approves the application.

(f) Permission to operate. If the application described by subsection (e) of this section includes a request for permission to operate and all required information, and the transferee has paid all fees required for the application, then the OCCC may issue a permission to operate to the transferee. A request for permission to operate may be denied even if the application contains all of the required information. The denial of a request for permission to operate does not create a right to a hearing. If the OCCC grants a permission to operate, the transferor must cease operating under the authority of the license. Two companies

may not simultaneously operate under a single license. A permission to operate terminates if the OCCC denies an application described by subsection (e) of this section.

(g) Transferee's authority to engage in business. If a transferee has filed a complete application including a request for permission to operate as described by subsection (e) of this section, by the deadline described by subsection (d) of this section, then the transferee may engage in business under Texas Finance Code, Chapter 348 or 353, as applicable. However, the transferee must immediately cease doing business if the OCCC denies the request for permission to operate or denies the application. If the OCCC denies the application, then the transferee has a right to a hearing on the denial, as provided by §84.608(d) of this title (relating to Processing of Application).

(h) Responsibility.

(1) Responsibility of transferor. Before the transferee begins performing motor vehicle sales finance activity under a license [OCCC's final approval of an application described by subsection (e)], the transferor is responsible to any consumer and to the OCCC for all motor vehicle sales finance activity performed under the license.

(2) Responsibility of transferor and transferee. If a transferee begins performing motor vehicle sales finance activity under a license before the OCCC's final approval of an application described by subsection (e) of this section, then the transferor and transferee are each responsible to any consumer and to the OCCC for activity performed under the license during this period.

(3) [(2)] Responsibility of transferee. After the OCCC's final approval of an application described by subsection (e) of this section [a transferee begins performing motor vehicle sales finance activity under a license], the transferee is responsible to any consumer and to the OCCC for all motor vehicle sales finance activity performed under the license. The [In addition, a] transferee is responsible for any transactions that it purchases from the transferor. In addition, if the transferee receives a license transfer, then the transferee's responsibility includes all activity performed under the license before the license transfer.

[(3) Joint and several responsibility. If a transferee begins performing motor vehicle sales finance activity under a license before the OCCC's final approval of an application described by subsection (e) (including activity performed under a permission to operate), then the transferor and transferee are jointly and severally responsible to any consumer and to the OCCC. This responsibility applies to any acts performed under the license after the transferee begins performing motor vehicle sales finance activity and before the OCCC's final approval of the license transfer.]

§84.611. *Fees*

(a) New licenses.

(1) Investigation fees. A \$200 nonrefundable investigation fee is assessed each time an application for a new license is filed.

(2) Registered office fees. The fee for each registered office is \$25.

(b) License transfers. An applicant must pay a nonrefundable investigation fee of \$200 for the transfer of a license.

(c) Fingerprint processing. An applicant must pay a fee to a party designated by the Texas Department of Public Safety for processing fingerprints. The Texas Department of Public Safety and the designated party determine the amount of the fee and whether it is refundable.

(d) License amendments.

(1) License amendment fees. A fee of \$25 must be paid each time a licensee amends a license by inactivating a license, activating an inactive license, changing the assumed name of the licensee, changing the organizational form or proportionate ownership, providing notification of a new parent entity, or relocating a licensed location.

(2) Registered office amendment fees. The fee for amending or relocating a registered office is \$10.

(e) Annual renewal and assessment fees.

(1) An annual assessment fee is required for each licensee consisting of:

(A) a licensed location fee not to exceed \$460;

(B) a registered office fee not to exceed \$430 per location; and

(C) if necessary, a variable fee based upon the annual dollar volume of retail installment sales contracts originated, acquired, or serviced during the preceding calendar year, as stated in the annual renewal statement described by paragraph (3) of this subsection.

(2) The maximum annual assessment for each active license will be no more than \$1,200 excluding the registered office fees.

(3) A licensee must file an annual renewal statement in connection with the license renewal. The licensee must provide the statement in a format prescribed by the OCCC and in accordance with the OCCC's instructions. The statement must include the annual dollar volume and number of retail installment sales contracts originated, acquired, or serviced during the preceding calendar year, calculated in accordance with the OCCC's instructions, and any other information required under the OCCC's instructions. The annual renewal statement is collected under the OCCC's examination authority, as provided by Texas Finance Code, §348.514 [§348.415]. A licensee's annual renewal statement relates to the examination process and is confidential under Texas Finance Code, §14.2015(a) and §348.514(d). However, the OCCC may publish aggregated reports based on the annual renewal statements that it collects.

(f) Licensed location or registered office duplicate certificates sent by mail. The fee for a duplicate certificate sent by mail is \$10.

(g) Costs of hearings. The commissioner may assess the costs of an administrative appeal pursuant to Texas Finance Code, §14.207 for a hearing afforded under §84.608 of this title (relating to Processing of Application), including the cost of the administrative law judge, the court reporter, and agency staff representing the OCCC at a hearing.

§84.613. *Denial, Suspension, or Revocation Based on Criminal History.*

(a) Criminal history record information. After an applicant submits a complete license application, including all required fingerprints, and pays the fees required by §84.611 of this title (relating to Fees), the OCCC will investigate the applicant and its principal parties. The OCCC will obtain criminal history record information from the Texas Department of Public Safety and the Federal Bureau of Investigation based on the applicant's fingerprint submission. The OCCC will continue to receive information on new criminal activity reported after the fingerprints have been initially processed.

(b) Disclosure of criminal history. The applicant must disclose all criminal history information required to file a complete application with the OCCC. Failure to provide any information required as part of the application or requested by the OCCC reflects negatively on the belief that the business will be operated lawfully and fairly. The OCCC may request additional criminal history information from the applicant, including the following:

(1) information about arrests, charges, indictments, and convictions of the applicant and its principal parties;

(2) reliable documents or testimony necessary to make a determination under subsection (c) of this section, including letters of recommendation from prosecution, law enforcement, and correctional authorities;

(3) proof that the applicant has maintained a record of steady employment, has supported the applicant's dependents, and has otherwise maintained a record of good conduct; and

(4) proof that all outstanding court costs, supervision fees, fines, and restitution as may have been ordered have been paid or are current.

(c) Crimes directly related to licensed occupation. The OCCC may deny a license application, or suspend or revoke a license, if the applicant or licensee has been convicted of an offense that directly relates to the duties and responsibilities of a licensee under Texas Finance Code, Chapter 348 or 353, as provided by Texas Occupations Code, §53.021(a)(1).

(1) Originating, acquiring, or servicing retail installment sales contracts under Texas Finance Code, Chapter 348 or 353, involves or may involve making representations to consumers regarding the terms of the contract, receiving money from consumers, remitting money to third parties, maintaining accounts, repossessing property without a breach of the peace, maintaining goods that have been repossessed, and collecting due amounts in a legal manner. Consequently, the following crimes are directly related to the duties and responsibilities of a licensee and may be grounds for denial, suspension, or revocation:

(A) theft;

(B) assault;

(C) any offense that involves misrepresentation, deceptive practices, or making a false or misleading statement (including fraud or forgery);

(D) any offense that involves breach of trust or other fiduciary duty;

(E) any criminal violation of a statute governing credit transactions or debt collection;

(F) failure to file a government report, filing a false government report, or tampering with a government record;

(G) any greater offense that includes an offense described in subparagraphs (A) - (F) of this paragraph as a lesser included offense;

(H) any offense that involves intent, attempt, aiding, solicitation, or conspiracy to commit an offense described in subparagraphs (A) - (G) of this paragraph.

(2) In determining whether a criminal offense directly relates to the duties and responsibilities of holding a license, the OCCC will consider the following factors, as specified in Texas Occupations Code, §53.022:

(A) the nature and seriousness of the crime;

(B) the relationship of the crime to the purposes for requiring a license to engage in the occupation;

(C) the extent to which a license might offer an opportunity to engage in further criminal activity of the same type as that in which the person previously had been involved; and

(D) the relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the responsibilities of a licensee.

(3) In determining whether a conviction for a crime renders an applicant or a licensee unfit to be a licensee, the OCCC will consider the following factors, as specified in Texas Occupations Code, §53.023:

(A) the extent and nature of the person's past criminal activity;

(B) the age of the person when the crime was committed;

(C) the amount of time that has elapsed since the person's last criminal activity;

(D) the conduct and work activity of the person before and after the criminal activity;

(E) evidence of the person's rehabilitation or rehabilitative effort while incarcerated or after release, or following the criminal activity if no time was served; ~~and~~

(F) evidence of the person's compliance with any conditions of community supervision, parole, or mandatory supervision; and

(G) ~~(F)~~ evidence of the person's current circumstances relating to fitness to hold a license, which may include letters of recommendation, ~~[from one or more of the following:]~~

~~(i) prosecution, law enforcement, and correctional officers who prosecuted, arrested, or had custodial responsibility for the person;~~

~~(ii) the sheriff or chief of police in the community where the person resides; and~~

~~(iii) other persons in contact with the convicted person.~~

(d) Crimes related to character and fitness. The OCCC may deny a license application if the OCCC does not find that the financial responsibility, experience, character, and general fitness of the applicant are sufficient to command the confidence of the public and warrant the belief that the business will be operated lawfully and fairly, as provided by Texas Finance Code, §348.504(a) and §353.504(a). In conducting its review of character and fitness, the OCCC will consider the criminal history of the applicant and its principal parties. If the applicant or a principal party has been convicted of an offense described by subsections (c)(1) or ~~(f)(1)~~ ~~[(f)(2)]~~ of this section, this reflects negatively on an applicant's character and fitness. The OCCC may deny a license application based on other criminal history of the applicant or its principal parties if, when the application is considered as a whole, the agency does not find that the financial responsibility, experience, character, and general fitness of the applicant are sufficient to command the confidence of the public and warrant the belief that the business will be operated lawfully and fairly. The OCCC will, however, consider the factors identified in subsection (c)(2) - (3) of this section in its review of character and fitness.

(e) Revocation on imprisonment. A license will be revoked on the licensee's imprisonment following a felony conviction, felony community supervision revocation, revocation of parole, or revocation of mandatory supervision, as provided by Texas Occupations Code, §53.021(b).

(f) Other grounds for denial, suspension, or revocation. The OCCC may deny a license application, or suspend or revoke a license,

based on any other ground authorized by statute, including the following:

~~[(1) a conviction for an offense that does not directly relate to the duties and responsibilities of the occupation and that was committed less than five years before the date of application, as provided by Texas Occupations Code, §53.021(a)(2);]~~

~~(1) [(2)] a conviction for an offense listed in Texas Code of Criminal Procedure, art. 42A.054 [42.12, §3g], or art. 62.001(6), as provided by Texas Occupations Code, §53.021(a)(2) - (3) [§53.021(a)(3) - (4)];~~

~~(2) [(3)] errors or incomplete information in the license application;~~

~~(3) [(4)] a fact or condition that would have been grounds for denying the license application, and that either did not exist at the time of the application or the OCCC was unaware of at the time of application, as provided by Texas Finance Code, §348.508(3) and §353.508(3); and~~

~~(4) [(5)] any other information warranting the belief that the business will not be operated lawfully and fairly, as provided by Texas Finance Code, §§348.504(a), 348.508, 353.504(a), and 353.508.~~

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 October 16, 2020.

TRD-202004332

Matthew Nance

Deputy General Counsel

Office of Consumer Credit Commissioner

Earliest possible date of adoption: November 29, 2020

For further information, please call: (512) 936-7660



## SUBCHAPTER G. EXAMINATIONS

### 7 TAC §§84.707 - 84.709

The rule changes are proposed under Texas Finance Code, §348.513, which authorizes the commission to adopt rules to enforce Texas Finance Code, Chapter 348, and under Texas Finance Code §353.513, which authorizes the commission to adopt rules to enforce Texas Finance Code, Chapter 353. The rule changes to §84.802, §84.803, and §84.809 are proposed under Texas Finance Code, §341.502, which authorizes the commission to adopt rules governing the form of plain language contracts for retail installment transactions under Chapter 348. In addition, Texas Finance Code, §11.304 authorizes the commission to adopt rules necessary to supervise the OCCC and ensure compliance with Texas Finance Code, Title 4.

The statutory provisions affected by the proposal are contained in Texas Finance Code, Chapters 341, 348, and 353.

§84.707. *Files and Records Required (Retail Sellers Assigning Retail Installment Sales Contracts)*

(a) (No change.)

(b) Records required for each retail installment sales transaction. Each licensee must maintain records with respect to the licensee's compliance with Texas Finance Code, Chapter 348 for each motor vehicle retail installment sales contract made, acquired, serviced, or held

under Chapter 348 and make those records available for examination. This requirement includes any conditional delivery agreement or retail installment sales contract signed by a retail buyer for a vehicle that has been delivered, including contracts that are subsequently voided or canceled after a seller regains possession and ownership of the vehicle.

- (c) (No change.)
- (d) Records required.
  - (1) (No change.)

(2) Retail installment sales transaction file. A licensee must maintain a paper or imaged copy of a retail installment sales transaction file for each individual retail installment sales contract or be able to produce the same information within a reasonable amount of time. The retail installment sales transaction file must contain documents which show the licensee's compliance with applicable law. The required documents must show the licensee's compliance with Texas Finance Code, Chapter 348 and would accordingly include applicable state and federal laws and regulations, including the Truth in Lending Act. If a substantially equivalent electronic record for any of the following records exists, a paper copy of the record does not have to be included in the retail installment sales transaction file if the electronic record can be accessed upon request. The retail installment sales transaction file must include copies of the following records or documents, unless otherwise specified:

(A) for all retail installment sales transactions:

(i) the retail installment sales contract signed by the retail buyer and the retail seller as required by Texas Finance Code, §348.101;

(ii) if prepared by the retail seller, the purchase or buyer's order reflecting a written computation of the cash price of the vehicle and itemized charges, a description of the motor vehicle being purchased, and a description of each motor vehicle being traded in;

(iii) the credit application and any other written or recorded information used in evaluating the application;

(iv) the Texas Department of Motor Vehicles' Title Application Receipt (Form VTR-500-RTS), Tax Assessor's Tax Collector's Receipt for Title Application/Registration/Motor Vehicle Tax handwritten receipt (Form 31-RTS), or similar document evidencing the disbursement of the sales tax, and fees for license, title, and registration of the vehicle;

(v) copies of other agreements or disclosures signed by the retail buyer applicable to the retail installment sales transaction; and

(vi) any records applicable to the retail installment transaction outlined by subparagraphs (B) - (Q) [~~(B)~~ - (~~L~~)] of this paragraph.

(B) - (P) (No change.)

(Q) any conditional delivery agreement signed by the retail buyer or provided to the retail buyer.

(3) - (7) (No change.)

§84.708. *Files and Records Required (Retail Sellers Collecting Installments on Retail Installment Sales Contracts)*

(a) (No change.)

(b) Records required for each retail installment sales transaction. Each licensee must maintain records with respect to the licensee's compliance with Texas Finance Code, Chapter 348 for each motor vehicle retail installment sales contract made, acquired, serviced, or held

under Chapter 348 and make those records available for examination. This requirement includes any conditional delivery agreement or retail installment sales contract signed by a retail buyer for a vehicle that has been delivered, including contracts that are subsequently voided or canceled after a seller regains possession and ownership of the vehicle.

- (c) - (d) (No change.)
- (e) Records required.
  - (1) (No change.)

(2) Retail installment sales transaction file. A licensee must maintain a paper or imaged copy of a retail installment sales transaction file for each individual retail installment sales contract or be able to produce the same information within a reasonable amount of time. The retail installment sales transaction file must contain documents which show the licensee's compliance with applicable law. The required documents must show the licensee's compliance with Texas Finance Code, Chapter 348 and would accordingly include applicable state and federal laws and regulations, including the Truth in Lending Act. If a substantially equivalent electronic record for any of the following records exists, a paper copy of the record does not have to be included in the retail installment sales transaction file if the electronic record can be accessed upon request. The retail installment sales transaction file must include copies of the following records or documents, unless otherwise specified:

(A) for all retail installment sales transactions:

(i) the retail installment sales contract signed by the retail buyer and the retail seller as required by Texas Finance Code, §348.101;

(ii) if prepared by the retail seller, the purchase or buyer's order reflecting a written computation of the cash price of the vehicle and itemized charges, a description of the motor vehicle being purchased, and a description of each motor vehicle being traded in;

(iii) the credit application and any other written or recorded information used in evaluating the application;

(iv) the original certificate of title to the vehicle, a certified copy of the negotiable certificate of title, or a copy of the front and back of either the original or certified copy of the title;

(v) the Texas Department of Motor Vehicles' Title Application Receipt (Form VTR-500-RTS), Tax Assessor's Tax Collector's Receipt for Title Application/Registration/Motor Vehicle Tax handwritten receipt (Form 31-RTS), or similar document evidencing the disbursement of the sales tax, and fees for license, title, and registration of the vehicle;

(vi) copies of other agreements or disclosures signed by the retail buyer applicable to the retail installment sales transaction; and

(vii) any records applicable to the retail installment transaction outlined by subparagraphs (B) - (V) [~~(B)~~ - (~~Q~~)] of this paragraph.

(B) - (U) (No change.)

(V) any conditional delivery agreement signed by the retail buyer or provided to the retail buyer.

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

(7) Debt cancellation agreement for total loss or theft loss records. Each licensee who cancels entire balances or who cancels only partial balances under debt cancellation agreements must maintain a register or be able to generate a report, paper or electronic, that reflects

agreements that were either satisfied or denied. This register or report must show the name of the retail buyer, the account number, an indication of whether the agreement was satisfied or denied (e.g., "paid," "denied"), and the date of satisfaction or denial.

(8) - (10) (No change.)

(f) (No change.)

§84.709. *Files and Records Required (Holders Taking Assignment of Retail Installment Sales Contracts)*

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

(e) Records required.

(1) (No change.)

(2) Retail installment sales transaction file. A licensee must maintain a paper or imaged copy of a retail installment sales transaction file for each individual retail installment sales contract or be able to produce the same information within a reasonable amount of time. The retail installment sales transaction file must contain documents which show the licensee's compliance with applicable law. The required documents must show the licensee's compliance with Texas Finance Code, Chapter 348 and would accordingly include applicable state and federal laws and regulations, including the Truth in Lending Act. If a substantially equivalent electronic record for any of the following records exists, a paper copy of the record does not have to be included in the retail installment sales transaction file if the electronic record can be accessed upon request. The retail installment sales transaction file must include copies of the following records or documents, unless otherwise specified:

(A) for all retail installment sales transactions:

(i) the retail installment sales contract signed by the retail buyer and the retail seller as required by Texas Finance Code, §348.101;

(ii) the credit application and any other written or recorded information used in evaluating the application;

(iii) the original certificate of title to the vehicle, a certified copy of the negotiable certificate of title, or a copy of the front of either the original or certified copy of the title; and

(iv) any records applicable to the retail installment transaction outlined by subparagraphs (B) - (J) [~~(B)~~ - (~~H~~)] of this paragraph.

(B) - (J) (No change.)

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

(7) Debt cancellation agreement for total loss or theft loss records. Each licensee who cancels entire balances or who cancels only partial balances under debt cancellation agreements must maintain a register or be able to generate a report, paper or electronic, that reflects agreements that were either satisfied or denied. This register or report must show the name of the retail buyer, the account number, an indication of whether the agreement was satisfied or denied (e.g., "paid," "denied"), and the date of satisfaction or denial.

(8) - (9) (No change.)

(f) (No change.)

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

Filed with the Office of the Secretary of State on October 16, 2020.

TRD-202004333

Matthew Nance

Deputy General Counsel

Office of Consumer Credit Commissioner

Earliest possible date of adoption: November 29, 2020

For further information, please call: (512) 936-7660



## SUBCHAPTER H. RETAIL INSTALLMENT SALES CONTRACT PROVISIONS

### 7 TAC §§84.802, 84.803, 84.809

The rule changes are proposed under Texas Finance Code, §348.513, which authorizes the commission to adopt rules to enforce Texas Finance Code, Chapter 348, and under Texas Finance Code §353.513, which authorizes the commission to adopt rules to enforce Texas Finance Code, Chapter 353. The rule changes to §84.802, §84.803, and §84.809 are proposed under Texas Finance Code, §341.502, which authorizes the commission to adopt rules governing the form of plain language contracts for retail installment transactions under Chapter 348. In addition, Texas Finance Code, §11.304 authorizes the commission to adopt rules necessary to supervise the OCCC and ensure compliance with Texas Finance Code, Title 4.

The statutory provisions affected by the proposal are contained in Texas Finance Code, Chapters 341, 348, and 353.

§84.802. *Non-Standard Contract Filing Procedures.*

(a) Non-standard contracts. A non-standard contract is a contract that does not use the model contract provisions. Non-standard contracts submitted in compliance with the provisions of Texas Finance Code, §341.502(c) will be reviewed to determine that the contract is written in plain language.

(b) Certification of readability. Contract filings subject to this chapter must be accompanied by a certification signed by an officer of the creditor or the entity submitting the form on behalf of the creditor. The certification must state that the contract is written in plain language and that the contract can be easily understood by the average consumer. The certification must state that the contract is printed in an easily readable font and type size, including a list of the typefaces used in the contract, the font sizes used in the contract, and the Flesch-Kincaid Grade Level score of the contract. The OCCC will prescribe the form of the certification.

(c) Filing requirements. Contract filings must be identified as to the transaction type. Contract filings must be submitted in accordance with the OCCC's instructions and the following requirements:

(1) Microsoft Word format. One copy must be submitted in a Microsoft Word format with the document having either a .doc or .docx extension. The Flesch-Kincaid Grade Level score of the contract must be based on the Microsoft Word readability statistics function for the Microsoft Word version of the contract.

(2) PDF format. One copy must be submitted in a text-searchable PDF format so that the contract may be visually reviewed in its entirety. The page size must be 8.5 inches by 11 inches or 8.5 inches by 14 inches. The PDF may not be locked or restricted in a way that prohibits comparison of different versions of the contract.



(3) No other formats permitted. The OCCC will not accept paper filings or any other unlisted formats for non-standard contract filings.

(4) Maximum Flesch-Kincaid score. The maximum Flesch-Kincaid Grade Level score for a Chapter 348 contact filing is grade 11.

(d) Contact person. One person must be designated as the contact person for each filing submitted. Each submission must provide the name, address, phone number, and if available, the email address and fax number of the contact person for that filing. If the contracts are submitted by anyone other than the company itself, the contracts must be accompanied by a dated letter which contains a description of the anticipated users of the contracts and designates the legal counsel or other designated contact person for that filing.

(e) Commercial vehicle. Pursuant to Texas Finance Code, §341.502(a), a motor vehicle retail installment sales contract involving a commercial vehicle does not have to be submitted in accordance with this section.

§84.803. *Relationship with Federal Law.*

(a) Applicability of federal law. The disclosure requirements of the Truth in Lending Act, 15 U.S.C. §§1601 - 1667f, and its implementing regulation, Regulation Z, 12 C.F.R. Parts 226 and 1026, and specifically 12 C.F.R. §226.18(f) and §1026.18(f), regarding variable rate disclosures, apply according to their terms to some retail installment transactions subject to this chapter.

(b) Inconsistency. In the event of any inconsistency or conflict between the disclosure or notice requirements in these provisions and any current or future federal law, regulation, or interpretation, the requirements of the federal law, regulation, or interpretation will control to the extent of the inconsistency.

~~{(c) The term "time price differential" may be substituted for the term "finance charge" as used in the model disclosures provided by this subchapter, except in those instances where use of that term would be prohibited by controlling federal law, regulation, or interpretation.}~~

(c) ~~[(d)]~~ Amount financed. In the model clauses provided by this subchapter, a licensee may replace the term "principal balance" with "amount financed" [~~The term "amount financed" may be substituted for "principal balance"~~] whenever the amount financed, computed in accordance with federal Regulation Z, is the same as the principal balance computed in accordance with the Texas Finance Code.

(d) ~~[(e)]~~ Annual percentage rate. In the model clauses provided by this subchapter, a licensee may replace the term "contract rate" with "annual percentage rate" [~~The term "annual percentage rate" may be substituted for "annual rate" or "contract rate"~~] whenever the annual percentage rate, computed in accordance with federal Regulation Z, is the same as the contract [~~annual~~] rate computed in accordance with the Texas Finance Code.

§84.809. *Model Contract; Permissible Changes.*

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

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

Filed with the Office of the Secretary of State on October 16, 2020.

TRD-202004334

Matthew Nance

Deputy General Counsel

Office of Consumer Credit Commissioner

Earliest possible date of adoption: November 29, 2020

For further information, please call: (512) 936-7660

◆ ◆ ◆  
**TITLE 37. PUBLIC SAFETY AND CORRECTIONS**

**PART 1. TEXAS DEPARTMENT OF PUBLIC SAFETY**

**CHAPTER 21. EQUIPMENT AND VEHICLE SAFETY STANDARDS**

**37 TAC §21.7**

The Texas Department of Public Safety (the department) proposes the repeal of §21.7, concerning Certification of Certain Vehicles. House Bill 3171 passed by the 86th Texas Legislature repealed §521.225 of the Texas Transportation Code which required the department to establish a procedure by rule for determining whether a vehicle was a moped and to compile a list of mopeds certified by the department. The repeal of §521.225 of the Texas Transportation Code has made §21.7 obsolete.

Suzy Whittenton, Chief Financial Officer, has determined that for each year of the first five-year period the repeal is in effect there will be no fiscal implications for state or local government, or local economies.

Ms. Whittenton has also determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities required to comply with the repeal as proposed. There is no anticipated economic cost to individuals who are required to comply with the repeal as proposed. There is no anticipated negative impact on local employment.

In addition, Ms. Whittenton has also determined that for each year of the first five-year period the repeal is in effect, the public benefit will be effective implementation of legislation.

The department 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 that 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.

The department has determined that Chapter 2007 of the Texas Government Code does not apply to this proposal. Accordingly, the department is not required to complete a takings impact assessment regarding this proposal.

The department prepared a Government Growth Impact Statement assessment for this proposed rulemaking. The proposed rulemaking does not create or eliminate a government program; will not require an increase or decrease in future legislative appropriations to the agency; will not require the creation of new employee positions nor eliminate current employee positions;

nor will it require an increase or decrease in fees paid to the agency. The proposed rulemaking does repeal existing regulations. The proposed rulemaking does not increase or decrease the number of individuals subject to its applicability. During the first five years the proposed repeal is in effect, the proposed rule should not impact positively or negatively the state's economy.

Comments on the proposal may be submitted to Texas Department of Public Safety, Office of General Counsel, ATTN.: ML Calcote, P.O. Box 4087, MSC-0140, Austin, Texas 78773-0140. Comments must be received no later than thirty (30) days from the date of publication of this proposal.

This proposal is made pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; and Texas Transportation Code, §662.009, which authorizes the designated state agency to adopt rules to administer Chapter 662.

Texas Government Code, §411.004(3) and Texas Transportation Code, Chapter 662 are affected by this proposal.

*§21.7. Certification of Certain Vehicles.*

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

Filed with the Office of the Secretary of State on October 16, 2020.

TRD-202004297

D. Phillip Adkins

General Counsel

Texas Department of Public Safety

Earliest possible date of adoption: November 29, 2020

For further information, please call: (512) 424-5848



# WITHDRAWN RULES

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

## TITLE 26. HEALTH AND HUMAN SERVICES

### PART 1. HEALTH AND HUMAN SERVICES COMMISSION

#### CHAPTER 500. COVID-19 EMERGENCY HEALTH CARE FACILITY LICENSING

##### SUBCHAPTER D. CHEMICAL DEPENDENCY TREATMENT FACILITIES

###### 26 TAC §500.43, §500.44

The Health and Human Services Commission withdraws the emergency adoption of new §500.43 and §500.44, which appeared in the May 8, 2020, issue of the *Texas Register* (45 TexReg 2949).

Filed with the Office of the Secretary of State on October 19, 2020.

TRD-202004357

Karen Ray

Chief Counsel

Health and Human Services Commission

Effective date: October 17, 2020

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



##### SUBCHAPTER E. LICENSED CHEMICAL DEPENDENCY COUNSELORS

###### 26 TAC §500.51

The Health and Human Services Commission withdraws the proposed emergency new §500.51, which appeared in the May 8, 2020, issue of the *Texas Register* (45 TexReg 2950).

Filed with the Office of the Secretary of State on October 16, 2020.

TRD-202004336

Karen Ray

Chief Counsel

Health and Human Services Commission

Effective date: October 17, 2020

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



#### CHAPTER 551. INTERMEDIATE CARE FACILITIES FOR INDIVIDUALS WITH AN

## INTELLECTUAL DISABILITY OR RELATED CONDITIONS

### SUBCHAPTER C. STANDARDS FOR LICENSURE

#### 26 TAC §551.47

The Health and Human Services Commission withdraws the emergency adoption of new §551.47, which appeared in the October 2, 2020, issue of the *Texas Register* (45 TexReg 6835).

Filed with the Office of the Secretary of State on October 16, 2020.

TRD-202004341

Karen Ray

Chief Counsel

Health and Human Services Commission

Effective date: October 16, 2020

For further information, please call: (512) 428-3161



#### CHAPTER 553. LICENSING STANDARDS FOR ASSISTED LIVING FACILITIES

##### SUBCHAPTER K. COVID-19 EMERGENCY RULE

###### 26 TAC §553.2003

The Health and Human Services Commission withdraws the emergency adoption of new §553.2003, which appeared in the October 2, 2020, issue of the *Texas Register* (45 TexReg 6840).

Filed with the Office of the Secretary of State on October 16, 2020.

TRD-202004340

Karen Ray

Chief Counsel

Health and Human Services Commission

Effective date: October 16, 2020

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



## TITLE 37. PUBLIC SAFETY AND CORRECTIONS

### PART 1. TEXAS DEPARTMENT OF PUBLIC SAFETY

CHAPTER 21. EQUIPMENT AND VEHICLE  
SAFETY STANDARDS

**37 TAC §21.7**

The Texas Department of Public Safety withdraws the proposed amendment, §21.7, which appeared in the August 28, 2020, issue of the *Texas Register* (45 TexReg 6055).

Filed with the Office of the Secretary of State on October 16, 2020.

TRD-202004296

D. Phillip Adkins

General Counsel

Texas Department of Public Safety

Effective date: October 16, 2020

For further information, please call: (512) 424-5848



# 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 4. AGRICULTURE

### PART 2. TEXAS ANIMAL HEALTH COMMISSION

#### CHAPTER 40. CHRONIC WASTING DISEASE

##### 4 TAC §40.6

The Texas Animal Health Commission in a duly noticed meeting on September 22, 2020, adopted amendments to §40.6, concerning CWD Movement Restriction Zones. The amendments are adopted with changes to the proposed attached graphic as published in the July 10, 2020, issue of the *Texas Register* (45 TexReg 4604). The changes to Figure §40.6(b)(1)(C) remove the map elements that distinguish between the current and proposed zones and more clearly delineates the surveillance zone. This rule will be republished.

The adopted amendments replace the Executive Director Order Declaring a Chronic Wasting Disease High Risk Area Containment Zone for Portions of Val Verde County dated December 20, 2019, *Texas Register* (45 TexReg 425), and establish surveillance and containment zones in response to CWD confirmations in Kimble, Medina and Val Verde counties.

##### BACKGROUND AND JUSTIFICATION

Chronic Wasting Disease (CWD) is a transmissible spongiform encephalopathy (TSE). CWD is a progressive, fatal, degenerative neurological disease of farmed and free-ranging deer, elk, and moose. TSEs include a number of different diseases affecting animals or humans including bovine spongiform encephalopathy (BSE) in cattle, scrapie in sheep and goats, and Creutzfeldt-Jacob disease (CJD) in humans. Although CWD shares certain features with other TSEs, it is a distinct disease affecting only deer, elk, and moose. The species known to be susceptible to CWD are North American elk or wapiti, red deer, mule deer, sika deer, black-tailed deer, and white-tailed deer and their associated subspecies and hybrids.

The agent that causes CWD and other TSEs has not been completely characterized; however, the theory supported by most scientists is that TSE diseases are caused by proteins called prions. The exact mechanism of transmission is unclear; however, evidence suggests CWD is transmitted directly from one animal to another through saliva, feces, and urine containing abnormal prions shed in those body fluids and tissues. Because the disease has a long incubation period, animals infected with CWD may not show any visible signs of the disease for a number of months to years after they become infected. The disease can be passed through contaminated environmental conditions and has been known to persist for a long period of time.

Clinical signs of CWD may include weight loss, salivation, incoordination, behavior changes, and pneumonia. CWD primarily affects the nervous system in cervids but accumulation of the prion also occurs in other body systems including the lymphatic system. Therefore, the official tests (i.e. ELISA and IHC) designated by USDA target the identification of prions in the nervous and lymphatic systems. Presently, the only confirmatory diagnostic test for CWD is the Immunohistochemistry (IHC) test performed on the obex tissue of the brain and specific lymphoid tissues. There is no known treatment or vaccine for CWD.

The commission works in coordination and collaboration with the Texas Parks and Wildlife Department (TPWD) to address CWD issues and concerns. All mule deer, white-tailed deer, and native species are under the jurisdiction of TPWD. They are classified as property of the state of Texas and TPWD manages them as a resource of the state. TPWD through specific statutory authorization does allow for individuals to breed, trade, sell, and move white-tailed or mule deer that meet certain legal requirements.

Elk, sika deer, red deer, reindeer and moose are also classified as CWD susceptible species, but are not indigenous to the state and therefore, not subject to the jurisdiction of TPWD. They are classified as exotic livestock that are privately owned and are subject to the disease requirements of the commission. Texas has an unknown number of exotic cervid species that are free-ranging and also maintained on high fence premises. Many of these premises are hunting ranches, which are not subject to the seasonal and regulatory hunting restrictions of TPWD for non-native species.

The commission has engaged in several rulemakings over the years to address the threat posed by CWD, including rules to establish containment and surveillance zones in areas where CWD has been confirmed or is most likely to be detected. The purpose of the restriction zones is to both reduce the risk of CWD being spread from areas where it might exist and to increase detection of CWD by increased surveillance.

Section 40.6(c) sets forth requirements for animals within the Containment Zone (CZ). It provides that for movement from a CZ, no non-native CWD susceptible species may be transported outside the CZ unless from a herd with a certified status. This prevents unmonitored animals from being transported outside the zone and potentially posing a risk of exposing or spreading CWD to another part of the state. It also addresses that non-native CWD susceptible species may not be released within the CZ unless released to a high fence premises. It provides test requirements for these species, as well as carcass movement restrictions. Any escaped non-native CWD susceptible species which originated or resided in a CZ shall be captured and returned to the high fence premise of origin. Herd plans will have primacy for facilities within the zone and all non-native CWD susceptible species released in a CZ shall be officially identified.

Section 40.6(d) sets forth requirements for animals within the Surveillance Zone (SZ). It provides that prior to movement of a non-native CWD susceptible species, the premise of origin shall have an epidemiological risk assessment conducted by the commission. This will allow the agency to individually evaluate the risk of movement from a facility based on that facility's testing history, current status, and other epidemiological factors. It provides test requirements for these species, as well as carcass movement restrictions. Any escaped non-native CWD susceptible species which originated or resided in an SZ shall be captured and returned to the high fence premise of origin. Herd plans will have primacy for facilities within the zone and all non-native CWD susceptible species released in an SZ shall be officially identified.

Section 40.6(e) provides for Carcass Movement Restrictions, which states that no person shall transport or cause the transport of any part of a susceptible species from a property within a CZ or SZ unless it meets certain requirements.

In 2016, those rules were modified in response to additional CWD discoveries in the Texas Panhandle and Medina County, creating additional surveillance zones and an additional containment zone in West Texas.

On December 18, 2019, the commission received confirmation that a free ranging 5.5-year-old female white-tailed deer killed in Val Verde County tested positive for CWD. Accordingly, the Executive Director issued an order declaring a high risk containment zone for portions of Val Verde County on December 20, 2019. This amendment replaces the Executive Order and establish a Containment Zone 4 in §40.6(b)(1)(D) and Surveillance Zone 4 in §40.6(b)(2)(D) for Val Verde County.

On January 28, 2020, the commission received confirmation that a 4.5-year-old male white-tailed deer and a 3.5-year-old female white-tailed deer killed in Medina County tested positive for CWD. The amendment takes the location of these mortalities into consideration and establishes Containment Zone 3 boundaries in §40.6(b)(1)(C) for Medina and Uvalde counties. The change to §40.6(b)(2)(C) extends the surveillance zone boundaries from F.M. 187 to the Sabinal River in Uvalde County.

On February 26, 2020, the commission received confirmation that a 5.5-year-old female white-tailed deer held in a deer breeding facility in Kimble County tested positive for CWD. The amendment establishes Surveillance Zone 5 in Kimble County in §40.6(b)(2)(E). This amendment does not create a CZ in Kimble County for two reasons. First, the discovery occurred in a breeder deer facility, which is required by law to be designed and built to both prevent the free movement of deer and contact with free-ranging deer. Second, the facility where CWD was discovered is operating under a commission herd plan, which restricts deer movement and requires CWD testing at an equal or higher level to what is required in a CZ.

With respect to the containment zones established by this rule-making, commission staff worked collaboratively with the Texas Parks and Wildlife Department and together tailored the CZs and SZs boundaries to, as much as possible, follow recognizable features such as roadways and power line rights-of-way, and county boundaries, and the commission notes that any designation of a CZ or SZ is accompanied by a public awareness effort.

#### SUMMARY OF COMMENTS AND AGENCY RESPONSE

The 30-day comment period ended August 10, 2020.

During this period, TAHC received rule comments from four individuals and a joint comment from the National Deer Alliance (NDA) and the Quality Deer Management Association. Of the five comments received, and to the extent that TAHC could determine, one commenter opposed adoption, two commenters supported adoption, and two commenters did not indicate support or opposition. A summary of comments relating to the rules and TAHC's responses follows:

**Comment:** One commenter requests the TAHC include a definition and clause regarding ownership of captive white-tailed deer based on the concern that confusion exists about the ownership of white-tailed deer in the state of Texas. The commenter asks the TAHC to specifically clarify that white-tailed deer are owned by the state and held in trust by the Texas Parks and Wildlife Department. The commenter's concern is that some consider white-tailed deer private property and seeks to distinguish the white-tailed deer from livestock.

**Response:** The main content of this comment is outside the scope of this amended rule. The TAHC will take the recommendation pertaining to ownership of captive white-tailed deer under advisement for future rulemaking, if necessary. No changes were made as a result of the comment.

**Comment:** One commenter does not want any reduction in the monitoring process of containment zones. The commenter does not want captive deer to be transported or released unless testing requirements are met to prevent harm to wildlife and the economy. The commenter also calls for increased enforcement of breeders' herd inventories.

**Response:** The amended rule does not change or reduce the monitoring requirements, it only extends these requirements to the newly adopted zones. Although beyond the scope of this amended rule, the TAHC will take the enforcement and transportation recommendations under advisement for future rulemaking, if necessary. No changes were made as a result of the comment.

**Comment:** One commenter calls for all CWD rules to be mandatory, not voluntary, and that the TAHC must ban the movement of all captive cervids to prevent the spread of CWD into the wild. The commenter requests the vehicles and farm equipment be limited to those sites. Further, the commenter asks for all captive farming to be put on hold and requests annual CWD testing.

**Response:** The main content of this comment is outside the scope of this amended rule. The TAHC will take the recommendations under advisement for future rulemaking, if necessary. No changes were made as a result of the comment.

**Comment:** One commenter generally supports the proposed containment zones and surveillance zones.

**Response:** The TAHC respectfully agrees. No changes were made as a result of the comment.

**Comment:** The National Deer Alliance (NDA) and the Quality Deer Management Association (QDMA) submitted a joint comment in support of the proposed amendments to better control CWD in Texas. The NDA and QDMA commented that the establishment of Containment Zone 4 and Surveillance Zone 5, in addition to the expansion of Surveillance Zone 3, will help reduce the spread of CWD by increasing the coverage of CWD regulations in Texas. The NDA and QDMA supports stakeholder engagement in the management process of CWD, and asks the TAHC to continue to increase such engagement in CWD disease management efforts.

Response: The TAHC respectfully agrees. No changes were made as a result of the comment.

#### STATUTORY AUTHORITY

The amendments to 40.6, concerning CWD Movement Restriction Zones, are adopted under the following statutory authority as found in Chapter 161 of the Texas Agriculture Code. The commission is vested by statute, §161.041(a), with the requirement to protect all livestock, domestic animals, and domestic fowl from disease. The commission is authorized, through §161.041(b), to act to eradicate or control any disease or agent of transmission for any disease that affects livestock.

Pursuant to §161.046, entitled "Rules", the commission may adopt rules as necessary for the administration and enforcement of this chapter.

Pursuant to §161.048, entitled "Inspection of Shipment of Animals or Animal Products", the commission may require testing, vaccination, or another epidemiologically sound procedure before or after animals are moved. An agent of the commission is entitled to stop and inspect a shipment of animals or animal products being transported in this state in order to determine if the shipment originated from a quarantined area or herd; or determine if the shipment presents a danger to the public health or livestock industry through insect infestation or through a communicable or non-communicable disease.

Pursuant to §161.054, entitled "Regulation of Movement of Animals", the commission, by rule, may regulate the movement of animals. The commission may restrict the intrastate movement of animals even though the movement of the animals is unrestricted in interstate or international commerce.

Pursuant to §161.0541, entitled "Elk Disease Surveillance Program", the commission by rule may establish a disease surveillance program for elk.

Pursuant to §161.0545, entitled "Movement of Animal Products", the commission may adopt rules that require the certification of persons who transport or dispose of inedible animal products, including carcasses, body parts, and waste material. The commission by rule may provide terms and conditions for the issuance, renewal, and revocation of a certification under this section.

Pursuant to §161.056(a), entitled "Animal Identification Program", the commission, in order to provide for disease control and enhance the ability to trace disease-infected animals or animals that have been exposed to disease, may develop and implement an animal identification program that is no more stringent than a federal animal disease traceability or other federal animal identification program. Section 161.056(d) authorizes the commission to by a two-thirds vote adopt rules to provide for an animal identification program more stringent than a federal program only for control of a specific animal disease or for animal emergency management.

Pursuant to §161.057, entitled "Classification of Areas", the commission by rule may prescribe criteria for classifying areas in the state for disease control. The criteria must be based on sound epidemiological principles. The commission may prescribe different control measures and procedures for areas with different classifications.

Pursuant to §161.061, entitled "Establishment", if the commission determines that a disease listed in §161.041 of this code or an agency of transmission of one of those diseases exists in a place in this state or among livestock, exotic livestock, domes-

tic animals, domestic fowl, or exotic fowl, or that a place in this state or livestock, exotic livestock, domestic animals, domestic fowl, or exotic fowl are exposed to one of those diseases or an agency of transmission of one of those diseases, the commission shall establish a quarantine on the affected animals or on the affected place. The quarantine of an affected place may extend to any affected area, including a county, district, pasture, lot, ranch, farm, field, range, thoroughfare, building, stable, or stockyard pen.

Pursuant to §161.101, entitled "Duty to Report", a veterinarian, a veterinary diagnostic laboratory, or a person having care, custody, or control of an animal shall report the existence of the diseases, if required by the commission, among livestock, exotic livestock, bison, domestic fowl, or exotic fowl to the commission within 24 hours after diagnosis of the disease.

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

#### §40.6. *CWD Movement Restriction Zones.*

##### (a) Definitions:

(1) Check Station--Department established mandatory check stations in any CZ or SZ or any portion of a CZ or SZ for the purpose of collecting biological information on Chronic Wasting Disease (CWD) susceptible species taken within a CZ or SZ.

(2) CWD Containment Zone (CZ)--A geographic area which would include a known affected area or a (quarantined) premises under a herd plan because a positive result was obtained in a CWD susceptible species or an area within Texas where CWD has been detected or where there is a high risk of CWD existing or where the commission has determined may exist.

(3) CWD Surveillance Zone (SZ)--A geographic area in the state which the commission has determined or where there is a risk of CWD existing and surveillance is necessary.

(4) CWD Non-Native Susceptible Species--A non-native cervid species which includes North American elk or wapiti (*Cervus Canadensis*), red deer (*Cervus elaphus*), Sika deer (*Cervus Nippon*), moose (*Alces alces*), and any associated subspecies and hybrids.

(5) CWD Native Susceptible Species--All mule deer, white-tailed deer, and native species under the jurisdiction of the Texas Parks and Wildlife Department are excluded from this definition and application of this section.

(6) Department--Texas Parks and Wildlife Department.

(7) High fence premises--A premises enclosed on all sides by a fence adequate to prevent the ingress or egress of all non-native CWD susceptible species.

(8) Unnatural Movement--Any artificially induced movement of a live susceptible species or the carcass of a susceptible species.

(b) Declaration of area restricted for CWD. CWD has been detected in susceptible species in different locations in Texas. This creates a high risk for CWD exposure or infection in susceptible species in these geographic areas. In order to protect other areas of the state from the risk of exposure and spread of CWD, restricted areas are created to protect against the spread of and exposure to CWD and have necessary surveillance to epidemiologically assess the risk. The high risk areas are delineated as follows:

##### (1) Containment Zone Boundaries:

(A) Containment Zone 1. That portion of the state within the boundaries of a line beginning in Culberson County where U.S. Highway (U.S.) 62-180 enters from the State of New Mexico;

thence southwest along U.S. 62-180 to Farm-to-Market Road (F.M.) 1111 in Hudspeth County; thence south on F.M. 1111 to I.H. 10 thence west along I.H. 10 to S.H. 20; thence northwest along S.H. 20 to F.M. 1088; thence south along F.M. 1088 to the Rio Grande River; thence northwest along the Rio Grande River to the Texas-New Mexico border.

(B) Containment Zone 2. That portion of the state within the boundaries of a line beginning where I.H. 40 enters from the State of New Mexico in Deaf Smith County; thence east along I.H. 40 to U.S. 385 in Oldham County; thence north along U.S. 385 to the Oklahoma state line.

(C) Containment Zone 3. That portion of the state lying within Bandera, Medina and Uvalde counties and depicted in the following figure and more specifically described by the following latitude-longitude coordinate pairs: -99.29398096800, 29.63444908360; -99.29332773120, 29.63427752770; -99.29197515170, 29.63446380410; -99.28980120500, 29.63440631430; -99.28546157340, 29.63391967310; -99.28331448540, 29.63349260780; -99.27911173640, 29.63228013080; -99.27707408560, 29.63149991510; -99.27316985040, 29.62960823290; -99.27131999510, 29.62960823290; -99.26954898230, 29.62850487190; -99.26786439810, 29.62600673210; -99.26627345800, 29.62600673210; -99.26339933220, 29.626339933220; -99.26212845190, 29.62161412050; -99.26212845190, 29.62161412050; -99.26097577450, 29.62000254920; -99.25904422740, 29.61659929130; -99.25852031490, 29.61543045890; -99.25542530450, 29.60803948970; -99.25435713440, 29.60531221090; -99.24874612880, 29.59175258830; -99.24811052520, 29.58993518740; -99.24725358040, 29.58621097370; -99.24703589450, 29.58432011200; -99.24698172710, 29.58242085350; -99.24702671480, 29.58052133190; -99.24758485430, 29.57675399920; -99.24807404080, 29.57490231860; -99.24946214790, 29.57130253450; -99.25035511180, 29.56956984140; -99.25251973150, 29.56627590750; -99.25378211040, 29.56472876540; -99.25325710140, 29.56298607620; -99.25544657520, 29.56298607620; -99.25541168140, 29.56282967970; -99.25528159920, 29.56282967970; -99.25622139150, 29.56221391510; -99.25504261370, 29.56097914730; -99.25483194400, 29.56036026660; -99.25473725430, 29.55911981810; -99.2546967400, 29.55787619690; -99.25449587580, 29.55725335060; -99.25442967320, 29.556015857260; -99.25437061060, 29.556015857260; -99.25431869370, 29.55538141000; -99.25427392780, 29.55538141000; -99.25423631720, 29.55413123350; -99.25420586590, 29.55350566630; -99.25418257660, 29.55225388400; -99.25417361860, 29.55162779310; -99.25415749310, 29.55162779310; -99.254100165170, 29.55162779310; -99.25417361860, 29.54974946600; -99.25422019650, 29.54849782350; -99.25425422780, 29.54787236100; -99.25429541650, 29.54662246390; -99.25434375860, 29.54662246390;

-99.25439924900, 29.54599815320; -99.254537435030, 29.54599815320; -99.25460855260, 29.54412851520; -99.254350660650, 29.54412851520; -99.25488195210, 29.54226511550; -99.254164565620, 29.54226511550; -99.25521920320, 29.54040961720; -99.253979316020, 29.53979316020; -99.25562000520, 29.53856367650; -99.253795077200, 29.53856367650; -99.25592233830, 29.53733917330; -99.25608400050, 29.53672894120; -99.253612013620, 29.53672894120; -99.25642823580, 29.53551281870; -99.25661077490, 29.53490704890; -99.253430288690, 29.53309962610; -99.25719985840, 29.53309962610; -99.25762693970, 29.53130828640; -99.25785072550, 29.53130828640; -99.253071502410, 29.52831867650; -99.25856279530, 29.52953462910; -99.252894761370, 29.52907119850; -99.25933543240, 29.52778023790; -99.25933543240, 29.52778023790; -99.25719999340, 29.52778023790; -99.26016794750, 29.52604667910; -99.252547372370, 29.52604667910; -99.26105959770, 29.52543550080; -99.26786439810, 29.52377034620; -99.26200958730, 29.52264823110; -99.26200958730, 29.52264823110; -99.26209138190, 29.52264823110; -99.26301706870, 29.52098637660; -99.26301706870, 29.52098637660; -99.26372022100, 29.52098637660; -99.26408114290, 29.5193514217; -99.26482149930, 29.51827711800; -99.26520086050, 29.51774482640; -99.26520086050, 29.51774482640; -99.2651721584560, 29.51669022800; -99.26637522220, 29.51616802580; -99.26637522220, 29.51616802580; -99.26718797250, 29.51513407470; -99.26760318030, 29.51462242830; -99.26845105560, 29.51361004800; -99.26888363900, 29.51310941440; -99.26976588280, 29.51211950920; -99.27021545570, 29.51163033580; -99.27021545570, 29.51163033580; -99.27114508000, 29.51163033580; -99.27159744210, 29.51018651370; -99.27091329830, 29.50877923790; -99.27302836510, 29.50877923790; -99.27302836510, 29.50877923790; -99.27433400540, 29.50756678400; -99.27433400540, 29.50756678400; -99.2740572490, 29.50756678400; -99.27242443680, 29.50698963390; -99.27040623640, 29.50677278350; -99.27040623640, 29.50677278350; -99.27040623640, 29.50632158070; -99.26907389590, 29.50632158070; -99.26841186290, 29.50560135910; -99.26841186290, 29.50560135910; -99.26534980190, 29.50560135910; -99.26644309680, 29.50482961160; -99.26456102910, 29.50428682390; -99.26450169420, 29.50400702400; -99.26450169420, 29.50400702400; -99.26372165590, 29.50313433010; -99.26258938810, 29.50313433010; -99.26258938810, 29.50283243010; -99.26258938810, 29.50283243010; -99.26070788430, 29.50221230660; -99.26070788430, 29.50221230660; -99.250189414480, 29.50157062390; -99.25885886180, 29.50157062390; -99.250090763500, 29.50124177610; -99.25764504140, 29.50056823240;



-99.25704397070,	29.50022360280;	-99.25644687330,	-99.22485195250,	29.44956856840;	-99.22483582780,
29.49987377970;	-99.25585380660,	29.49951879760;	29.44894195250;	-99.22482686890,	29.44831522400;
-99.25526483090,	29.49915869290;	-99.25468000440,	-99.22482507680,	29.44768844480;	-99.22483045240,
29.49879349950;	-99.25409938390,	29.49842325540;	29.44706167730;	-99.22484299470,	29.44643498410;
-99.25352302850,	29.49804799580;	-99.25295099500,	-99.22486270190,	29.44580842630;	-99.22488957230,
29.49766775830;	-99.25238333980,	29.49728258100;	29.44518206650;	-99.22492360330,	29.44455596720;
-99.25182011960,	29.49689250140;	-99.25126138930;	-99.22496479190,	29.44393019030;	-99.22501313390,
29.49649755780;	-99.25070720520,	29.49609779080;	29.44330479760;	-99.22506862460,	29.44267985080;
-99.25015762150,	29.49569323860;	-99.24961269370,	-99.22513125790,	29.44205541330;	-99.22520102820,
29.49528394190;	-99.24907247580,	29.49486994040;	29.44143154470;	-99.22527792760,	29.44080830900;
-99.24853701980,	29.49445127640;	-99.24800637980,	-99.22536194980,	29.44018576730;	-99.22545308560,
29.49402799030;	-99.24748060950,	29.49360012450;	29.43956398150;	-99.22555132630,	29.43894301240;
-99.24695975920,	29.49316772100;	-99.24644388120,	-99.22565666280,	29.43832922920;	-99.22576908330,
29.49273082360;	-99.24593302740,	29.49228947370;	29.43770377300;	-99.22588857720,	29.43708562470;
-99.24542724720,	29.49184371730;	-99.24492659200,	-99.22601513280,	29.43646854050;	-99.22614873740,
29.49139359660;	-99.24443111020,	29.49093915690;	29.43585257990;	-99.22628937850,	29.43523780480;
-99.24394085210,	29.49048044350;	-99.24345586530,	-99.22643704090,	29.43462427620;	-99.22659171100,
29.49001750170;	-99.24297619830,	29.48955037680;	29.43401205500,	-99.22675337270,	29.43340120170;
-99.24250189870,	29.48907911560;	-99.24203301420,	-99.22692200980,	29.43279177330;	-99.22709760710,
29.48860376500;	-99.24156959060,	29.48812437110;	29.43218384110;	-99.22728014560,	29.43157745520;
-99.24111167270,	29.48764098230;	-99.24065930820,	-99.22746960840,	29.43097267800;	-99.22766597560,
29.48715364620;	-99.24021254020,	29.48666241060;	29.43036957090;	-99.22786922840,	29.42976819240;
-99.23977141360,	29.48616732520;	-99.23933597250,	-99.22807934620,	29.42916860360;	-99.22829630810,
29.48566843790;	-99.23890625990,	29.48516579870;	29.42857086240;	-99.22852009370,	29.42797502990;
-99.23848231810,	29.48465945740;	-99.23806418930,	-99.22875067950,	29.42738116330;	-99.22898804400,
29.48414946410;	-99.23765191480,	29.48363586950;	29.42678932270;	-99.22923216210,	29.42619956700;
-99.23724553510,	29.48311872380;	-99.23684509140,	-99.22948301030,	29.42561195410;	-99.22974056440,
29.48259807830;	-99.23645062330,	29.48207398550;	29.42502654270;	-99.23000479750,	29.42444339070;
-99.23606216940,	29.48154649690;	-99.23567976840,	-99.23027568450,	29.42386255530;	-99.23055319830,
29.48101566400;	-99.23530345800,	29.48048154010;	29.42328409520;	-99.23083731110,	29.42270806760;
-99.23493327670,	29.47994417810;	-99.23456925970,	-99.2311279510,	29.42213452880;	-99.23142522060,
29.47940363050;	-99.23421144290,	29.47885995200;	29.42156353680;	-99.23172895890,	29.42099514800;
-99.23385986390,	29.47831319650;	-99.23351455530,	-99.23203918040,	29.42042941800;	-99.23235585360,
29.47776341620;	-99.23317555180,	29.47721066750;	29.41986640390;	-99.23267894700,	29.41930616130;
-99.23284288870,	29.47665500510;	-99.23251659740,	-99.23300842830,	29.41874874510;	-99.23334426610,
29.47609648280;	-99.23219671010,	29.47553515700;	29.41819421170;	-99.23368642620,	29.41764261580;
-99.23188325920,	29.47497108300;	-99.23157627540,	-99.23403487460,	29.41709401160;	-99.23438957700,
29.47440431650;	-99.23127578900,	29.47383491360;	29.41654845450;	-99.23475049760,	29.41600599790;
-99.23098183070,	29.47326293140;	-99.23069442920,	-99.23511760220,	29.41546669510;	-99.23549085300,
29.47268842530;	-99.23041361230,	29.47211145330;	29.41493060080;	-99.23587021330,	29.41439776750;
-99.23013940880,	29.47153207240;	-99.22987184580,	-99.23625564520,	29.41386824850;	-99.23664711120,
29.4709534030;	-99.22961094900,	29.47036631340;	29.41334209630;	-99.23704457250,	29.41281936340;
-99.2292035674470,	29.46978005110;	-99.22910925810,	-99.23744798880,	29.41230010070;	-99.23785732050,
29.46919161040;	-99.22886851420,	29.46860104990;	29.41178435980;	-99.23827252800,	29.41127219330;
-99.22863453640,	29.46800842820;	-99.22840734800,	-99.23869356830,	29.41076365050;	-99.23912040090,
29.46741380410;	-99.22818697160,	29.46681723680;	29.41025878320;	-99.23955298360,	29.40975764060;
-99.22797342860,	29.46621878420;	-99.22776674070,	-99.23999127250,	29.40926027210;	-99.24043522520,
29.46561850740;	-99.22756692860,	29.46501646410;	29.40876672790;	-99.24088479690,	29.40827705740;
-99.22737401090,	29.46441271530;	-99.22718800850,	-99.24133994440,	29.40779130750;	-99.24180062010,
29.46380732040;	-99.22700893840,	29.46320033880;	29.40730952830;	-99.24226678100,	29.40683176620;
-99.22683681950,	29.46259183160;	-99.22667166700,	-99.24273837850,	29.40635806960;	-99.24321536760,
29.46198185890;	-99.22651349980,	29.46137048010;	29.40588848560;	-99.24369770090,	29.40542305970;
-99.22636233140,	29.46075775790;	-99.22621817790,	-99.24418532880,	29.40496183890;	-99.24467820550,
29.46014375070;	-99.22608105370,	29.45952852120;	29.40450486850;	-99.24517627990,	29.40405219490;
-99.22595097230,	29.45891212880;	-99.22582794540,	-99.24567950340,	29.40360386180;	-99.24618782760,
29.45829463610;	-99.22571198730,	29.45767610310;	29.40315991410;	-99.24670119940,	29.40272039630;
-99.22560310710,	29.45705659180;	-99.22550131810,	-99.24721957040,	29.40228535230;	-99.24774288740,
29.45643616400;	-99.22540662860,	29.45581487970;	29.40185482450;	-99.24827109850,	29.40142885510;
-99.22531904820,	29.45519280240;	-99.22523858620,	-99.24880415330,	29.40100748820;	-99.24934199700,
29.45456999230;	-99.22516525050,	29.45394651110;	29.40059076430;	-99.24988457660,	29.40017872500;
-99.22509904830,	29.45332242140;	-99.22503998590,	-99.25043183920,	29.39977141190;	-99.25098372980,
29.45269778500;	-99.22498806870,	29.45207266380;	29.39936886420;	-99.25154019380,	29.39897112260;
-99.22494330300,	29.45144711930;	-99.22490569240,	-99.25210117630,	29.39857822710;	-99.25266662160,
29.45082121360;	-99.22487524130,	29.45019500990;	29.39819021600;	-99.25323647320,	29.39780712710;

-99.25381067440, 29.39705587160; -99.25555880810, 29.39596684680; -99.25734401800, 29.39492411270; -99.25916471140, 29.39392860290; -99.26101926220, 29.39298120630; -99.26290601760, 29.39208276970; -99.26482329240, 29.39123409570; -99.26676937620, 29.39043594330; -99.26874253330, 29.38968902520; -99.27074100230, 29.38899401000; -99.27276300000, 29.38835151890; -99.27480672240, 29.38776212570; -99.27687034530, 29.38722635730; -99.27895202880, 29.38674469210; -99.28104991340, 29.38631756220; -99.28316212880, 29.38594534770; -99.28528678950, 29.38562838200; -99.28742200090, 29.38536694900; -99.28956585490, 29.38516128160; -99.29171644190, 29.38501156400; -99.29387184020, 29.38491793040; -99.29603012840, 29.38488046380; -99.29818937960, 29.38489919800; -99.30034766770, 29.38497411640; -99.30250306600, 29.38510515180; -99.30465365290, 29.38529218720; -99.30679750700, 29.38553505570; -99.30893271830, 29.38583353980; -99.31105737900, 29.38618737240; -99.31316959440, 29.38659623740; -99.31526747890, 29.38705977000; -99.31734916240, 29.38757755490;	29.39742900030; -99.25497189930, 29.39632475840; -99.25674492630, 29.39526648910; -99.25855397030, 29.39425513670; -99.26039741800, 29.39329160590; -99.26227362450, 29.39237675760; -99.26418091450, 29.39151141010; -99.26611758750, 29.39069633570; -99.26808191420, 29.38993226340; -99.27007214300, 29.38921987610; -99.27208649690, 29.38855981060; -99.27412317920, 29.38795265720; -99.27618037290, 29.38739895770; -99.27825624160, 29.38689920840; -99.28034893390, 29.38645385490; -99.28245658140, 29.38606329600; -99.28457730380, 29.38572788010; -99.28670920850, 29.38544790750; -99.28885039460, 29.38522362900; -99.29099894950, 29.38505524400; -99.29315295810, 29.38494290440; -99.29531049720, 29.38488670920; -99.29746964140, 29.38488670930; -99.29962846410, 29.38494290470; -99.30178504010, 29.38505524440; -99.30393744340, 29.38522362960; -99.30608375520, 29.38544790810; -99.30822205950, 29.38572788090; -99.31035044820, 29.38606329700; -99.31246702130, 29.38645385590; -99.31456989240, 29.38689920970; -99.31665718310, 29.38739895910; -99.31872703220,	-99.25438916960, 29.39668777950; -99.25614983660, 29.39561407830; -99.25794705340, 29.39458698450; -99.25977921370, 29.39360741520; -99.26164468540, 29.39267624700; -99.26354180190, 29.39179431060; -99.26546887110, 29.39096239480; -99.26742417330, 29.39018124370; -99.26940596420, 29.38945155490; -99.27141247580, 29.38877398160; -99.27344191600, 29.38814912760; -99.27549247550, 29.38757755340; -99.27756232460, 29.38705976880; -99.27964961540, 29.38659623620; -99.28175248650, 29.38618737140; -99.28386905970, 29.38583353900; -99.28599744840, 29.38553505490; -99.28813575260, 29.38529218670; -99.29028206450, 29.38510515140; -99.29243446780, 29.38497411620; -99.29459104380, 29.38489919780; -99.29674986650, 29.38488046380; -99.29890901080, 29.38491793050; -99.30106654970, 29.38501156430; -99.30322055840, 29.38516128210; -99.30536911330, 29.38536694970; -99.30751029940, 29.38562838280; -99.30964220400, 29.38594534860; -99.31176292640, 29.38631756320; -99.31387057390, 29.38674469330; -99.31596326620, 29.38722635860; -99.31803913480, 29.38776212710;	-99.31941278520, 29.38814912920; -99.32145650770, 29.38877398330; -99.32347850520, 29.38945155670; -99.32547697410, 29.39018124570; -99.32745013130, 29.39096239690; -99.32939621490, 29.39179431280; -99.33131348960, 29.39267624930; -99.33320024500, 29.39360741780; -99.33505479570, 29.39458698710; -99.33687548900, 29.39561408110; -99.33866069880, 29.39668778240; -99.34040883240, 29.39780713010; -99.34211833040, 29.39897112570; -99.34378766750, 29.40017872820; -99.34541535320, 29.40142858550; -99.34699993610, 29.40272039970; -99.34854000280, 29.40405219840; -99.34961401930, 29.40456670370; -99.35265017030, 29.40451658610; -99.36276132920, 29.40449740190; -99.36404470070, 29.40447342280; -99.36935478840, 29.40444214140; -99.39467281040, 29.40436982830; -99.40036187830, 29.40490812360; -99.40669906710, 29.40654189500; -99.41263095670, 29.40920800740; -99.41792972630, 29.41280407910; -99.42116511300, 29.41596015990; -99.43579423700, 29.42911147900; -99.43733855460, 29.43165455740; -99.44117203820, 29.43170579960; -99.45528658420, 29.43169676660;	29.38795265870; -99.32077759170, 29.38855981230; -99.32280703180, 29.38921987790; -99.32481354330, 29.38993226530; -99.32679533410, 29.39069633770; -99.32875063630, 29.39151141230; -99.33067770540, 29.39237675990; -99.33257482190, 29.39329160840; -99.33444029340, 29.39425513930; -99.33627245370, 29.39526649180; -99.33806967040, 29.39632476130; -99.33983033730, 29.39742900330; -99.34155288510, 29.39857823010; -99.34323577680, 29.39977141510; -99.34487750960, 29.40100749140; -99.34647661900, 29.40228535570; -99.34803167870, 29.40360386530; -99.34954130070, 29.40457229290; -99.35420483420, 29.40453939300; -99.35805686850, 29.40449740190; -99.36402646230, 29.40449225560; -99.36934759920, 29.40447337430; -99.38827919840, 29.40437673300; -99.39820120510, 29.40460498180; -99.40461991870, 29.40587865580; -99.41071317530, 29.40821013940; -99.41624697110, 29.41150990280; -99.42100874150, 29.41434259960; -99.42282442660, 29.42911145320; -99.43616215450, 29.43074042980; -99.43975616110, 29.43168541780; -99.45056528900, 29.43169676660; -99.45564319100,	-99.32009632840, 29.38835152050; -99.32213301070, 29.38899401180; -99.32414736460, 29.38968902700; -99.32613759330, 29.39043594530; -99.32810191990, 29.39123409790; -99.33003859280, 29.39208277200; -99.33194588270, 29.39298120870; -99.33382208920, 29.39392860540; -99.33566553680, 29.39492411530; -99.33747458070, 29.39596684960; -99.33924760750, 29.39705587460; -99.34098303360, 29.39819021910; -99.34267931290, 29.39936886730; -99.34433493000, 29.40059076750; -99.34594840800, 29.40185482790; -99.34751830690, 29.40315991760; -99.34904322640, 29.40450487200; -99.35050123300, 29.40453969670; -99.35797484070, 29.40451617140; -99.36276136610, 29.40449232450; -99.36934056360, 29.40447360200; -99.37900433080, 29.40441146420; -99.39593697240, 29.40442516060; -99.40250450530, 29.40533328810; -99.40873305360, 29.40732016600; -99.41447819060, 29.41030949970; -99.41951925170, 29.41418649100; -99.422277379040, 29.41601119390; -99.43579426300, 29.42948300350; -99.43809278170, 29.43167342530; -99.44520543740, 29.43170816580; -99.45528663350, 29.43169589820;
----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

-99.46025154270,	29.43162855960;	-99.46284542930,	-99.48839616100,	29.53487544920;	-99.48843972110,
29.43167941060;	-99.46500679060,	29.43185818520;	29.53559854990;	-99.48847504610,	29.53632199420;
-99.46715017930,	29.43216028800;	-99.46926642370,	-99.48850213230,	29.53704571050;	-99.48852097680,
29.43258442620;	-99.47134646950,	29.43312878550;	29.53776962680;	-99.48853157750,	29.53849367160;
-99.47338141630,	29.43379103640;	-99.47536255580,	-99.48853393320,	29.53921777300;	-99.48852804350,
29.43456834530;	-99.47728140980,	29.43545738600;	29.53994185910;	-99.48851390880,	29.54066585830;
-99.47912976570,	29.43645435510;	-99.48089971230,	-99.48849153040,	29.54138969860;	-99.48846091010,
29.43755498560;	-99.48258367290,	29.43875456770;	29.54211330840;	-99.48842205100,	29.54283661590;
-99.48417443800,	29.44004796820;	-99.48566519710,	-99.48837495660,	29.54355954940;	-99.48831963150,
29.44142965260;	-99.48704956530,	29.44289370630;	29.54428203710;	-99.48825608100,	29.54500400740;
-99.48832161260,	29.44443386370;	-99.48947589080,	-99.48818431110,	29.54572538880;	-99.48810432880,
29.44604353360;	-99.49050745280,	29.44771582580;	29.54644610970;	-99.48801614180,	29.54716609850;
-99.49141187730,	29.44944358210;	-99.49218528510,	-99.48791975880,	29.54788528400;	-99.48781518910,
29.45121940600;	-99.49282436080,	29.45303569640;	29.54860359470;	-99.48770244280,	29.54932095950;
-99.49332635890,	29.45488467620;	-99.49368912360,	-99.48758153100,	29.55003730720;	-99.48745246560,
29.45675843090;	-99.49391109450,	29.45864893720;	29.55075256670;	-99.48731525900,	29.55146666710;
-99.49399131300,	29.46054810040;	-99.49399137410,	-99.48716992480,	29.55217953750;	-99.48701647710,
29.46078000060;	-99.49394608330,	29.47131692420;	29.55289110740;	-99.48685493110,	29.55360130590;
-99.49303086010,	29.47170384800;	-99.49182470320,	-99.48668530260,	29.55431006280,	-99.48650760810,
29.47240671630;	-99.49122596360,	29.47291000460;	29.55501730770;	-99.48632186520,	29.55572297040;
-99.49052309490,	29.47370832400;	-99.49017599950,	-99.48612809220,	29.55642698100;	-99.48592630800,
29.47419425760;	-99.48970742120,	29.47513141520;	29.55712926960;	-99.48571653250,	29.55782976650;
-99.48950784070,	29.47578221900;	-99.48936032570,	-99.48549878630,	29.55852840220;	-99.48527309090,
29.47644170060;	-99.48930826110,	29.47748298720;	29.55922510750;	-99.48503946860,	29.55991981320;
-99.48936900240,	29.47897549740;	-99.48945577690,	-99.48479794220,	29.56061245030;	-99.48454853560,
29.48037255690;	-99.48986361360,	29.48144855270;	29.56130295020;	-99.48429127340,	29.56199124430;
-99.49006319320,	29.48186506680;	-99.49023994020,	-99.48402618100,	29.56267726440;	-99.48375328440,
29.48220237920;	-99.49038425640,	29.48261999990;	29.56336094230;	-99.48347261050,	29.56404221030;
-99.49058043490,	29.48297377290;	-99.49144289720;	-99.48318418720,	29.56472100070,	-99.48288804280,
29.48520586050;	-99.49146025260,	29.48596947110;	29.56539724620;	-99.48258420650,	29.56607087960;
-99.49128670440,	29.48640334020;	-99.49041896610,	-99.48227270840,	29.56674183420;	-99.48195357920,
29.48783510870;	-99.49008922520,	29.48818220450;	29.56741004330;	-99.48162685040,	29.56807544060;
-99.48940370650,	29.48854664950;	-99.48933429290,	-99.48129255420,	29.56873796010;	-99.48095072380,
29.48862475060;	-99.48929090600,	29.48885904040;	29.56939753600;	-99.48060139270,	29.57005410290;
-99.48930826060,	29.48905862010;	-99.48942974420,	-99.48024459570,	29.57070759560;	-99.47988036800,
29.48943174770;	-99.48958593690,	29.48976148850;	29.57135794930;	-99.47950874540,	29.57200509940;
-99.48972812400,	29.48998310990;	-99.48988096780,	-99.47912976490,	29.57264898160;	-99.47474346380,
29.49014329380;	-99.49044499830,	29.49046435680;	29.57328953210;	-99.47834988030,	29.57392668730;
-99.49091293690,	29.49055896840;	-99.49123450310,	-99.47794905340,	29.57456038390;	-99.47754102280,
29.49062970300;	-99.49160384980,	29.49071130170;	29.57519055900;	-99.47712582870,	29.57581715010;
-99.49188549760,	29.49079630390;	-99.49224138230;	-99.47670351220,	29.57644009500;	-99.47627411520;
29.49090606270;	-99.49254728100,	29.49100040490;	29.57705933190;	-99.47583768000,	29.57767479920;
-99.49295631430,	29.49112655560;	-99.49326678820,	-99.47539425000,	29.57828643580;	-99.47494386900,
29.49122230900;	-99.49348527550,	29.49129011330;	29.57889418110;	-99.47448658160,	29.57949797480;
-99.49365939680,	29.49136672700;	-99.49382891480,	-99.47402243300,	29.58009775670;	-99.47355146920,
29.49144131530;	-99.49380431280,	29.49535632120;	29.58069346760;	-99.47307373690,	29.58128504800;
-99.49374260930,	29.49697368970;	-99.49353880480,	-99.47258928330,	29.58187243950;	-99.47209815630;
29.49886575410;	-99.49319397040,	29.50074210490;	29.58245558350;	-99.47160040480,	29.58303442230;
-99.49270957640,	29.50259470700;	-99.49216413460,	-99.47109607790,	29.58360889830;	-99.47058522560,
29.50419178730;	-99.49220486760,	29.50986461730;	29.58417895450;	-99.47006789850,	29.58474453440;
-99.49227401340,	29.51322260310;	-99.49231519930,	-99.46954414780,	29.58530558160;	-99.46901402560;
29.51419752850;	-99.49225324960,	29.51609719550;	29.58586204070;	-99.46847758420,	29.58641385620;
-99.49204937970,	29.51798924970;	-99.49170445440,	-99.46793487690,	29.58696097330;	-99.46738595740;
29.51986558990;	-99.49121994180,	29.52171817900;	29.58750333790;	-99.46683088010,	29.58804089590;
-99.49059791160,	29.52353908270;	-99.48988360190,	-99.46626970010,	29.58857359410;	-99.46570247300,
29.52522907280;	-99.48981720110,	29.52537233900;	29.58910137940;	-99.46512925500,	29.58962419960;
-99.48977461740,	29.52546376870;	-99.48888609660,	-99.46455010290,	29.59014200260;	-99.46396507420,
29.52719807320;	-99.48786974820,	29.52887783310;	29.59065473710;	-99.46337422680,	29.59116235210;
-99.48774308830,	29.52905763380;	-99.48775192650,	-99.46277761930,	29.59166479730;	-99.46217531100,
29.52911160590;	-99.48786113720,	29.52982398130;	29.59216202260;	-99.46156736150,	29.59265397880;
-99.48796217160,	29.53054807230;	-99.48805501940,	-99.46095383120,	29.59314061690;	-99.46033478080,
29.53126760750;	-99.48813967140,	29.53198791570;	29.59362188870;	-99.45971027180,	29.59409774630;
-99.48821611890,	29.53270892550;	-99.48828435420,	-99.45908036620,	29.59456814250;	-99.45844512630;
29.53343056540;	-99.48834437030,	29.53415276380;	29.59503303050;	-99.45780461530,	29.59549236430;

-99.45715889660,	29.59594609800;	-99.45650803440,	-99.38204155330,	29.60883694710;	-99.38124735020,
29.59639418670;	-99.45585209320,	29.59683658590;	29.60863031450;	-99.38045554450,	29.60841677660;
-99.45519113810,	29.59727325160;	-99.45452523470,	-99.37966621480,	29.60819635470;	-99.37887943960,
29.59770414040;	-99.45385444900,	29.59812920960;	29.60796907070;	-99.37809529700,	29.60773494710;
-99.45317884770,	29.59854841690;	-99.45249849780,	-99.37731386500,	29.60749400730;	-99.37653522100,
29.59896172060;	-99.45181346670,	29.59936907980;	29.60724627530;	-99.37575944260,	29.60699177550;
-99.45112382250,	29.59977045400;	-99.45042963370,	-99.37498660670,	29.60673053330;	-99.37421679010;
29.60016580310;	-99.44973096910,	29.60055808810;	29.60646257460;	-99.37345006920,	29.60618792610;
-99.44902789810,	29.60093827020;	-99.44832049050,	-99.37268652030,	29.60590661520;	-99.37192621920,
29.60131531140;	-99.44760881650,	29.60168617410;	29.60561866960;	-99.37116924130,	29.60532411800;
-99.44689294680,	29.60205082160;	-99.44617295240,	-99.37041566190,	29.60502298980;	-99.36966555580,
29.60240921770;	-99.44544890480,	29.60276132660;	29.60471531470;	-99.36891899740,	29.60440112350;
-99.44472087590,	29.60310711350;	-99.44398893800,	-99.36817606100,	29.60408044730;	-99.36743682020,
29.60344654390;	-99.44325316380,	29.60377958420;	29.60375331790;	-99.36670134860,	29.60341976790;
-99.44251362630,	29.60410620120;	-99.44177039890,	-99.36665320460,	29.60339739890;	-99.36650640510,
29.60442636260;	-99.44102355550,	29.60474003650;	29.60348331630;	-99.36590533310,	29.60382759490;
-99.44027317030,	29.60504719170;	-99.43951931770,	-99.36530034800,	29.60416665140;	-99.36469151000,
29.60534779770;	-99.43876207260,	29.60564182460;	29.60450045240;	-99.36407887940,	29.60482896470;
-99.43800151030,	29.60592924330;	-99.43723770620,	-99.36346251690,	29.60515215890;	-99.36284248360;
29.60621002520;	-99.43647073620,	29.60648414230;	29.6054699400;	-99.36221884110,	29.60578244740;
-99.43570067660,	29.60675156750;	-99.43492760370,	-99.36159165100,	29.60608948530;	-99.36096097570,
29.60701227410;	-99.43415159440,	29.60726623630;	29.60639107730;	-99.36032687770,	29.60668719350;
-99.43337272580,	29.60751342880;	-99.43259107520,	-99.35968941980,	29.60697780450;	-99.35904866520,
29.60775382700;	-99.43180672020,	29.60798740720;	29.60726288180;	-99.35840467750,	29.60754239690;
-99.43101973890,	29.60821414590;	-99.43023020930,	-99.35775752050,	29.60781632220;	-99.35710725840,
29.60843402080;	-99.42943821000,	29.60864701000;	29.60808463070;	-99.35645329570,	29.60834729580;
-99.42864381950,	29.60885309230;	-99.42784711680,	-99.35579767710,	29.60860429150;	-99.35513848770,
29.60905224720;	-99.42704818110,	29.60924445500;	29.60885559230;	-99.35447645290,	29.60910117330;
-99.42624709170,	29.60942969660;	-99.42544392820,	-99.35381163830,	29.60934101040;	-99.35370668800,
29.60960795340;	-99.42463877050,	29.60977920790;	29.60937781120;	-99.35274370020,	29.61096363800;
-99.42383169840,	29.60994344300;	-99.42302279230,	-99.35160081870,	29.61258047620;	-99.35033933010,
29.61010064230;	-99.42221213250,	29.61025079030;	29.61412852320;	-99.34896463490,	29.61560114870;
-99.42139979940,	29.61039387210;	-99.42058587390,	-99.34748261710,	29.61699204200;	-99.34589962330,
29.61052987340;	-99.41977043680,	29.61065878060;	29.61829524420;	-99.34422243220,	29.61950517170;
-99.41895356920,	29.61078058110;	-99.41813535210,	-99.34245822670,	29.62061663950;	-99.34061456430,
29.61089526270;	-99.41731586700,	29.61100281390;	29.62162488580;	-99.33869934400,	29.62252558970;
-99.41649519520,	29.61110322410;	-99.41567341830,	-99.33672077000,	29.62331489030;	-99.33468732150,
29.61119648340;	-99.41485061790,	29.61128258240;	29.62398940730;	-99.33393465930,	29.62420601000;
-99.41402687590,	29.61136151270;	-99.41320227400,	-99.33263893410,	29.62479972500;	-99.33214657120,
29.61143326630;	-99.41237689420,	29.61149783610;	29.62500898960;	-99.33070040960,	29.62578711040;
-99.41155081860,	29.61155521570;	-99.41072412920,	-99.32939509940,	29.62641606870;	-99.32851599930,
29.61160539940;	-99.40989690810,	29.61164838220;	29.62681745510;	-99.32831513960,	29.62693672860;
-99.40906923760,	29.61168415990;	-99.40824119990,	-99.32665327380,	29.62785167960;	-99.32491533690,
29.61171272890;	-99.40741287730,	29.61173408630;	29.62879770430;	-99.32383742340,	29.62932177840;
-99.40658435220,	29.61174823000;	-99.40575570680,	-99.32327286020,	29.62966075940;	-99.32142884570,
29.61175515870;	-99.40492702350,	29.61175487160;	29.63066873880;	-99.31951328580,	29.63156916590;
-99.40409838460,	29.61174736880;	-99.40326987260,	-99.31763144330,	29.63232263280;	-99.31539899730,
29.61173265100;	-99.40244156970,	29.61171071960;	29.63314394540;	-99.31530194160,	29.63317949240;
-99.40161355820,	29.61168157690;	-99.40078592050,	-99.31326815540,	29.63385368250;	-99.31118822810,
29.61164522570;	-99.39995873870,	29.61160166970;	29.63441018870;	-99.30907107190,	29.63484662820;
-99.39913209510,	29.61155091320;	-99.39830607180,	-99.30692576080,	29.63516113030;	-99.30476148800,
29.61149296130;	-99.39748075090,	29.61142781960;	29.63535234600;	-99.30258753050,	29.63541945700;
-99.39665621450,	29.61135549470;	-99.39583254430;	-99.30041320580,	29.63536217460;	-99.29824782800;
29.61127599370;	-99.39500982240,	29.61118932460;	29.63518074540;	-99.29610068160,	29.63487594560;
-99.39418813040,	29.61109549590;	-99.39336755010,	-99.29398096800,	29.63444908360.	
29.61099451710;	-99.39254816290,	29.61088639800;			
-99.39173005030,	29.61077114960;	-99.39091329350,			
29.61064878320;	-99.39009797370,	29.61051931090;			
-99.38928417200,	29.61038274570;	-99.38847196910,			
29.61023910120;	-99.38766144590,	29.61008839150;			
-99.38685268270,	29.60993063170;	-99.38604576010,			
29.60976583750;	-99.38524075810,	29.60959402510;			
-99.38443775680,	29.60941521180;	-99.38363683580,			
29.60922941530;	-99.38283807490,	29.60903665400;			

Figure 4 TAC §40.6(b)(1)(C)

(D) Containment Zone 4. That portion of the state lying within the boundaries of a line beginning in Val Verde County at the International Bridge and proceeding northeast along Spur 239 to U.S. 90; thence north along U.S. 90 to the intersection of U.S. 277/377, thence north along U.S. 277/377 to the U.S. 277/377 bridge at Lake Amistad (29.496183°, -100.913355°), thence west along the southern shoreline of Lake Amistad to International Boundary at Lake Amis-

tad dam, thence south along the Rio Grande River to the International Bridge on Spur 239.

(2) Surveillance Zone Boundaries:

(A) Surveillance Zone 1. That portion of the state within the boundaries of a line beginning where U.S. 285 enters from the State of New Mexico in Reeves County; thence southeast along U.S. 285 to R.M. 652; thence west along R.M. 652 to Rustler Springs Rd./FM 3541 in Culberson County; thence south along Rustler Springs Rd./F.M. 3541 to F.M. 2185; thence south along F.M. 2185 to Nevel Road; thence west along Nevel Road to County Road 501; thence south along County Road 501 to Weatherby Road; thence south along Weatherby Road to F.M. 2185; thence southwest along F.M. 2185 to S.H. 54; thence south on S.H. 54 to U.S. 90; thence south along U.S. 90 to the Culberson County line; thence southwest along the Culberson County line to the Rio Grande River in Hudspeth County; thence north along the Rio Grande River to F.M. 1088; thence northeast along F.M. 1088 to S.H. 20; thence southeast along S.H. 20 to I.H. 10; thence southeast along I.H. 10 to F.M. 1111; thence north on F.M. 1111 to U.S. 62/180; thence east and north along U.S. 62/180 to the New Mexico state line in Culberson County.

(B) Surveillance Zone 2. That portion of the state within the boundaries of a line beginning at the New Mexico state line where U.S. 60 enters Texas; thence northeast along U.S. 60 to U.S. 87 in Randall County; thence north along U.S. 87 to I.H. 27; thence north along U.S. 87/I.H. 27 to U.S. 287 in Moore County; thence north along U.S. 287 to the Oklahoma state line.

(C) Surveillance Zone 3. That portion of the state within the boundaries of a line beginning at U.S. 90 in Hondo in Medina County; thence west along U.S. 90 to the Sabinal River in Uvalde County; thence north along F.M. 187 to F.M. 470 in Bandera County; thence east along F.M. 470 to Tarpley in Bandera County; thence south along F.M. 462 to U.S. 90 in Hondo.

(D) Surveillance Zone 4. That portion of the state lying within a line beginning in Val Verde County at the confluence of Sycamore Creek and the Rio Grande River (29.242341°, -100.793906°); thence northeast along Sycamore Creek to U.S. 277; thence northwest on U.S. 277 to Loop 79; thence north along Loop 79 to the Union Pacific Railroad; thence east along the Union Pacific Railroad to Liberty Drive (north entrance to Laughlin Air Force Base); thence north along Liberty Drive to U.S. 90; thence west along U.S. 90 to Loop 79; thence north along Loop 79 to the American Electric Power (AEP) Ft. Lancaster-to-Hamilton Road 138kV transmission line (29.415542°, -100.847993°); thence north along the AEP Ft. Lancaster-to-Hamilton Road 138kV transmission line to a point where the AEP Ft. Lancaster-to-Hamilton Road 138kV transmission line turns northwest (29.528552°, -100.871618°); thence northwest along the AEP Ft. Lancaster-to-Hamilton Road 138kV transmission line to the AEP Ft. Lancaster-to-Hamilton Road maintenance road (29.569259°, -100.984758°); thence along the AEP Ft. Lancaster-to-Hamilton Road maintenance road to Spur 406; thence northwest along Spur 406 to U.S. 90; thence south along U.S. 90 to Box Canyon Drive; thence west along Box Canyon Drive to Bluebonnet Drive; thence southwest along Bluebonnet Drive to Lake Drive; thence south along Lake Drive to Lake Amistad (29.513298°, -101.172454°), thence southeast along the International Boundary to the International Boundary at the Lake Amistad dam; thence southeast along the Rio Grande River to the confluence of Sycamore Creek (29.242341°, -100.793906°).

(E) Surveillance Zone 5. That portion of the state lying within the boundaries of a line beginning on U.S. 83 at the Kerr/Kimble County line; thence north along U.S. 83 to I.H. 10; thence northwest along on I.H. 10 to F.M. 2169; thence east along F.M. 2169 to County

Road (C.R.) 410; thence east along C.R. 410 to C.R. 412; thence south along C.R. 412 to C.R. 470; thence east along C.R. 470 to C.R. 420; thence south along C.R. 420 to F.M. 479; thence east along F.M. 479 to C.R. 443; thence south along C.R. 443 to U.S. 290; thence west along U.S. 290 to I.H. 10; thence southeast along I.H. 10 to the Kerr/Kimble County line; thence west along the Kerr/Kimble County line to U.S. 83.

(c) Containment Zone Requirements:

(1) Movement. No non-native CWD susceptible species may be transported outside the CZ unless from a herd with a certified status as established through §40.3(c)(6) (relating to Herd Status Plans for Cervidae) of this chapter.

(2) Released Animals. No non-native CWD susceptible species may be released within the CZ outside a high fence premises.

(3) Testing. All non-native CWD susceptible species, 16 months of age or older, that are hunter harvested shall be tested for CWD. No part of a carcass of a susceptible species, either killed or found dead may be removed from the CZ unless a testable CWD sample from the carcass is collected and tested. The results shall be provided to the commission or the Department within 30 days of receiving the test results.

(4) Carcass Movement Restrictions. No part of a carcass of a susceptible species, either killed or found dead, within the CZ may be removed from the CZ unless it is in accordance with the requirements of subsection (g) of this section.

(5) Escaped Animals. Any escaped non-native CWD susceptible species which originated or resided in a CZ shall be captured and returned to the high fence premises of origin.

(6) Herd Plans. Facilities and associated properties in the CZ that have been issued a herd plan shall operate in accordance to the herd plan requirements as determined by the commission.

(7) Identification. All non-native CWD susceptible species released in a CZ shall be identified with a visible official identification device, which may include an eartag that conforms to the USDA alphanumeric national uniform ear tagging system and/or an animal identification number (AIN) and may include a RFID device. If a susceptible species is released into a high fence premises, the animal shall retain the acceptable official identification.

(d) Surveillance Zone Requirements:

(1) Movement. Prior to the movement of a non-native CWD susceptible species outside an SZ or from one premises in the SZ to another premises within the SZ, the premises of origin shall have an epidemiological risk assessment conducted by the commission.

(2) Released Animals. No non-native CWD susceptible species may be released within the SZ outside a high fence premises.

(3) Testing. All non-native CWD susceptible species, 16 months of age or older, that are hunter harvested shall be tested for CWD. No part of a carcass of a susceptible species, either killed or found dead may be removed from the SZ unless a testable CWD sample from the carcass is collected and tested. The results shall be provided to the commission or the Department within 30 days of receiving the test results.

(4) Carcass Movement Restrictions. No part of a carcass of a susceptible species, either killed or found dead, within the SZ may be removed from the SZ unless it is in accordance with the requirements of subsection (e) of this section.

(5) Escaped Animals. Any escaped non-native CWD susceptible species which originated or resided in an SZ shall be captured and returned to the high fence premises of origin.

(6) Herd Plans. Facilities and associated properties in the SZ that have been issued a herd plan shall operate in accordance with the herd plan requirements as determined by the commission.

(7) Identification. All non-native CWD susceptible species released in an SZ shall be identified with a visible official identification device, which may include an eartag that conforms to the USDA alphanumeric national uniform ear tagging system and/or an animal identification number (AIN), which may include a RFID device. If a susceptible species is released into a high fence premises, the animal shall retain the acceptable official identification.

(e) Carcass Movement Restrictions:

(1) No person shall transport or cause the transport of any part of a susceptible species from a property within a CZ or SZ unless:

(A) meat has been cut up and packaged (boned or filleted);

(B) a carcass has been reduced to quarters with no brain or spinal tissue present;

(C) a cleaned hide (skull and soft tissue must not be attached or present);

(D) a whole skull (or skull plate) with antlers attached, provided the skull plate has been completely cleaned of all soft tissue;

(E) finished taxidermy products;

(F) cleaned teeth; or

(G) tissue prepared and packaged for delivery to and use by a diagnostic or research laboratory with results accessible to the commission.

(2) A susceptible species harvested in a CZ or SZ may be transported from the CZ or SZ, provided it is accompanied by a Department-issued check-station receipt, which is required during the operation of the mandatory Department check-stations in the CZ or SZ, and that receipt shall remain with the susceptible species until it reaches the possessor's permanent residence. The skinned or unskinned head of a susceptible species from a CZ or SZ may be transported to a taxidermist for taxidermy purposes, provided all brain material, soft tissue, spinal column, and any unused portions of the head are disposed of by the taxidermist in a landfill in Texas permitted by the Texas Commission on Environmental Quality.

(f) The Executive Director may authorize movement. If movement is necessary or desirable to promote the objectives of this chapter and/or to minimize the economic impact of the restricted susceptible species without endangering those objectives or the health and safety of other susceptible species within the state, the Executive Director may authorize movement in a manner that creates minimal risk to the other susceptible animals in the state.

(g) Commission staff shall annually review the movement restrictions zones and make recommendations to the commission on whether the zones should be modified or rescinded.

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 October 16, 2020.

TRD-202004317

Mary Luedeker

General Counsel

Texas Animal Health Commission

Effective date: November 5, 2020

Proposal publication date: July 10, 2020

For further information, please call: (512) 719-0718

◆ ◆ ◆  
**TITLE 7. BANKING AND SECURITIES**

**PART 5. OFFICE OF CONSUMER  
CREDIT COMMISSIONER**

**CHAPTER 82. ADMINISTRATION**

**7 TAC §82.1, §82.2**

The Finance Commission of Texas (commission) adopts amendments to §82.1 (relating to Custody of Criminal History Record Information) and §82.2 (relating to Public Information Requests; Charges) in 7 TAC, Chapter 82, concerning Administration.

The commission adopts the amendments to §82.1 without changes to the proposed text as published in the September 4, 2020, issue of the *Texas Register* (45 TexReg 6199). The rule will not be republished.

The commission adopts amendments to §82.2 with changes to the proposed text as published in the September 4, 2020, issue of the *Texas Register* (45 TexReg 6199). The rule will be republished.

The commission received no written comments on the proposal.

In general, the purpose of the amendments in 7 TAC Chapter 82 is to implement changes resulting from the commission's review of the chapter under Texas Government Code, §2001.039. Notice of the review of 7 TAC Chapter 82 was published in the May 29, 2020, issue of the *Texas Register* (45 TexReg 3643). The commission received no comments in response to that notice.

The OCCC distributed an early precomment draft of the proposed amendments to interested stakeholders for review, and then held a stakeholder webinar regarding the amendments. The OCCC received no informal precomments on the rule text draft.

The adopted amendments are intended to specify employees with access to criminal history information, to specify methods of sending public information request, and to use consistent terminology to refer to charges collected for public information requests.

In §82.1, the amendments remove the director of strategic communications, administration and planning from the list of employees authorized to access criminal history record information.

In §82.2, the amendments clarify language on submitting public information requests and make terminology more consistent. Throughout §82.2, the amendments would replace current terminology such as "fee" and "cost" with "charge." These changes make the rule more internally consistent, and more consistent with the term "charge" as used in the Texas Public Information Act, Texas Government Code, Chapter 552, as well as rules adopted by the Office of the Attorney General, such as 1 TAC §70.3 (relating to Charges for Providing Copies of Public Information). An amendment removes §82.2(b)(3)(B), which de-

scribes requests submitted by fax and includes the OCCC's general fax number. By specifying that requests may be sent to a specified mailing address or to an email address designated by the OCCC, the rule will help ensure that any requests are promptly forwarded to the OCCC's public information officer. The amendments to §82.2(e), regarding inspections of records, clarify situations where the OCCC charges for labor or personnel time and does not charge for overhead.

In adopted §82.2, changes were made to correct an error to the text of the proposal as it was published in the *Texas Register*. Specifically, in §82.2(b)(3), the published version of the proposal mistakenly struck through the text "Public Information Officer, Office of Consumer Credit Commissioner, 2601 N. Lamar Blvd., Austin, TX 78705". The rules will not be republished for comment on this change.

The amendments are adopted under Texas Finance Code, §11.304, which authorizes the commission to adopt rules to enforce Chapter 14 and Title 4 of the Texas Finance Code. Additionally, Texas Finance Code, §14.157 authorizes the commission to adopt rules governing the custody of criminal history record information obtained under Texas Finance Code, Chapter 14, Subchapter D. Texas Government Code, §552.230 authorizes governmental bodies to adopt reasonable rules of procedure under which public information may be inspected and copied.

The statutory provisions affected by the adoption are contained in Texas Finance Code, Chapter 14.

§82.2. *Public Information Requests; Charges.*

(a) Definitions. The following words and terms, when used in this section, will have the following meanings, unless the context clearly indicates otherwise.

(1) Agency or OCCC--The Office of Consumer Credit Commissioner of the State of Texas.

(2) Commissioner--The Consumer Credit Commissioner of the State of Texas.

(3) Public information request--A written request made for public information pursuant to Texas Government Code, Chapter 552 (the Texas Public Information Act). Another name for a "public information request" is an "open records request," and these terms may be used synonymously.

(4) Readily available information--Public information that already exists in printed form, or information that is stored electronically, and is ready to be printed or copied without requiring any programming, but not information that is located in two or more separate buildings that are not physically connected with each other or information that is located in a remote storage facility as per Texas Government Code, §552.261.

(5) Standard paper copy--A printed impression on one side of a piece of paper that measures up to 8 1/2 inches by 14 inches. A piece of paper that is printed on both sides will be counted as two copies.

(b) Receipt of public information request.

(1) Generally. Upon receipt of a written public information request that clearly identifies the public information requested to be copied or examined pursuant to Texas Government Code, Chapter 552 (the Texas Public Information Act), the agency will make every reasonable effort to provide the information in the manner requested as quickly as possible without disruption of normal business activities.

All requests will be processed in accordance with the Texas Public Information Act, and all requests will be treated equally.

(2) Requests by email directed to OCCC public information officer or designee. Public information requests submitted via email must be sent to the OCCC's public information officer at an email address designated by the OCCC.

(3) Requests sent by mail or hand delivery. Public information requests, other than email requests, may be submitted to the OCCC by mail or hand delivery to Public Information Officer, Office of Consumer Credit Commissioner, 2601 N. Lamar Blvd., Austin, TX 78705.

(4) Confidential information. Information that is confidential by law will not be provided except under court order, attorney general directive, or other legal process.

(5) Charge waiver or reduction. Charges imposed by this section may be waived or reduced at the discretion of the commissioner as per Texas Government Code, §552.267.

(c) Copy and service charges. The cost to any person requesting copies of public information from the OCCC will be the applicable charges established by the Office of the Attorney General under 1 TAC Chapter 70 (relating to Cost of Copies of Public Information). This subsection outlines the OCCC's most common charges to produce copies of public information. These charges may be supplemented or modified as authorized by 1 TAC Chapter 70.

(1) Charges not collected. No charge will be collected for requests resulting in charges of \$5 or less.

(2) Application of charges. The following charges may apply to requests for public information:

(A) \$0.10 copy charge per page if paper copies are requested;

(B) \$15 per hour of labor or personnel time spent to locate (including pulling documentation from archives), compile, manipulate (including redacting mandated confidential information), reproduce, and prepare the information for delivery or inspection;

(C) 20% overhead charge, calculated by multiplying the total personnel cost under subparagraph (B) by 0.20.

(3) Certification. If certification of copies as true and accurate from the OCCC's records, or a certified statement verifying information on record with the OCCC is requested, an additional charge of \$5 per certification will be added to the charges described by this subsection. The certification will include the signature of the commissioner, or a designated custodian of records for the information being certified, and the OCCC seal.

(4) Nonstandard copies. The charge for nonstandard copies will be determined by reference to any recommended standards promulgated by the Office of the Attorney General, 1 TAC Chapter 70 (relating to Cost of Copies of Public Information).

(5) Cost estimates.

(A) Over \$40. If the anticipated charges under this subsection plus anticipated charges under subsection (d) of this section exceed \$40, the agency will send an estimate outlining the estimated cost to fulfill the request as per Texas Government Code, §552.2615.

(B) Over \$100. If the anticipated charges under this subsection plus anticipated charges under subsection (d) of this section exceed \$100, the agency will send a cost estimate as provided in subparagraph (A) of this paragraph. In addition, the agency may require cash prepayment or bond equal to the total anticipated charges prior to

providing copies of the requested information, as per Texas Government Code, §552.263.

(d) Delivery charges.

(1) U.S. mail. When public information is required to be mailed, the cost of postage will be added to the charges described by subsection (c) of this section.

(2) Expedited delivery. When a requestor asks and the agency agrees to provide public information by overnight delivery service or other expedited delivery, the cost of the service will be added to the charges described by subsection (c) of this section, unless the requestor arranges to pay the delivery charges directly. The agency is not required to provide expedited delivery without payment for the service.

(e) Inspection of records.

(1) Generally. Records access for purposes of inspection will be by appointment only and will only be available during regular business hours of the agency. If the safety of any public record or the protection of confidential information is at issue, or when a request for inspection would be unduly disruptive to the ongoing business of the office, physical access may be denied and the option of receiving copies at the usual charges will be provided.

(2) Redaction of confidential information from paper records. If confidential information must be redacted prior to a requestor's inspection of paper records, \$0.10 per page may be charged to prepare the inspection copies containing the remaining public information.

(3) Labor charges. The agency may assess charges for labor or personnel time, as described by subsection (c)(2) of this section, if production of the information requires programming or manipulation of data (including redaction). The agency will not charge overhead for an inspection where the requestor does not receive copies of documents.

(4) Over \$40. If a request for inspection would result in charges under Texas Government Code, §552.271 that exceed \$40, the agency will send an estimate outlining the estimated cost to fulfill the request as per Texas Government Code, §552.2615.

(5) Over \$100. If a request for inspection would result in charges of over \$100, the agency may require a 50% cash prepayment or a bond equal to the total anticipated charges prior to providing access to the requested information, as per Texas Government Code, §552.263 and 1 TAC §70.7 (relating to Estimates and Waivers of Public Information Charges).

(f) Agency officer for public information. The commissioner or the commissioner's designee is the agency's officer for public information.

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 October 16, 2020.

TRD-202004327

Audrey Spalding

Assistant General Counsel

Office of Consumer Credit Commissioner

Effective date: November 5, 2020

Proposal publication date: September 4, 2020

For further information, please call: (512) 936-7659

◆ ◆ ◆  
CHAPTER 83. REGULATED LENDERS AND  
CREDIT ACCESS BUSINESSES  
SUBCHAPTER B. RULES FOR CREDIT  
ACCESS BUSINESSES

The Finance Commission of Texas (commission) adopts amendments to §83.2003 (relating to Attempted Evasion of Applicability of Chapter), §83.4003 (relating to Denial, Suspension, or Revocation Based on Criminal History), §83.5001 (relating to Data Reporting Requirements), §83.5003 (relating to Examinations), §83.5004 (relating to Files and Records Required), and §83.6007 (relating to Consumer Disclosures); adopts new §83.5005 (relating to Separation Between Credit Access Business and Third-Party Lender); and adopts the repeal of §83.4007 (relating to License Reissuance) in 7 TAC, Chapter 83, Subchapter B, concerning Rules for Credit Access Businesses.

The commission adopts the amendments to §83.5001, §83.5003, and §83.5004, and adopts the repeal of §83.4007, without changes to the proposed text as published in the July 3, 2020, issue of the *Texas Register* (45 TexReg 4441). The rules will not be republished.

The commission adopts the amendments to §83.2003, §83.4003, and §83.6007, and adopts new §83.5005, with changes to the proposed text as published in the July 3, 2020, issue of the *Texas Register* (45 TexReg 4441). The rules will be republished.

The commission received two written comments on the proposal. The first comment was from the Texas Fair Lending Alliance and Faith Leaders 4 Fair Lending. This comment generally supports the amendments contained in the proposal, but recommends that the commission address further issues in the rules. The second comment was from the Online Lenders Alliance. This comment recommends changes to new §83.5005 as proposed. The commission's responses to these comments are included following the discussion of each applicable section.

The rules in 7 TAC Chapter 83, Subchapter B govern credit access businesses (CABs). In general, the purpose of the rule changes to 7 TAC Chapter 83, Subchapter B is to implement changes resulting from the commission's review of the subchapter under Texas Government Code, §2001.039. Notice of the review of 7 TAC Chapter 83, Subchapter B was published in the March 27, 2020, issue of the *Texas Register* (45 TexReg 2211). The commission received no comments in response to that notice.

The OCCC distributed an early precomment draft of proposed changes to interested stakeholders for review, and then held a stakeholder meeting and webinar regarding the rule changes. The OCCC received five informal precomments on the rule text draft. The OCCC appreciates the thoughtful input provided by stakeholders, and has incorporated changes suggested by stakeholders into the amendments and new rule.



Amendments to §83.2003 implement Texas Finance Code, §393.602(c), which prohibits a device, subterfuge, or pretense to evade the application of Texas Finance Code, Chapter 393, Subchapter G. In opinion no. KP-0277 (2019), the Texas attorney general addressed attempts to evade Chapter 393. The attorney general declined to determine whether a particular business practice was a device or subterfuge, stating: "Whether any specific extension of credit is substantially the same as that available to the public, or uses a device, subterfuge, or pretense to evade regulation as a credit access business, are fact questions that this office cannot decide through an attorney general opinion." In examinations, the OCCC has identified credit services organizations (CSOs) asserting that they provide non-CAB loans, and that their loans are not subject to the regulatory requirements for CABs. In some cases, the loans were not deferred presentment transactions or motor vehicle title loans, but the CSO notified consumers that it was a CAB licensed and examined by the OCCC, and that consumers could file complaints with the OCCC. To address these false and misleading representations, the OCCC published an advisory bulletin explaining that it intends to work with the Texas attorney general to address complaints that the OCCC receives about non-CAB loans. OCCC Advisory Bulletin B20-1, CSOs and Non-CAB Loans (Feb. 13, 2020).

The purpose of the amendments to §83.2003 is to make the rule's language more clear, and to specify practices that the OCCC has identified as a device, subterfuge, or pretense to evade Chapter 393. The list is not exclusive, because new attempts to evade Chapter 393 could arise from new facts. Based on a suggestion from stakeholder precomments, paragraphs (1) and (2) state that a device, subterfuge, or pretense includes a transaction that is not identified as a deferred presentment transaction or motor vehicle title loan, if the transaction is a deferred presentment transaction or motor vehicle title loan.

Since the proposal, a change has been made in the amendments to §83.2003. As originally proposed, §83.2003(3) - (6) included false or misleading representations made in connection with non-CAB loans, such as statements that a transaction is regulated by the OCCC if the transaction is not actually regulated by the OCCC. After further review, the OCCC believes that if it encounters these false and misleading statements, it would be more appropriate to address these statements by working with the Texas attorney general, rather than including these statements in a rule on a device, subterfuge, or pretense to evade Chapter 393. For this reason, the adoption does not include §83.2003(3) - (6) as originally proposed. As explained in advisory bulletin B20-1, all CSOs are subject to the general provisions of Chapter 393, including the enforcement authority of the Texas attorney general and the prohibition on false and misleading representations. The OCCC intends to work with the Texas attorney general to address that the OCCC receives about non-CAB loans. If a CSO makes false or misleading representations, or otherwise violates Chapter 393, this could result in civil liability and enforcement actions by the Texas attorney general.

The comment from the Texas Fair Lending Alliance and Faith Leaders 4 Fair Lending recommends including additional language in §83.2003 stating that a device, subterfuge, or pretense includes "any transaction that in form may appear on its face to be something other than a deferred presentment transaction or motor vehicle title loan, but in substance meets the definition of a deferred presentment transaction or motor vehicle title loan as defined in Texas Finance Code, §393.602." The commission declines to include this additional provision, because the commis-

sion believes that the adopted text in §83.2003(1) - (2) already describes these transactions in a clearer manner.

Amendments to §83.4003 relate to the OCCC's review of the criminal history of a CAB applicant or licensee. The OCCC is authorized to review criminal history of CAB applicants and licensees under Texas Occupations Code, Chapter 53; Texas Finance Code, §14.109; and Texas Government Code, §411.095. The amendments to §83.4003 ensure consistency with HB 1342, which the Texas Legislature enacted in 2019. HB 1342 included the following changes in Texas Occupations Code, Chapter 53: (1) the bill repealed a provision that generally allowed denial, suspension, or revocation for any offense occurring in the five years preceding the application, (2) the bill added provisions requiring an agency to consider correlation between elements of a crime and the duties and responsibilities of the licensed occupation, as well as compliance with conditions of community supervision, parole, or mandatory supervision, and (3) the bill removed previous language specifying who could provide a letter of recommendation on behalf of an applicant. Amendments throughout subsections (c) and (f) of §83.4003 implement these statutory changes from HB 1342. Other amendments to §83.4003 include technical corrections, clarifying changes, and updates to citations.

Since the proposal, a change has been made in §83.4003(d), to correct an internal reference that should refer to §83.4003(f)(1).

The comment from the Texas Fair Lending Alliance and Faith Leaders 4 Fair Lending recommends "adding a pattern of wrongfully using the criminal justice system to collect on civil debt as a ground for revoking a CAB license under 7 TAC §83.4003(f)." The commission believes that this additional language is unnecessary and goes beyond the intended scope of §83.4003. This section is intended to describe guidelines for how the OCCC reviews the criminal history of the principal parties of a CAB applicant or licensee, in accordance with Texas Occupations Code, Chapter 53. It is not intended to address every situation where a CAB interacts with criminal law enforcement. The issue of how CABs refer matters for criminal prosecution is addressed elsewhere in this adoption and in Texas Finance Code, §393.201(c)(3), which prohibits a CAB from threatening or pursuing criminal charges in the absence of criminal conduct. If a CAB violates Texas Finance Code, §393.201(c)(3), the OCCC could initiate an appropriate enforcement action under its authority in Texas Finance Code, Chapters 14 and 393, and would not have to rely on §83.4003. If a CAB or its principal party commits a criminal violation of a statute governing credit transactions, and is convicted of the offense, then the OCCC could consider this criminal history under the existing language at §83.4003(c)(1)(E). For these reasons, the commission believes that the additional text is unnecessary.

The adoption would repeal §83.4007. Currently, §83.4007 requires a licensee to return its license certificate in the event of reissuance of a license. When this section was adopted, it was based on the assumption that the OCCC would issue a paper license certificate. Because the OCCC now issues licenses through an online system, ALECS, this section is no longer necessary.

Amendments to §83.5001 relate to reporting violations. This section describes the requirement for CABs to provide quarterly and annual reports, implementing Texas Finance Code, §393.627. Currently, §83.5001(e)(2)(A) describes a \$100 administrative penalty for a CAB's first violation. Based on a re-

view of its enforcement guidelines, the OCCC believes that a better practice is to issue an injunction for the first reporting violation, not to impose an administrative penalty. For this reason, amendments to §83.5001(e) explain that the OCCC will issue an injunction for the first reporting violation. Amendments also specify that the OCCC may revoke the license of a CAB that fails to pay an administrative penalty resulting from a final order, as provided by Texas Finance Code, §393.614. This situation is rare, and typically occurs when a CAB has ceased doing business without telling the OCCC.

Amendments to §83.5003 specify the content of witness declarations and records declarations that OCCC examiners obtain from CABs during examinations. The amendments explain that these declarations must substantially comply with Texas Civil Practice and Remedies Code, Chapter 132, which governs unsworn declarations that may be used in lieu of a sworn declaration or affidavit. The amendments also replace the term "statement" with "declaration," and remove provisions that are not necessary to include in a declaration under Chapter 132.

The comment from the Texas Fair Lending Alliance and Faith Leaders 4 Fair Lending recommends including a statement in §83.5003 that the declarations must include an "acknowledgement that the statement and the accompanying records may be introduced in an enforcement action in which the licensee is a party," as well as a statement of truthfulness "under penalty of perjury." The commission believes that this text is unnecessary. The amendments are intended to simplify §83.5003, and to ensure that it is not necessary to amend the rule again if the Texas Legislature amends Texas Civil Practice and Remedies Code, Chapter 132. To the extent that Chapter 132 requires language to be included in the declaration in order for the declaration to be valid and admissible in a hearing, the adopted rule addresses these requirements by requiring the declarations to comply with Chapter 132.

Amendments to §83.5004(2)(B)(vi) provide recordkeeping requirements for threats or referrals for criminal prosecution. Currently, this provision requires a CAB to maintain a "criminal charge or complaint filed by" the CAB. In *Henry v. Cash Biz, LP*, 551 S.W.3d 111, 117-18 (Tex. 2018), the Texas Supreme Court found that a CSO did not file a criminal complaint when it forwarded information to a district attorney about checks returned for insufficient funds. The amendments to §83.5004 add text to specify that a CAB must maintain referrals, written statements threatening criminal prosecution, a written summary of any oral statement threatening criminal prosecution, and any information submitted to law enforcement relating to alleged criminal conduct by a consumer. This information will document the CAB's compliance with Texas Finance Code, §393.201(c)(3), which provides that a CAB may not threaten or pursue criminal charges against a consumer in the absence of criminal conduct.

An amendment to §83.5004(3) states that a CAB must maintain documentation and records of transfers of money between itself and any third-party lender, for the same time period that the CAB must maintain other documentation of its agreements with third-party lenders. This amendment is intended document a CAB's compliance with new §83.5005, described later in this adoption.

The comment from the Texas Fair Lending Alliance and Faith Leaders 4 Fair Lending recommends adding requirements to §83.5004 "regarding the number of declined ACH or debit transactions for accounts where such transactions are authorized by the customer." The comment states: "This information is important to ensure compliance with the recently ratified payment

provisions of the Consumer Financial Protection Bureau payday and auto title loan rule, which applies to CAB transaction." The OCCC will monitor this issue to determine whether a future rule amendment is appropriate. The federal rule described by the comment is currently in litigation in a federal district court. *Community Financial Services Association of America and Consumer Services Alliance of Texas v. Consumer Financial Protection Bureau*, case no. 1:19-cv-00295-LY (W.D. Tex.) Existing text in §83.5004 already requires a CAB to maintain "all legally required disclosures provided in connection with the transaction," "complete documentation of all payments made by or to the licensee during the transaction," "any other documentation created or obtained by the licensee in connection with the transaction," and for payday loans, "documentation relating to the personal check or authorization to debit a deposit account accepted in connection with the loan."

New §83.5005 describes requirements for separation between a CAB and a third-party lender. Under Chapter 393, CABs are a type of CSO, and a CSO is defined as a person who obtains for consumers, or assists consumers in obtaining, extensions of credit "by others." Tex. Fin. Code, §393.001(3). In this provision, the phrase "by others" means that a CAB must operate independently from any third-party lender. The OCCC is aware of two published decisions analyzing this separation requirement. First, the Fifth Circuit found that a CSO was sufficiently separate from a third-party lender where the CSO and lender were not the same entity, the CSO applied underwriting criteria selected by the lender (the CSO did not select the underwriting criteria), the CSO fee was not passed on to the lender, and the CSO fee did not directly benefit the lender. *Lovick v. Ritemoney Ltd.*, 378 F.3d 433, 438-42 (5th Cir. 2004). Second, a Texas bankruptcy court found that even though a CSO was a separate entity from a lender, the CSO violated Chapter 393 by falsely stating that it would issue a letter of credit if required by the lender. *In re Grayson*, 488 B.R. 579, 589-92 (Bankr. S.D. Tex. 2012).

New §83.5005 would implement the CAB-lender separation requirement. The rule is intended to provide clear standards to ensure that CABs operate independently from third-party lenders as required by Chapter 393, and to document a CAB's compliance with this requirement. Subsection (b) would specify requirements that must be satisfied, including a requirement that the CAB and lender be separate legal entities. In response to precomments that the OCCC received, paragraph (3) specifies that a CAB may not perform the functions of a third-party lender except by written agreement, paragraph (7) specifies that a CAB may not act as a general agent of a third-party lender but may act as a special limited agent, and paragraph (8) specifies that a licensee may not directly or indirectly share fees for CAB services with the lender. Subsection (c) describes additional factors that the OCCC may consider in determining whether a CAB operates independently, and subsection (d) explains that a CAB may not make a false or misleading representation regarding its relationship with a third-party lender.

The comment from the Texas Fair Lending Alliance and Faith Leaders 4 Fair Lending expresses concern about the following language in §83.5005(b)(3): "A licensee may not perform the functions of a third party lender, except by written agreement." The comment explains: "If a written agreement could legitimate cooperation that otherwise would be not allowable under statute, that would defeat the purpose of the TFC §393.001(3) that requires independent operation. Additionally, while recognizing that special limited agents are confined in their authority to act in ways that general agent agents are not, that still defeats the pur-

pose of the separation and independent operation requirement if a CAB and a third-party lender could simply invest or designate certain persons to perform particular, limited tasks -- tasks that would otherwise violate the separation requirement but for the agency's allowance in this rule."

In response to this comment, the commission has made a change since the proposal to include the phrase "in accordance with this section" at the end of §83.5005(b)(3) and (4). With this change, adopted §83.5005(b)(3), (4), and (7) describe certain actions that are prohibited unless the CAB has entered a "written agreement" that is "in accordance with this section." In these provisions, the phrase "in accordance with this section" is intended to clarify that a CAB and lender may not use a written agreement to evade requirements described elsewhere in the section.

The comment from the Texas Fair Lending Alliance and Faith Leaders 4 Fair Lending includes three additional suggestions regarding §83.5005. First, the comment recommends revising the rule to include "any estate planning or other documentation necessary to determine independent operation and that there is no direct or indirect fee sharing." The commission believes that this change is unnecessary, and that the provisions in amended §83.5004 and new §83.5005 should be sufficient to specify that CABs must maintain documentation of their agreements with third-party lenders and any transfers of money. Second, the comment explains that "we are concerned about the second provision under §83.5005 (8) that requires a third-party lender who receives any portion of a fee for CAB services charged by a licensee to promptly remit that to the licensee. This language appears to offer a 'get out of jail free card', allowing parties to share funds until caught and then remedy the situation with no penalty by returning ill-gotten funds." The commission disagrees with the suggestion that the rule creates a "get out of jail free card" in this situation. A CAB that fails to promptly remit money or fails to maintain documentation would be in violation of the rule. Third, the comment states: "We recommend that the regulator include as part of its periodic review and examination processes such contracts and performance under them to ensure that they do not, in substance, violate the proposed rules requiring separation and statutory requirement on extension of credit 'by others.'" The OCCC agrees that compliance with §83.5005 and the CAB-lender separation requirement is appropriately a part of the examination review process.

The comment from the Online Lenders Alliance expresses three concerns regarding §83.5005. First, the comment states that the rule goes beyond the statutory phrase "by others" by including requirements relating to separation and independence. "At a minimum it appears that Proposed § 83.5005 imposes additional burdens, conditions or restrictions that are in excess of the relevant statutory provisions. For example, the words 'separation' and 'independent' are not found anywhere within the relevant portions of the underlying statute. These concepts are only found in the relevant case law." Second, the comment suggests that the proposal's citations to case law are inappropriate, stating that "the cited cases in support of portions of Proposed § 83.5005 is common law and not statutory law. If the legislature wanted to codify this case law it could have done so through the legislative process, but the legislature has chosen not to codify the issues discussed in the cited case law. Instead, it appears that by adding § 83.5005 to the proposed rules, the Commission is attempting to codify the cited case law, which the Commission may lack the legal authority to do through its rulemaking authority." Third, the comment suggests that if §83.5005 is

adopted at all, it should include the following sentence: "A licensee may select the underwriting criteria used in determining whether the licensee will provide a credit enhancement to the third-party lender, and the licensee's underwriting criteria may include the underwriting criteria selected by the third-party lender."

The commission and the OCCC disagree with this comment. The requirement of separation and independence results from a plain-language reading of the phrase "by others" in Texas Finance Code, §393.001(3), and is within the commission's rule-making authority under Texas Finance Code, §393.622. Courts have analyzed §393.001 and the separation requirement, and it is entirely appropriate for the commission to consider this analysis in adopting a rule that interprets the same section and requirement. In addition, allowing a CAB to decide underwriting criteria would erode an important part of the separation requirement, and would enable a CAB to evade this requirement and act as a lender.

The adoption includes amendments to the figures accompanying §83.6007, which are the model forms for the consumer cost disclosure used by CABs. The amendments implement Texas Finance Code, §393.223(a), which authorizes the commission to adopt rules including the disclosure. The amendments include updated information regarding the cost of comparable forms of consumer credit, as well as updated information on patterns of repayment based on 2019 quarterly and annual reports provided by CABs to the OCCC. Since the proposal, minor formatting changes have been made to the disclosures contained in the figures accompanying §83.6007, to improve how the information is displayed.

The comment from the Texas Fair Lending Alliance and Faith Leaders 4 Fair Lending expresses concerns about the accuracy of the reporting data used in the amended disclosures, stating: "Given the limitations on currently aggregated data, we continue to urge the regulator to work on improving the accuracy and consistency of data to ensure accurate consumer disclosures. Some of these practices include requiring the regulator to update these model disclosures as they receive amended or corrected data and requesting verification from the licensee of any data that is found to be questionable or unreasonable to ensure that the data in aggregate is as complete, accurate, and thorough as possible." The commission believes that the OCCC has made appropriate efforts in periodically updating the disclosures, using information that is as accurate as possible. At the same time, the OCCC has accounted for the costs for CABs to update forms, as well as the confidentiality of reporting information under §83.5001(c).

The commission and the OCCC will allow a delayed implementation date of March 1, 2021, for all licensees to provide the amended versions of the disclosures under §83.6007. From the rule's effective date through February 28, 2021, licensees may provide consumers with either the previous versions of the disclosures or the amended versions. Starting on March 1, 2021, licensees must provide the amended versions. Regardless of which version of the forms they use, licensees must ensure that their disclosures comply with all requirements in Texas Finance Code, §393.223 and the rule text of §83.6007 and §83.6008 (relating to Permissible Changes). In particular, licensees must ensure that they: (1) use the disclosure corresponding to the correct product (e.g., multiple payment payday loan), (2) provide the disclosure at a time that is both before a credit application is provided and before a financial evaluation occurs, and (3) ensure that the disclosure is completed with all required information.

## DIVISION 2. AUTHORIZED ACTIVITIES

### 7 TAC §83.2003

The rule changes are adopted under Texas Finance Code, §393.622, which authorizes the commission to: (1) adopt rules necessary to enforce and administer Texas Finance Code, Chapter 393, Subchapter G (governing CABs), (2) adopt rules with respect to quarterly reporting by CABs, and (3) adopt rules with respect to the OCCC's examinations of CABs (including review of contracts between CABs and third-party lenders). In addition, Texas Finance Code, §393.223 authorizes the commission to adopt rules regarding the cost disclosure used by CABs.

The statutory provisions affected by the adoption are contained in Texas Finance Code, Chapter 393.

§83.2003. *Attempted Evasion of Applicability of Subchapter.*

A "device, subterfuge, or pretense to evade the application of this subchapter," as used in Texas Finance Code, §393.602(c), includes:

- (1) a transaction that is not identified as a deferred presentment transaction or payday loan, if the transaction is a deferred presentment transaction; and
- (2) a transaction that is not identified as a motor vehicle title loan, if the transaction is a motor vehicle title loan.

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 October 16, 2020.

TRD-202004323

Matthew Nance

Deputy General Counsel

Office of Consumer Credit Commissioner

Effective date: November 5, 2020

Proposal publication date: July 3, 2020

For further information, please call: (512) 936-7660



## DIVISION 4. LICENSE

### 7 TAC §83.4003

The rule changes are adopted under Texas Finance Code, §393.622, which authorizes the commission to: (1) adopt rules necessary to enforce and administer Texas Finance Code, Chapter 393, Subchapter G (governing CABs), (2) adopt rules with respect to quarterly reporting by CABs, and (3) adopt rules with respect to the OCCC's examinations of CABs (including review of contracts between CABs and third-party lenders). In addition, Texas Finance Code, §393.223 authorizes the commission to adopt rules regarding the cost disclosure used by CABs.

The statutory provisions affected by the adoption are contained in Texas Finance Code, Chapter 393.

§83.4003. *Denial, Suspension, or Revocation Based on Criminal History.*

(a) Criminal history record information. After an applicant submits a complete license application, including all required fingerprints, and pays the fees required by §83.3010 of this title (relating to

Fees), the OCCC will investigate the applicant and its principal parties. The OCCC will obtain criminal history record information from the Texas Department of Public Safety and the Federal Bureau of Investigation based on the applicant's fingerprint submission. The OCCC will continue to receive information on new criminal activity reported after the fingerprints have been initially processed.

(b) Disclosure of criminal history. The applicant must disclose all criminal history information required to file a complete application with the OCCC. Failure to provide any information required as part of the application or requested by the OCCC reflects negatively on the belief that the business will be operated lawfully and fairly. The OCCC may request additional criminal history information from the applicant, including the following:

(1) information about arrests, charges, indictments, and convictions of the applicant and its principal parties;

(2) reliable documents or testimony necessary to make a determination under subsection (c) of this section, including letters of recommendation from prosecution, law enforcement, and correctional authorities;

(3) proof that the applicant has maintained a record of steady employment, has supported the applicant's dependents, and has otherwise maintained a record of good conduct; and

(4) proof that all outstanding court costs, supervision fees, fines, and restitution as may have been ordered have been paid or are current.

(c) Crimes directly related to licensed occupation. The OCCC may deny a license application, or suspend or revoke a license, if the applicant or licensee has been convicted of an offense that directly relates to the duties and responsibilities of a credit access business, as provided by Texas Occupations Code, §53.021(a)(1).

(1) Providing credit access business services involves or may involve making representations to consumers regarding the terms of the contract, receiving money from consumers, remitting money to third parties, maintaining accounts, repossessing property without a breach of the peace, maintaining goods that have been repossessed, collecting due amounts in a legal manner, and compliance with reporting requirements to government agencies. Consequently, the following crimes are directly related to the duties and responsibilities of a licensee and may be grounds for denial, suspension, or revocation:

(A) theft;

(B) assault;

(C) any offense that involves misrepresentation, deceptive practices, or making a false or misleading statement (including fraud or forgery);

(D) any offense that involves breach of trust or other fiduciary duty;

(E) any criminal violation of a statute governing credit transactions or debt collection;

(F) failure to file a government report, filing a false government report, or tampering with a government record;

(G) any greater offense that includes an offense described in subparagraphs (A) - (F) of this paragraph as a lesser included offense;

(H) any offense that involves intent, attempt, aiding, solicitation, or conspiracy to commit an offense described in subparagraphs (A) - (G) of this paragraph.

(2) In determining whether a criminal offense directly relates to the duties and responsibilities of holding a license, the OCCC will consider the following factors, as specified in Texas Occupations Code, §53.022:

- (A) the nature and seriousness of the crime;
- (B) the relationship of the crime to the purposes for requiring a license to engage in the occupation;
- (C) the extent to which a license might offer an opportunity to engage in further criminal activity of the same type as that in which the person previously had been involved; and
- (D) the relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the responsibilities of a licensee.

(3) In determining whether a conviction for a crime renders an applicant or a licensee unfit to be a licensee, the OCCC will consider the following factors, as specified in Texas Occupations Code, §53.023:

- (A) the extent and nature of the person's past criminal activity;
- (B) the age of the person when the crime was committed;
- (C) the amount of time that has elapsed since the person's last criminal activity;
- (D) the conduct and work activity of the person before and after the criminal activity;
- (E) evidence of the person's rehabilitation or rehabilitative effort while incarcerated or after release, or following the criminal activity if no time was served;
- (F) evidence of the person's compliance with any conditions of community supervision, parole, or mandatory supervision; and
- (G) evidence of the person's current circumstances relating to fitness to hold a license, which may include letters of recommendation.

(d) Crimes related to character and fitness. The OCCC may deny a license application if the OCCC does not find that the financial responsibility, experience, character, and general fitness of the applicant are sufficient to command the confidence of the public and warrant the belief that the business will be operated lawfully and fairly, as provided by Texas Finance Code, §393.607(a). In conducting its review of character and fitness, the OCCC will consider the criminal history of the applicant and its principal parties. If the applicant or a principal party has been convicted of an offense described by subsections (c)(1) or (f)(2) of this section, this reflects negatively on an applicant's character and fitness. The OCCC may deny a license application based on other criminal history of the applicant or its principal parties if, when the application is considered as a whole, the agency does not find that the financial responsibility, experience, character, and general fitness of the applicant are sufficient to command the confidence of the public and warrant the belief that the business will be operated lawfully and fairly. The OCCC will, however, consider the factors identified in subsection (c)(2) - (3) of this section in its review of character and fitness.

(e) Revocation on imprisonment. A license will be revoked on the licensee's imprisonment following a felony conviction, felony community supervision revocation, revocation of parole, or revocation of mandatory supervision, as provided by Texas Occupations Code, §53.021(b).

(f) Other grounds for denial, suspension, or revocation. The OCCC may deny a license application, or suspend or revoke a license, based on any other ground authorized by statute, including the following:

- (1) a conviction for an offense listed in Texas Code of Criminal Procedure, art. 42A.054, or art. 62.001(6), as provided by Texas Occupations Code, §53.021(a)(2) - (3);
- (2) errors or incomplete information in the license application;
- (3) a fact or condition that would have been grounds for denying the license application, and that either did not exist at the time of the application or the OCCC was unaware of at the time of application, as provided by Texas Finance Code, §393.614(a)(3); and
- (4) any other information warranting the belief that the business will not be operated lawfully and fairly, as provided by Texas Finance Code, §393.607(a) and §393.614(a).

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 October 16, 2020.

TRD-202004324  
Matthew Nance  
Deputy General Counsel  
Office of Consumer Credit Commissioner  
Effective date: November 5, 2020  
Proposal publication date: July 3, 2020  
For further information, please call: (512) 936-7660



#### 7 TAC §83.4007

The rule changes are adopted under Texas Finance Code, §393.622, which authorizes the commission to: (1) adopt rules necessary to enforce and administer Texas Finance Code, Chapter 393, Subchapter G (governing CABs), (2) adopt rules with respect to quarterly reporting by CABs, and (3) adopt rules with respect to the OCCC's examinations of CABs (including review of contracts between CABs and third-party lenders). In addition, Texas Finance Code, §393.223 authorizes the commission to adopt rules regarding the cost disclosure used by CABs.

The statutory provisions affected by the adoption are contained in Texas Finance Code, Chapter 393.

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 October 16, 2020.

TRD-202004322  
Matthew Nance  
Deputy General Counsel  
Office of Consumer Credit Commissioner  
Effective date: November 5, 2020  
Proposal publication date: July 3, 2020  
For further information, please call: (512) 936-7660

◆   ◆   ◆

## DIVISION 5. OPERATIONAL REQUIREMENTS

### 7 TAC §§83.5001, 83.5003 - 83.5005

The rule changes are adopted under Texas Finance Code, §393.622, which authorizes the commission to: (1) adopt rules necessary to enforce and administer Texas Finance Code, Chapter 393, Subchapter G (governing CABs), (2) adopt rules with respect to quarterly reporting by CABs, and (3) adopt rules with respect to the OCCC's examinations of CABs (including review of contracts between CABs and third-party lenders). In addition, Texas Finance Code, §393.223 authorizes the commission to adopt rules regarding the cost disclosure used by CABs.

The statutory provisions affected by the adoption are contained in Texas Finance Code, Chapter 393.

§83.5005. *Separation Between Credit Access Business and Third-Party Lender.*

(a) Generally. A licensee assists consumers in obtaining extensions of credit by others, as provided by Texas Finance Code, §393.001(3).

(b) Independent operation. A licensee must operate independently from any third-party lender that makes a loan in connection with a transaction under Texas Finance Code, Chapter 393. Independent operation includes the following requirements:

(1) A licensee must be a separate legal entity from any third-party lender that makes a loan in connection with a transaction under Texas Finance Code, Chapter 393.

(2) The individuals who make major operational decisions for a licensee must be different from the individuals who make major operational decisions for any third-party lender.

(3) A licensee may not perform the functions of a third-party lender, except by written agreement in accordance with this section.

(4) A licensee may not delegate functions to a third-party lender, except by written agreement in accordance with this section.

(5) A licensee may not select the underwriting criteria used in determining whether the lender will make a loan to the consumer, but a licensee may apply underwriting criteria selected by the third-party lender.

(6) A licensee may not lend money to a consumer in connection with a transaction under Texas Finance Code, Chapter 393. In particular, a licensee may not borrow money from another person and then lend that money to a consumer.

(7) A licensee may not act as a general agent of a third-party lender, but may act as a special limited agent under a written agreement with a third-party lender in accordance with this section.

(8) A licensee may not directly or indirectly share fees for credit access business services with a third-party lender. If a third-party lender receives any portion of a fee for credit access business services charged by a licensee, it must be promptly remitted to the licensee.

(9) A licensee must document each transfer of money between itself and a third-party lender, in a manner sufficient to show each amount that was remitted in connection with each transfer. A licensee must maintain sufficient and complete records to show the exact

amounts that were earned by the licensee and the third-party lender in connection with a deferred presentment transaction or motor vehicle title loan.

(c) The OCCC may consider the following factors in determining whether a licensee operates independently from a third-party lender in compliance with this section:

(1) the extent of common ownership or control between the licensee and any third-party lender, including common ownership or control resulting from familial relationships between owners and directors of the licensee and any third-party lender;

(2) whether a licensee shares common officers, directors, or employees with a third-party lender;

(3) the sufficiency of documentation of transfers of money between the licensee and a third-party lender; and

(4) whether the licensee's course of performance is consistent with its written agreements with third-party lenders and its agreements with consumers, including agreements that specify a time within which the licensee will act on a guarantee.

(d) Representations regarding relationship with third-party lender. Under Texas Finance Code, §393.304, a licensee may not make a false or misleading representation in the offer or sale of services. In particular, a licensee may not make a false or misleading representation regarding its relationship with a third-party lender or any guarantee that the licensee provides to a third-party lender on the consumer's behalf. For example, a licensee may not represent that it will enter a letter of credit with the third-party lender if, in its course of performance, it does not actually enter a letter of credit as that term is defined in Texas Business & Commerce Code, §5.102(a)(10). A licensee may not represent that it guarantees repayment to a third-party lender on the consumer's behalf if it does not act on that guarantee as described in its representations.

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 October 16, 2020.

TRD-202004325

Matthew Nance

Deputy General Counsel

Office of Consumer Credit Commissioner

Effective date: November 5, 2020

Proposal publication date: July 3, 2020

For further information, please call: (512) 936-7660

◆   ◆   ◆

## DIVISION 6. CONSUMER DISCLOSURES AND NOTICES

### 7 TAC §83.6007

The rule changes are adopted under Texas Finance Code, §393.622, which authorizes the commission to: (1) adopt rules necessary to enforce and administer Texas Finance Code, Chapter 393, Subchapter G (governing CABs), (2) adopt rules with respect to quarterly reporting by CABs, and (3) adopt rules with respect to the OCCC's examinations of CABs (including review of contracts between CABs and third-party lenders). In addition, Texas Finance Code, §393.223 authorizes the

commission to adopt rules regarding the cost disclosure used by CABs.

The statutory provisions affected by the adoption are contained in Texas Finance Code, Chapter 393.

§83.6007. *Consumer Disclosures.*

(a) Consumer disclosure for single payment payday loan. The required disclosure under Texas Finance Code, §393.223 to be provided to a consumer before a credit application is provided and before a financial evaluation occurs in conjunction with a single payment payday loan is presented in the following figure.

Figure: 7 TAC §83.6007(a)

(b) Consumer disclosure for multiple payment payday loan. The required disclosure under Texas Finance Code, §393.223 to be provided to a consumer before a credit application is provided and before a financial evaluation occurs in conjunction with a multiple payment payday loan is presented in the following figure.

Figure: 7 TAC §83.6007(b)

(c) Consumer disclosure for single payment auto title loan. The required disclosure under Texas Finance Code, §393.223 to be provided to a consumer before a credit application is provided and before a financial evaluation occurs in conjunction with a single payment auto title loan is presented in the following figure.

Figure: 7 TAC §83.6007(c)

(d) Consumer disclosure for multiple payment auto title loan. The required disclosure under Texas Finance Code, §393.223 to be provided to a consumer before a credit application is provided and before a financial evaluation occurs in conjunction with a multiple payment auto title loan is presented in the following figure.

Figure: 7 TAC §83.6007(d)

(e) Consumer disclosures required for three to five common examples. For the three to five examples of the most common loans transacted by a credit access business as utilized under §83.6004 of this title (relating to Fee Schedule Content), the business must develop a consumer disclosure for those loan amounts, including appropriate fee information. Three to five examples must be developed for each payday or auto title product sold by the business (e.g., three single payment payday examples of \$300, \$500, and \$700; three multiple payment auto title examples of \$1,000, \$1,500, and \$2,500). The credit access business should provide the consumer with the example form for the product and amount that most closely relates to the consumer's loan request.

(f) Internet sales. A credit access business must provide the required disclosure to a consumer immediately upon the consumer's arrival at the credit access business's website that includes information about a payday or auto title loan as defined by Texas Finance Code, §393.221. Access to the required disclosure must be clearly visible upon the consumer's arrival at the website. If a consumer is directed to a credit access business's website by another commercial entity that is not required to be licensed as a credit access business, then the credit access business's website to which the consumer is first directed must contain a direct link to the appropriate consumer disclosure as outlined in subsections (a) - (d) of this section. The direct link to the consumer disclosure must be provided before the consumer is required to verify previously provided information, and before the consumer is required to provide additional information.

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 October 16, 2020.

TRD-202004326

Matthew Nance

Deputy General Counsel

Office of Consumer Credit Commissioner

Effective date: November 5, 2020

Proposal publication date: July 3, 2020

For further information, please call: (512) 936-7660



## CHAPTER 89. PROPERTY TAX LENDERS

The Finance Commission of Texas (commission) adopts amendments to §89.701 (relating to Sworn Document Authorizing Transfer of Tax Lien), and adopts new §89.805 (relating to Payoff for Property Tax Loan Secured by Multiple Properties) in 7 TAC, Chapter 89, concerning Property Tax Lenders.

The commission adopts the amendments to §89.701 without changes to the proposed text as published in the July 3, 2020, issue of the *Texas Register* (45 TexReg 4450). Amended §89.701 will not be republished.

The commission adopts new §89.805 with changes to the proposed text as published in the July 3, 2020, issue of the *Texas Register* (45 TexReg 4450). New §89.805 will be republished.

The commission received one written comment on the proposal from the Independent Bankers Association of Texas, Texas Bankers Association, Texas Mortgage Bankers Association, Cornerstone Credit Union League, and Credit Union Coalition of Texas. The comment generally supports proposed new §89.805, but includes suggested changes regarding the effective date of the rule. The commission's response to this comment is included following the discussion of §89.805.

In general, the purpose of the amendments and new rule in 7 TAC Chapter 89 is to remove language suggesting that the sworn document must be recorded, and to specify requirements for payoff of a tax lien for an individual property (in the case of a property tax loan secured by multiple properties).

The OCCC distributed an early precomment draft of proposed changes to interested stakeholders for review, and then held a stakeholder meeting and webinar regarding the rule changes. Stakeholders provided feedback during the webinar, and the OCCC received nine informal precomments on the rule text draft. Based on this feedback, the OCCC distributed a revised precomment draft and received three additional precomments. The OCCC appreciates the thoughtful input provided by stakeholders.

Amendments to §89.701 would remove language suggesting that the sworn document must be recorded. Under Texas Tax Code, §32.06(a-1), in order to authorize a tax lien transfer from a taxing unit to a property tax lender, a property owner must execute a sworn document containing an authorization for payment of taxes, contact information for the property tax lender, and a description of the property, among other information. Before 2013, Texas Tax Code, §32.065(b)(4) required the sworn document to be recorded in the county's real property records. In 2013, the Texas Legislature passed SB 247, which removed this requirement. Currently, §89.701(a)(2) requires the sworn document to state "that after the document is recorded, it is to be returned to the transferee." Amendments to §89.701(a)(2)

and the accompanying figure at §89.701(c) would amend this statement to remove the reference to recording. However, an amendment at §89.701(d)(4) would allow property tax lenders to include this reference if the sworn document will be recorded.

Adopted new §89.805 provides a method for calculating the amount for a lienholder or mortgage servicer to pay off an individual property, in the case of a property tax loan that is secured by more than one property. In other words, if a property tax loan is secured by properties A, B, and C, and another lienholder holds a lien on property A, the new rule describes how to calculate the amount that the lienholder will pay to release the tax lien on property A. This rule is intended to implement Texas Tax Code, §§32.06(f), 32.06(f-1), and 32.065(b-1), which describe situations where a lienholder or mortgage servicer can obtain a release of a transferred tax lien.

Texas Tax Code, §32.06(f) states: "The holder of a loan secured by a transferred tax lien that is delinquent for 90 consecutive days must send a notice of the delinquency by certified mail on or before the 120th day of delinquency or, if the 120th day is not a business day, on the next business day after the 120th day of delinquency, to any holder of a recorded preexisting lien on the property. The holder or mortgage servicer of a recorded preexisting lien on property encumbered by a tax lien transferred as provided by Subsection (b) is entitled, within six months after the date on which the notice is sent, to obtain a release of the transferred tax lien by paying the transferee of the tax lien the amount owed under the contract between the property owner and the transferee."

Texas Tax Code, §32.06(f-1) states in part: "If an obligation secured by a preexisting first lien on the property is delinquent for at least 90 consecutive days and the obligation has been referred to a collection specialist, the mortgage servicer or the holder of the first lien may send a notice of the delinquency to the transferee of a tax lien. The mortgage servicer or the first lienholder is entitled, within six months after the date on which that notice is sent, to obtain a release of the transferred tax lien by paying the transferee of the tax lien the amount owed under the contract between the property owner and the transferee."

Texas Tax Code, §32.065(b-1) states: "On an event of default and notice of acceleration, the mortgage servicer of a recorded lien encumbering real property may obtain a release of a transferred tax lien on the property by paying the transferee of the tax lien or the holder of the tax lien the amount owed by the property owner to that transferee or holder."

In new §89.805, subsection (a) describes the scope of the rule, with citations to the three Texas Tax Code provisions containing rights of other lienholders to pay off tax liens. Subsection (c) explains that if a property tax loan is secured by more than one property, a property tax lender must allow a holder or mortgage servicer to obtain a release for an individual property, by paying the amount owed for the individual property. Subsection (d) describes the method for calculating the amount owed for the individual property. The method is based on the individual property's attributable percentage in relation to the total amount paid to taxing units or governmental entities in connection with the property tax loan. Subsection (d)(4) describes how to calculate post-closing costs that may be included in the payoff amount. Subsection (d)(5) describes the requirement to maintain records, and subsection (d)(6) explains that a property tax lender may charge a lien release fee for each individual property for which a lien is released.

New §89.805 is being adopted in response to complaints that the OCCC received from banks, alleging that property tax lenders overcharged them in connection with payoffs under the Texas Tax Code. Many of these disputes have involved overcharges by the property tax lender and failure to maintain documentation that adequately supports the payoff amount. In some cases, the complaint involved an assertion by the property tax lender that the bank had no right to pay off the tax lien for an individual property. The OCCC has expended significant staff resources to review records spanning multiple years and multiple properties, identify and remove unauthorized charges, and calculate appropriate payoff amounts. The OCCC hopes that the new rule will provide a standard calculation method to avoid these disputes.

As discussed earlier, the commission received one written comment on the proposal from the Independent Bankers Association of Texas, Texas Bankers Association, Texas Mortgage Bankers Association, Cornerstone Credit Union League, and Credit Union Coalition of Texas. The comment generally supports new §89.805, stating that the rule's methodology is a "practical solution" to the "dilemma" of "property tax loan payoffs in which a consensual lender with a lien on a single property was required to pay off liens on multiple properties in order to protect itself and obtain a release." However, the comment includes suggested changes regarding the effective date of §89.805. The comment states: "We strongly believe that this rule should apply to all payoffs requested after the effective date, not to property tax loans entered into after that date. This would impair existing, statutory property rights. The effective date language is in the preamble rather than the rule. Because of that--and because we believe that it flies in the face of existing statutory rights--we urge you to clarify this point and add it the rule when published."

In response to this comment, the adoption includes new §89.805(b) describing the effective date of the rule. Subsection (b) explains that §89.805 applies only to property tax loans entered on or after December 1, 2020. The commission believes that with this change, the rule will appropriately specify that the rule's calculation methodology applies to future property tax loans, without affecting statutory rights for existing property tax loans.

In informal precomments, stakeholders were mixed in whether they supported or opposed new §89.805. Some stakeholders, including an association of banks and a property tax lender, supported the new rule. Some property tax lenders suggested changes to the new rule, and some opposed the new rule. The adopted text includes several changes responding to suggestions from stakeholders in informal precomments. The stakeholders who suggested changes or opposed the rule focused mainly on seven issues.

First, stakeholders emphasized that §89.805 should apply only to payoffs by lienholders or mortgage servicers under Texas Tax Code, §§32.06(f), 32.06(f-1), and 32.065(b-1). In response to these precomments, §89.805(a) specifies that the rule applies only to these three situations.

Second, stakeholders requested confirmation that §89.805 would apply only to property tax loans entered on or after the rule's effective date. One stakeholder requested confirmation of this in the rule text itself. As discussed earlier, in response to these precomments and the official comment, new §89.805(b) specifies that the rule applies only to property tax loans entered on or after December 1, 2020, and that the rule does not affect any statutory rights for property tax loans entered before that date.



Third, the precomment drafts included a requirement to disclose the specific dollar amount paid for each property to the property owner before closing. Stakeholders responded that it would be difficult to calculate specific dollar amounts paid for each property, and to list these amounts on a pre-closing disclosure. One stakeholder suggested that this amount could be identified later if needed. In response to these precomments, the adoption does not include this disclosure requirement.

Fourth, stakeholders requested that the rule specify that the lien release fee applies to each property. In response to this comment, §89.805(d)(6) specifies that the lien release fee applies to each individual property for which a lien is released.

Fifth, stakeholders requested that the rule allow property tax lenders to charge additional types of fees in connection with a payoff, such as attorney fees in bankruptcy to amend pleadings, update court documents, and restart cases, as well as attorney fees to complete a foreclosure. The OCCC believes that this issue is addressed by language in §89.805(d)(4) that allows a portion of post-closing costs described by Texas Finance Code, §351.0021. Any post-closing costs that are not expressly authorized by statute may not be included in the payoff amount.

Sixth, a stakeholder requested that refinances (i.e., new property tax loans that satisfy and replace previous property tax loans) be exempted from new §89.805. The commission declines to put this exemption into the rule. Texas Tax Code, §32.06 and §32.065 do not contain any exemption for refinances. In addition, some of the complaints from banks, as described earlier, resulted from property tax loans that were refinances. Exempting refinances would not achieve the rule's intended purposes.

Seventh, some property tax lenders objected to the rule's core concept that a lienholder can pay off the tax lien for an individual property by paying the amounts associated with the individual property. These property tax lenders argued that the proposed rules would cause property tax lenders to enter fewer loans secured by multiple properties, and would cause property tax lenders to charge higher closing costs. One of these property tax lenders proposed an alternative interpretation of the payoff rights in Texas Tax Code, §§32.06(f), 32.06(f-1), and 32.065(b-1). This property tax lender noted that the Tax Code provisions require the lienholder to pay the "amount owed" for the property tax loan, and interpreted the phrase "amount owed" to mean the full amount owed for all properties under the property tax loan. Under this alternative interpretation, if a property tax loan is secured by properties A, B, and C, and another lienholder holds a lien on property A, the lienholder would have to pay off the full amount owed for properties A, B, and C in order to obtain a release of the tax lien for property A. This property tax lender argued that a lienholder is not entitled to a "partial release."

The commission and the OCCC disagree with this alternative interpretation, because it would frustrate the statutory rights of lienholders and servicers to pay off transferred tax liens. The payoff described in the rule is not a "partial release," but is a full release of the tax lien for an individual property. Texas Tax Code, §§32.06(f), 32.06(f-1), and 32.065(b-1) each refer to the "property" for which the lienholder holds the lien, and refer to the "amount owed" that must be paid in order to exercise the right to pay off the tax lien. The commission and the OCCC understand the phrase "amount owed" to refer to the amount owed for the individual property, and the new rule provides a way to calculate that amount. This reading appropriately enables lienholders to exercise the rights described by the Tax Code, so

that they can consolidate amounts owed for the property, reduce costs associated with servicing obligations on the property, and potentially avoid foreclosure.

The proposed alternative interpretation would inappropriately shift costs and risks associated with the property tax loan onto other lienholders. If "amount owed" refers to the amount owed for all properties, this suggests that lienholders must pay amounts for properties with no connection to their liens, and that the property tax lender can receive the same amount multiple times by requiring multiple lienholders to pay the same amounts. The property tax lenders that object to the rule's core concept seem to be stating that, when they make property tax loans secured by multiple properties, they depend on their ability to restrain other lienholders from paying off individual properties, and depend on the extra revenue that results from lienholders having to pay off multiple properties. To the extent that these practices depend on holding property A captive to a payoff for properties B and C, these practices are not consistent with a lienholder's payoff rights under the Tax Code, and it is entirely appropriate for the rule to specify that these practices are prohibited.

## SUBCHAPTER G. TRANSFER OF TAX LIEN

### 7 TAC §89.701

The rule changes are adopted under Texas Finance Code, §351.007, which authorizes the commission to adopt rules to ensure compliance with Texas Tax Code, §32.06 and §32.065, and Texas Finance Code, Chapter 351. In addition, Texas Tax Code, §32.06(a-4) authorizes the commission to adopt rules relating to the reasonableness of closing costs, fees, and other charges permitted under that section, and to prescribe the form and content of the sworn document by rule. Texas Finance Code, §351.0021 authorizes the commission to adopt rules implementing and interpreting that section, which describes limitations on post-closing costs. Texas Finance Code, §11.304 authorizes the commission to adopt rules to ensure compliance with Texas Finance Code, Title 4.

The statutory provisions affected by the adoption are contained in Texas Tax Code, Chapter 32 and Texas Finance Code, Chapter 351.

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 October 16, 2020.

TRD-202004328

Matthew Nance

Deputy General Counsel

Office of Consumer Credit Commissioner

Effective date: November 5, 2020

Proposal publication date: July 3, 2020

For further information, please call: (512) 936-7660



## SUBCHAPTER H. PAYOFF STATEMENTS

### 7 TAC §89.805

The rule changes are adopted under Texas Finance Code, §351.007, which authorizes the commission to adopt rules to

ensure compliance with Texas Tax Code, §32.06 and §32.065, and Texas Finance Code, Chapter 351. In addition, Texas Tax Code, §32.06(a-4) authorizes the commission to adopt rules relating to the reasonableness of closing costs, fees, and other charges permitted under that section, and to prescribe the form and content of the sworn document by rule. Texas Finance Code, §351.0021 authorizes the commission to adopt rules implementing and interpreting that section, which describes limitations on post-closing costs. Texas Finance Code, §11.304 authorizes the commission to adopt rules to ensure compliance with Texas Finance Code, Title 4.

The statutory provisions affected by the adoption are contained in Texas Tax Code, Chapter 32 and Texas Finance Code, Chapter 351.

§89.805. *Payoff for Property Tax Loan Secured by Multiple Properties.*

(a) Purpose and scope. Under Texas Tax Code, §§32.06(f), 32.06(f-1), and §32.065(b-1), in certain situations where a property tax loan or preexisting mortgage is delinquent or in default, a holder or mortgage servicer of a preexisting lien on a property is entitled to obtain a release of a transferred tax lien, by paying the amount owed under the contract between the property owner and the property tax lender. This section describes how to calculate the amount owed for an individual property where a property tax loan is secured by more than one property. This section applies only to:

(1) a payoff by the mortgage servicer or holder of a recorded preexisting lien due to the delinquency of a property tax loan under Texas Tax Code, §32.06(f);

(2) a payoff by the mortgage servicer or holder of a preexisting first lien due to the delinquency of the obligation secured by a preexisting first lien under Texas Tax Code, §32.06(f-1); and

(3) a payoff by the mortgage servicer of a recorded lien due to default and notice of acceleration of a property tax loan under Texas Tax Code, §32.065(b-1).

(b) Effective date. This section applies only to a property tax loan entered on or after December 1, 2020. This section does not affect any statutory rights of a lienholder for a property tax loan entered before December 1, 2020.

(c) Requirement to allow payoff. If a property tax loan is secured by more than one property, a property tax lender must allow a holder or mortgage servicer to obtain a release for an individual property in accordance with Texas Tax Code, §§32.06(f), 32.06(f-1), and §32.065(b-1), by paying the amount owed for the individual property.

(d) Amount owed for individual property.

(1) Calculation of amount owed. A property tax lender must calculate the amount owed for an individual property by adding:

(A) the outstanding principal balance of the loan, multiplied by the attributable percentage for the individual property;

(B) the outstanding interest for the loan, multiplied by the attributable percentage for the individual property;

(C) authorized post-closing costs that are not part of the principal balance, multiplied by the attributable percentage for the individual property, if the costs relate to the property tax loan generally; and

(D) authorized post-closing costs that are not part of the principal balance, if the costs relate specifically to the individual property.

(2) Attributable percentage. To calculate the attributable percentage for an individual property, a property tax lender must divide the total amount paid for the individual property by the total amount paid for all properties in connection with the property tax loan.

(A) A property tax lender must calculate the total amount paid for the individual property by adding:

(i) the total amount paid to taxing units or governmental entities for unpaid taxes, penalties, interest, and collection costs for the individual property in connection with the property tax loan, as shown on the tax receipt; and

(ii) in the case of a property tax loan that is a refinance, any amount paid for the individual property, as shown on the pre-closing disclosure statement.

(B) A property tax lender must calculate the total amount paid for all properties by adding:

(i) the total amount paid to taxing units or governmental entities for unpaid taxes, penalties, interest, and collection costs for all properties in connection with the property tax loan, as shown on the tax receipts; and

(ii) in the case of a property tax loan that is a refinance, the amounts paid for all properties as shown on the pre-closing disclosure statement.

(3) Lower payoff amount. A property tax lender may allow a property owner, holder, or servicer to obtain a release for an amount that is lower than the amount described by paragraphs (1) and (2) of this subsection.

(4) Post-closing costs. A property tax lender may include authorized post-closing costs related solely to the individual property in the amount owed for the individual property. Post-closing costs related to other individual properties may not be included. Post-closing costs related generally to the property tax loan may be included if multiplied by the attributable percentage. If the property tax lender has charged a post-closing cost that is not expressly authorized by Texas Finance Code, §351.0021, then the property tax lender may not include the cost in the amount owed, and must refund the cost to the property owner.

(5) Recordkeeping. A property tax lender must maintain documentation showing how it calculated the attributable percentage and the amount owed for the individual property. This documentation must be maintained in the property tax loan transaction file for the period described by §89.207 of this title (relating to Files and Records Required).

(6) Lien release fee. In addition to the amount owed for the individual property, a property tax lender may charge a lien release fee described by §89.602 (relating to Fee for Filing Release) for each individual property for which a lien is released.

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 October 16, 2020.

TRD-202004330

Matthew Nance  
Deputy General Counsel  
Office of Consumer Credit Commissioner  
Effective date: November 5, 2020  
Proposal publication date: July 3, 2020  
For further information, please call: (512) 936-7660



## TITLE 34. PUBLIC FINANCE

### PART 1. COMPTROLLER OF PUBLIC ACCOUNTS

#### CHAPTER 3. TAX ADMINISTRATION

##### SUBCHAPTER B. NATURAL GAS

###### 34 TAC §3.27

The Comptroller of Public Accounts adopts amendments to §3.27, concerning exemption of certain interest owners from gas occupation taxes, without changes to the proposed text as published in the September 11, 2020, issue of the *Texas Register* (45 TexReg 6318). The rule will not be republished. The amendments implement Senate Bill 533, 86th Legislature, 2019, effective September 1, 2019, which amends Tax Code, §202.056 (Exemption for Oil and Gas from Wells Previously Inactive), relating to the severance tax exemption for oil and gas production from certain inactive oil wells. The comptroller changes the name of the section to "Exemptions of Governmental Entities and Two-Year Inactive Oil Wells" to better reflect the content of the section.

Despite the fact that this rule is in the Natural Gas subchapter, it includes an exemption for casinghead gas produced from two-year inactive oil wells. The comptroller adds new subsection (a), providing definitions of "casinghead gas," "commission," "condensate," and "hydrocarbons," using the definitions of these terms found in Tax Code, Chapter 201 (Gas Production Tax) and Chapter 202 (Oil Production Tax). The comptroller adds a definition for the term "two-year inactive well," deriving the language for this term from Tax Code, §202.056(a)(4). The language provides that the definition of two-year inactive well applies to an oil well certified on or after September 1, 2019.

The comptroller reletters subsection (a) as subsection (b) and amends the subsection to add a title, to recognize that governmental entities are not subject to the gas occupation tax, and to delete the language relating to mineral ownership since the state of Texas cannot tax the federal government or itself, whether they are the mineral owners or not.

The comptroller deletes original subsection (b) and adds language based on that subsection to new subsection (c) to better address tax imposed on nonexempt parties.

The comptroller adds new subsection (c) to include a title and the language of Tax Code, §201.205 (Tax Borne Ratably), which provides that the tax shall be borne ratably by all "interested parties," which are determined "without regard to title to the oil either before or after severance; and without regard to any arbitrary classification or nomenclature." See *Sheppard v. Stanolind Oil & Gas Co.*, 125 S.W.2d 643, 648 (Tex. Civ. App. - Austin 1939, writ ref'd). The comptroller deletes the example and graphic since they apply to mineral ownership information removed from this

section. The comptroller removes original subsection (c) and the graphic to improve the readability of the subsection.

The comptroller adds new subsection (d), which provides information regarding two-year inactive oil wells, including the comptroller's approval process for the exemption for a two-year inactive oil well in paragraph (1). New subsection (d) is derived from Tax Code, §202.056. Tax Code Chapter 202 applies to oil wells and oil wells do not produce condensate. Since oil wells do not produce condensate, condensate does not qualify for the exemption for a two-year inactive oil well. The comptroller adds new paragraph (2) which provides that casinghead gas produced from a certified two-year inactive oil well is exempt from the natural gas tax; the beginning date and duration of the exemption in paragraph (3); and the process to receive a tax credit for payments made at the full rate under the Tax Code in paragraph (4).

In new subsection (e), the comptroller provides information regarding recompleted certified two-year inactive oil wells, including the duration of the exemption and the application process for the exemption.

The comptroller adds new subsection (f), which explains that the exemption for a two-year inactive oil well does not extend to the oil-field regulatory cleanup fee. The oil-field regulatory cleanup fee is due on casinghead gas sold, even if that gas is otherwise exempt under subsection (d).

The comptroller adds new subsection (g), which outlines penalties regarding two-year inactive oil wells.

The comptroller did not receive any comments regarding adoption of the amendment.

The comptroller adopts the amendments under Tax Code, §111.002 (Comptroller's Rules; Compliance; Forfeiture), which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement provisions of Tax Code, Title 2 (State Taxation), and taxes, fees, or other charges which the comptroller administers under other law.

The amendments implement Tax Code, §202.056 (Exemption for Oil and Gas from Wells Previously Inactive).

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 October 14, 2020.

TRD-202004260

William Hamner

Special Counsel for Tax Administration

Comptroller of Public Accounts

Effective date: November 3, 2020

Proposal publication date: September 11, 2020

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



## CHAPTER 9. PROPERTY TAX ADMINISTRATION

### SUBCHAPTER I. VALUATION PROCEDURES

#### 34 TAC §9.4001

The Comptroller of Public Accounts adopts amendments to §9.4001, concerning valuation of open-space and agricultural lands, without changes to the proposed text as published in the August 28, 2020, issue of the *Texas Register* (45 TexReg 6050). The rule will not be republished. These amendments are to reflect updates and revisions to the manual for the appraisal of agricultural land. The amended manual may be viewed at <https://comptroller.texas.gov/taxes/property-tax/rules/index.php>.

The amendments update and revise the November 2018 (Adopted May 2019) manual for the appraisal of agricultural land. The manual sets forth the methods to apply and the procedures to use in qualifying and appraising land used for agriculture and open-space land under Tax Code, Chapter 23, Subchapters C and D.

Generally, the substantive changes to the manual reflect statutory changes. Updates to the manual throughout reflect changes to the rollback period and interest rate in House Bill 1743, 86th Legislature, 2019. The manual includes a new subsection in the "Cessation of Agricultural Use" section and adds a new section for 1-d to address the specific circumstances for which special appraisal does not end when the land ceases to be devoted principally to agricultural use to the degree of intensity generally accepted in the area, based on changes made in House Bill 3348, 86th Legislature, 2019. The comptroller also adds to the requirements to qualify as an ecological laboratory based on changes made in House Bill 639, 86th Legislature, 2019.

The update includes changes to the section on federal farm programs based on the 2018 Federal Farm Bill. Years throughout the text have been updated in the examples without changes to the values or figures.

Pursuant to Tax Code, §23.52(d), these rules have been approved by the Comptroller with the review and counsel of the Department of Agriculture.

The comptroller received one comment from the public regarding these amendments.

Peggy Wardlaw of Wardlaw Appraisal Group commented that the proposed manual does not specifically address situations where hunting is not allowed due to deed restrictions within the manual's application of Tax Code, §23.51(4). Specifically, Ms. Wardlaw suggested that the manual should state that the hunting income applied to ordinary non-deed restricted land should not be applied when deed restrictions do not allow hunting. The comptroller declines to make this change. Tax Code, §23.51(3), which is addressed on pages 20 and 21 of the manual, accounts for categories of land and allows the chief appraiser to address a situation such as specific deed restrictions. The ability of the chief appraiser to establish land categories or classes based on the factors that influence the productive capacity of the category is not restricted by this manual.

These amendments are adopted under Tax Code, §§5.05 (Appraisal Manuals and Other Materials); 23.41 (Appraisal); and 23.52 (Appraisal of Qualified Agricultural Land), which provide the comptroller with the authority to prepare and issue publications relating to the appraisal of property and to promulgate rules specifying methods to apply and the procedures to use in appraising qualified agricultural and open-space land for ad valorem tax purposes.

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

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

Filed with the Office of the Secretary of State on October 15, 2020.

TRD-202004275

Victoria North

General Counsel for Fiscal and Agency Affairs

Comptroller of Public Accounts

Effective date: November 4, 2020

Proposal publication date: August 28, 2020

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



## **TITLE 37. PUBLIC SAFETY AND CORRECTIONS**

### **PART 1. TEXAS DEPARTMENT OF PUBLIC SAFETY**

#### **CHAPTER 21. EQUIPMENT AND VEHICLE SAFETY STANDARDS**

##### **37 TAC §21.6**

The Texas Department of Public Safety (the department) adopts amendments to §21.6, concerning Motorcycle Operator and Passengers Protective Headgear Minimum Safety Standards and Exemption for Motorcycle Protective Headgear. This rule is adopted without changes to the proposed text as published in the August 28, 2020, issue of the *Texas Register* (45 TexReg 6055) and will not be republished.

Senate Bill 616 passed by the 86th Texas Legislature moved the administration of the motorcycle operator training and safety program from the Department of Public Safety to the Texas Department of Licensing and Regulation (TDLR). This rule amendment changes references and removes language accordingly.

No comments were received regarding the adoption of this rule.

This rule is adopted pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; and Texas Transportation Code, §662.009, which authorizes the designated state agency to adopt rules to administer Chapter 662.

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 October 16, 2020.

TRD-202004298

D. Phillip Adkins

General Counsel

Texas Department of Public Safety

Effective date: November 5, 2020

Proposal publication date: August 28, 2020

For further information, please call: (512) 424-5848

◆ ◆ ◆  
**37 TAC §21.8**

The Texas Department of Public Safety (the department) adopts the repeal of §21.8, concerning All Terrain Vehicle (ATV) Warning Flag. This repeal is adopted without changes to the proposed text as published in the August 28, 2020, issue of the *Texas Register* (45 TexReg 6057) and will not be republished.

Senate Bill 616 passed by the 86th Texas Legislature moved the administration of the motorcycle operator training and safety program from the Department of Public Safety to the Texas Department of Licensing and Regulation (TDLR). Rules for the program have been established by TDLR and are located at 16 TAC §99.100, concerning Off-Highway Vehicle Warning Flag thus making the department's rule obsolete.

No comments were received regarding the adoption of this repeal.

This repeal is adopted pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; and Texas Transportation Code, §662.009, which authorizes the designated state agency to adopt rules to administer Chapter 662.

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 October 16, 2020.

TRD-202004299

D. Phillip Adkins

General Counsel

Texas Department of Public Safety

Effective date: November 5, 2020

Proposal publication date: August 28, 2020

For further information, please call: (512) 424-5848

◆ ◆ ◆  
**CHAPTER 31. STANDARDS FOR AN APPROVED MOTORCYCLE OPERATOR TRAINING COURSE**

**37 TAC §§31.1 - 31.12**

The Texas Department of Public Safety (the department) adopts the repeal of §§31.1 - 31.12, concerning Standards for An Approved Motorcycle Operator Training Course. This repeal is adopted without changes to the proposed text as published in the August 28, 2020, issue of the *Texas Register* (45 TexReg 6057) and will not be republished.

Senate Bill 616 passed by the 86th Texas Legislature moved the administration of the motorcycle operator training and safety program from the Department of Public Safety to the Texas Department of Licensing and Regulation (TDLR). Rules for the program have been established by TDLR and are located at 16 TAC Chapter 98, concerning Motorcycle Operator Training and Safety, thus making the department's rules obsolete.

No comments were received regarding the adoption of this repeal.

This repeal is adopted pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; and Texas Transportation Code, §662.009, which authorizes the designated state agency to adopt rules to administer Chapter 662.

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 October 16, 2020.

TRD-202004300

D. Phillip Adkins

General Counsel

Texas Department of Public Safety

Effective date: November 5, 2020

Proposal publication date: August 28, 2020

For further information, please call: (512) 424-5848

◆ ◆ ◆  
**CHAPTER 33. ALL-TERRAIN VEHICLE OPERATOR EDUCATION AND CERTIFICATION PROGRAM**

**37 TAC §§33.1 - 33.5**

The Texas Department of Public Safety (the department) adopts the repeal of §§33.1 - 33.5, concerning All-Terrain Vehicle Operator Education and Certification Program. This repeal is adopted without changes to the proposed text as published in the August 28, 2020, issue of the *Texas Register* (45 TexReg 6058) and will not be republished.

Senate Bill 616 passed by the 86th Texas Legislature moved the administration of the motorcycle operator training and safety program from the Department of Public Safety to the Texas Department of Licensing and Regulation (TDLR). Rules for the Motorcycle Operator Training Course oversight program have been established by TDLR and are located at 16 TAC Chapter 99, concerning Off-Highway Vehicle Operator Education and Certification Program thus making the department's rules obsolete.

No comments were received regarding the adoption of this repeal.

This repeal is adopted pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; and Texas Transportation Code, §662.009, which authorizes the designated state agency to adopt rules to administer Chapter 662.

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 October 16, 2020.

TRD-202004301

◆ ◆ ◆  
**TITLE 40. SOCIAL SERVICES AND ASSISTANCE**

**PART 19. DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES**

**CHAPTER 700. CHILD PROTECTIVE SERVICES**

**SUBCHAPTER M. SUBSTITUTE-CARE SERVICES**

**DIVISION 1. GENERAL**

**40 TAC §700.1311**

The Department of Family and Protective Services (DFPS) adopts amendments to §700.1311 in Title 40, Texas Administrative Code (TAC), Chapter 700, Subchapter M, relating to Substitute-Care Services. The amendments are adopted with technical changes to the proposed text published in the May 29, 2020 issue of the *Texas Register* (45 TexReg 3614) to remove the term "foster group home" in three instances, but with no changes to the substance of the amendment regarding authority to approve certain types of placements. The three technical corrections do not reflect a substantive variation from the rule as proposed, and do not create any new duties or powers, nor affect new persons or entities, other than those given notice, so the rule will not be proposed again. The rule will be republished herein with both the substantive changes and non-substantive corrections reflected.

**BACKGROUND AND JUSTIFICATION**

The justification of the substantive rule amendment is to expand from one to four the number of individuals who may approve the placement of a child in DFPS conservatorship into a general residential operation (GRO) that the Child Care Licensing Department of the Texas Health and Human Services Commission (HHSC) has placed on probation, if other criteria are met.

Pursuant to current rules, if a child cannot be placed with a relative or other person with whom the child has a long-standing and significant relationship, DFPS must seek to place the child in a foster or adoptive home that can meet the child's needs. If DFPS is unable to locate a foster home that can provide safe and appropriate care to the child, DFPS may consider placing the child in any of the settings described in TAC §700.1307, including a GRO, when criteria outlined in that rule are met.

In relation to placement in a GRO, Section 700.1311(c) currently requires the Assistant Commissioner for Child Protective Services to approve any placement of a child in DFPS conservatorship into a GRO that is on probation with HHSC Child Care Licensing unless the placement is ordered by a court.

The rule amendment would change the title of the specified Commissioner from Assistant Commissioner for Child Protective Services to the Associate Commissioner for Child Protective Services, and would add the titles of three additional individuals that would have authority to approve a placement into a GRO on probation to include the Deputy Associate Commissioner for CPS, the DFPS Deputy Commissioner, or the DFPS Commissioner.

The technical, non-substantive amendments remove the term "foster group home" from the rules in subsections 700.1311 (a)(2), (a)(3), and (c)(2). Pursuant to rules adopted by HHSC effective October 19, 2018, (26 TAC 749.2827), the Child Care Licensing Department of HHSC has not allowed a foster group home as an operation type since August 31, 2019.

**COMMENTS**

The 30-day comment period ended June 28, 2020. During this period, DFPS did not receive any comments regarding the proposed rules.

**STATUTORY AUTHORITY**

The rule is adopted under Human Resources Code (HRC) §40.027, which provides that the Department of Family and Protective Services commissioner shall adopt rules for the operation and provision of services by the department.

Except as described herein the adopted amendment affects no other code, article or statute.

*§700.1311. What special considerations apply when selecting a placement other than a relative or other person with whom the child has a long-standing and significant relationship?*

(a) If a child cannot be placed with a relative or other person with whom the child has a long-standing and significant relationship, DFPS will seek to place the child in a foster or adoptive home that can meet the child's needs. If DFPS is unable to locate a foster or adoptive home that can provide safe and appropriate care to the child, DFPS may place the child in any of the settings described in §700.1307 of this title (relating to In what kinds of settings may a child in DFPS conservatorship be placed?), when:

(1) the child needs treatment services or additional programmatic services, other than child care services, that are not available or cannot be provided to the child in a foster home;

(2) the child is placed with a sibling or parent who needs the services described in paragraph (1) of this subsection, and placement of the child with the sibling or parent in a general residential operation is deemed to be in the child's best interest;

(3) the child is placed temporarily in a general residential operation because of the proximity of the placement to the child's home or school of origin, and such placement is deemed to be in the child's best interest;

(4) there is no foster home immediately available for the child to be placed; or

(5) the placement is ordered by a court of competent jurisdiction.

(b) A child receiving emergency care services from a general residential operation may not remain in such operation beyond the maximum lengths of stay set forth in the following chart unless the child's caseworker obtains supervisory approval to extend the placement and documents the reasons for extending the placement in the child's case record:

Figure: 40 TAC §700.1311(b) (No change.)

(c) Notwithstanding any other provision in this section, unless ordered by a court to do so, DFPS does not place a child in:

(1) a general residential operation that the Child Care Licensing Department of the Texas Health and Human Services Commission has placed on probation unless the placement is approved by the Associate Commissioner or Deputy Associate Commissioner for Child Protective Services, the Deputy Commissioner for DFPS, or the Commissioner for DFPS; or

(2) a foster home whose verification has been placed on inactive status by the child-placing agency that verifies the home.

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 October 15, 2020.

TRD-202004287

Tiffany Roper

General Counsel

Department of Family and Protective Services

Effective date: November 4, 2020

Proposal publication date: May 29, 2020

For further information, please call: (512) 438-3397







# TRANSFERRED RULES

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

---

## Department of Aging and Disability Services

### Rule Transfer

During the 84th Legislative Session, the Texas Legislature passed Senate Bill 200, addressing the reorganization of health and human services delivery in Texas. As a result, some agencies were abolished, and their functions transferred to the Texas Health and Human Services Commission (HHSC). Texas Government Code, §531.0202(b), specified the Department of Aging and Disability Services (DADS) be abolished September 1, 2017, after all its functions were transferred to HHSC in accordance with Texas Government Code, §531.0201 and

§531.02011. The former DADS rules in Texas Administrative Code, Title 40, Part 1, Chapter 85, Implementation of the Older Americans Act are being transferred to Texas Administrative Code, Title 26, Part 1, Chapter 213, Area Agencies on Aging, Subchapter C, Implementation of the Older Americans Act.

The rules will be transferred in the Texas Administrative Code effective November 15, 2020.

The following table outlines the rule transfer:

Figure: 40 TAC Chapter 85

<b>Current Rules</b> <b>Title 40. Social Services and Assistance</b> <b>Part 1. Department of Aging and Disability Services</b> <b>Chapter 85. Implementation of the Older Americans Act</b>	<b>Move to</b> <b>Title 26. Health and Human Services</b> <b>Part 1. Texas Health and Human Services Commission</b> <b>Chapter 213. Area Agencies on Aging</b> <b>Subchapter C. Implementation of the Older Americans Act</b>
<b>SUBCHAPTER A. DEFINITIONS</b>	<b>DIVISION 1. DEFINITIONS</b>
§85.2. Definitions.	§213.101. Definitions.
<b>SUBCHAPTER C. AAA ADMINISTRATIVE REQUIREMENTS</b>	<b>DIVISION 2. AAA ADMINISTRATIVE REQUIREMENTS</b>
§85.201. AAA Administrative Responsibilities.	§213.151. AAA Administrative Responsibilities.
§85.202. AAA Fiscal Responsibilities.	§213.153. AAA Fiscal Responsibilities.
§85.206. Process for AAA to Request Approval to Directly Provide a Service.	§213.155. Process for AAA to Request Approval to Directly Provide a Service.
§85.208. Data Management.	§213.157 Data Management.
<b>SUBCHAPTER D. OLDER AMERICANS ACT SERVICES</b>	<b>DIVISION 3. OLDER AMERICANS ACT SERVICES</b>
§85.301. Transportation Services.	§213.201. Transportation Services.
§85.302. Nutrition Services.	§213.203. Nutrition Services.
§85.303. Participant Assessment Services.	§213.205. Participant Assessment Services.
§85.304. Homemaker Services.	§213.207. Homemaker Services.
§85.305. Personal Assistance Services.	§213.209. Personal Assistance Services.
§85.306. Adult Day Services.	§213.211. Adult Day Services.
§85.307. Emergency Response Services.	§213.213. Emergency Response Services.
§85.308. Residential Repair Services.	§213.215. Residential Repair Services.
§85.309. Senior Centers.	§213.217. Senior Centers.
§85.310. Respite Voucher.	§213.219. Respite Voucher.
<b>SUBCHAPTER F. MANAGEMENT AND OVERSIGHT</b>	<b>DIVISION 4. MANAGEMENT AND OVERSIGHT</b>
§85.501. AAA Funding Allocation Formula for Older Americans Act Programs.	§213.301. AAA Funding Allocation Formula for Older Americans Act Programs.
§85.502. Unspent Award Funds.	§213.303. Unspent Award Funds.

TRD-202004362



# 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

Office of the Governor

### Title 1, Part 1

TITLE 1. Administration

PART 1. Office of the Governor

CHAPTER 3. Criminal Justice Division

SUBCHAPTERS A, B, D - G, I

The Office of the Governor files this notice of intention to review 1 TAC Chapter 3, Subchapters A, B, D - G, I concerning: General Grant Program Provisions; Grant Budget Requirements; Conditions of Grant Funding; Administering Grants; Program Monitoring and Audits; Criminal Justice Division Boards; and a Memorandum of Understanding with the Texas Department of Public Safety. The review is being conducted in accordance with Texas Government Code §2001.039.

An assessment will be made by the Office of the Governor as to whether the reasons for adopting the rules continue to exist. Each rule will be reviewed to determine whether to readopt, readopt with amendments, or repeal the rule.

Comments may be submitted for 30 days following the date of publication of this notice by mail to Stephanie Greger, Office of the Governor, P.O. Box 12428, Austin, Texas 78711 or by email to [stephanie.greger@gov.texas.gov](mailto:stephanie.greger@gov.texas.gov) with the subject line "Criminal Justice Division Rule Review."

TRD-202004282

Stephanie Greger  
Assistant General Counsel  
Office of the Governor  
Filed: October 15, 2020



TITLE 1. Administration

PART 1. Office of the Governor

CHAPTER 5. General Administration

SUBCHAPTERS A, B

The Office of the Governor files this notice of intention to review 1 TAC Chapter 5, Subchapters A and B, concerning Federal and Intergovernmental Coordination and Administrative Policies. The review is being conducted in accordance with Texas Government Code §2001.039.

An assessment will be made by the Office of the Governor as to whether the reasons for adopting the rules continue to exist. Each rule will be

reviewed to determine whether to readopt, readopt with amendments, or repeal the rule.

Comments may be submitted for 30 days following the date of publication of this notice by mail to Joseph Behnke, Office of the Governor, P.O. Box 12428, Austin, Texas 78711 or by email to [joseph.behnke@gov.texas.gov](mailto:joseph.behnke@gov.texas.gov) with the subject line "Administrative Policies Rule Review."

TRD-202004283

Joseph Behnke  
Assistant General Counsel  
Office of the Governor  
Filed: October 15, 2020



Office of the Governor, Economic Development and Tourism Office

### Title 10, Part 5

TITLE 10. Community Development

PART 5. Office of the Governor, Economic Development and Tourism Office

CHAPTER 175. Defense Economic Readjustment Zones

The Office of the Governor, Economic Development and Tourism Office, files this notice of intention to review 10 TAC Chapter 175, concerning Defense Economic Readjustment Zones. The review is being conducted in accordance with Texas Government Code §2001.039.

An assessment will be made by the Office of the Governor, Economic Development and Tourism Office, as to whether the reasons for adopting the rules continue to exist. Each rule will be reviewed to determine whether to readopt, readopt with amendments, or repeal the rule.

Comments may be submitted for 30 days following the date of publication of this notice by mail to Terry Zrubek, Office of the Governor, P.O. Box 12428, Austin, Texas 78711 or by email to [terry.zrubek@gov.texas.gov](mailto:terry.zrubek@gov.texas.gov) with the subject line "Defense Economic Readjustment Zones Rule Review."

TRD-202004288

Terry Zrubek  
Director, Economic Development Finance  
Office of the Governor, Economic Development and Tourism Office  
Filed: October 15, 2020



TITLE 10. Community Development

PART 5. Office of the Governor, Economic Development and Tourism Office

CHAPTER 176. Enterprise Zone Program

The Office of the Governor, Economic Development and Tourism Office, files this notice of intention to review 10 TAC Chapter 176, concerning the Enterprise Zone Program. The review is being conducted in accordance with Texas Government Code §2001.039.

An assessment will be made by the Office of the Governor, Economic Development and Tourism Office, as to whether the reasons for adopting the rules continue to exist. Each rule will be reviewed to determine whether to readopt, readopt with amendments, or repeal the rule.

Comments may be submitted for 30 days following the date of publication of this notice by mail to Terry Zrubek, Office of the Governor, P.O. Box 12428, Austin, Texas 78711 or by email to [terry.zrubek@gov.texas.gov](mailto:terry.zrubek@gov.texas.gov) with the subject line "Enterprise Zone Program Rule Review."

TRD-202004289

Terry Zrubek

Director, Economic Development Finance

Office of the Governor, Economic Development and Tourism Office

Filed: October 15, 2020



TITLE 10. Community Development

PART 5. Office of the Governor, Economic Development and Tourism Office

CHAPTER 178. Single Unified Projects

The Office of the Governor, Economic Development and Tourism Office, files this notice of intention to review 10 TAC Chapter 178, concerning Single Unified Projects. The review is being conducted in accordance with Texas Government Code §2001.039.

An assessment will be made by the Office of the Governor, Economic Development and Tourism Office, as to whether the reasons for adopting the rules continue to exist. Each rule will be reviewed to determine whether to readopt, readopt with amendments, or repeal the rule.

Comments may be submitted for 30 days following the date of publication of this notice by mail to Michael Treyger, Office of the Governor, Economic Development and Tourism Office, P.O. Box 12428, Austin, Texas 78711 or by email to [michael.treyger@gov.texas.gov](mailto:michael.treyger@gov.texas.gov) with the subject line "Single Unified Projects Rule Review."

TRD-202004290

Michael Treyger

Deputy Director

Office of the Governor, Economic Development and Tourism Office

Filed: October 15, 2020



TITLE 10. Community Development

PART 5. Office of the Governor, Economic Development and Tourism Office

CHAPTER 180. Industrial Projects

The Office of the Governor, Economic Development and Tourism Office, files this notice of intention to review 10 TAC Chapter 180, concerning Industrial Projects. The review is being conducted in accordance with Texas Government Code §2001.039.

An assessment will be made by the Office of the Governor, Economic Development and Tourism Office, as to whether the reasons for adopting the rules continue to exist. Each rule will be reviewed to determine whether to readopt, readopt with amendments, or repeal the rule.

Comments may be submitted for 30 days following the date of publication of this notice by mail to Terry Zrubek, Office of the Governor, P.O. Box 12428, Austin, Texas 78711 or by email to [terry.zrubek@gov.texas.gov](mailto:terry.zrubek@gov.texas.gov) with the subject line "Industrial Projects Rule Review."

TRD-202004291

Terry Zrubek

Director, Economic Development Finance

Office of the Governor, Economic Development and Tourism Office

Filed: October 15, 2020



TITLE 10. Community Development

PART 5. Office of the Governor, Economic Development and Tourism Office

CHAPTER 187. Capital Access Program

The Office of the Governor, Economic Development and Tourism Office, files this notice of intention to review 10 TAC Chapter 187, concerning the Capital Access Program. The review is being conducted in accordance with Texas Government Code §2001.039.

An assessment will be made by the Office of the Governor, Economic Development and Tourism Office, as to whether the reasons for adopting the rules continue to exist. Each rule will be reviewed to determine whether to readopt, readopt with amendments, or repeal the rule.

Comments may be submitted for 30 days following the date of publication of this notice by mail to Terry Zrubek, Office of the Governor, P.O. Box 12428, Austin, Texas 78711 or by email to [terry.zrubek@gov.texas.gov](mailto:terry.zrubek@gov.texas.gov) with the subject line "Capital Access Program Rule Review."

TRD-202004292

Terry Zrubek

Director, Economic Development Finance

Office of the Governor, Economic Development and Tourism Office

Filed: October 15, 2020



TITLE 10. Community Development

PART 5. Office of the Governor, Economic Development and Tourism Office

CHAPTER 188. Fuel Ethanol and Biodiesel Production Incentive Program

The Office of the Governor, Economic Development and Tourism Office, files this notice of intention to review 10 TAC Chapter 188, concerning the Fuel Ethanol and Biodiesel Production Incentive Program. The review is being conducted in accordance with Texas Government Code §2001.039.

An assessment will be made by the Office of the Governor, Economic Development and Tourism Office, as to whether the reasons for adopting the rules continue to exist. Each rule will be reviewed to determine whether to readopt, readopt with amendments, or repeal the rule.

Comments may be submitted for 30 days following the date of publication of this notice by mail to Michael Treyger, Office of the Governor, Economic Development and Tourism Office, P.O. Box 12428, Austin,

Texas 78711 or by email to michael.treyger@gov.texas.gov with the subject line "Fuel Ethanol and Biodiesel Production Incentive Program Rule Review."

TRD-202004293

Michael Treyger  
Deputy Director  
Office of the Governor, Economic Development and Tourism Office  
Filed: October 15, 2020



TITLE 10. Community Development

PART 5. Office of the Governor, Economic Development and Tourism Office

CHAPTER 190. Governor's University Research Initiative Grant Program

The Office of the Governor, Economic Development and Tourism Office, files this notice of intention to review 10 TAC Chapter 190, concerning the Governor's University Research Initiative Grant Program. The review is being conducted in accordance with Texas Government Code §2001.039.

An assessment will be made by the Office of the Governor, Economic Development and Tourism Office, as to whether the reasons for adopting the rules continue to exist. Each rule will be reviewed to determine whether to readopt, readopt with amendments, or repeal the rule.

Comments may be submitted for 30 days following the date of publication of this notice by mail to Terry Zrubek, Office of the Governor, Economic Development and Tourism Office, P.O. Box 12428, Austin, Texas 78711 or by email to terry.zrubek@gov.texas.gov with the subject line "GURI Rule Review."

TRD-202004294

Terry Zrubek  
Director, Economic Development Finance  
Office of the Governor, Economic Development and Tourism Office  
Filed: October 15, 2020



TITLE 10. Community Development

PART 5. Office of the Governor, Economic Development and Tourism Office

CHAPTER 198. Advertising Rules

The Office of the Governor, Economic Development and Tourism Office, files this notice of intention to review 10 TAC Chapter 198, concerning Advertising Rules. The review is being conducted in accordance with Texas Government Code §2001.039.

An assessment will be made by the Office of the Governor, Economic Development and Tourism Office, as to whether the reasons for adopting the rules continue to exist. Each rule will be reviewed to determine whether to readopt, readopt with amendments, or repeal the rule.

Comments may be submitted for 30 days following the date of publication of this notice by mail to Brad Smyth, Office of the Governor, P.O. Box 12428, Austin, Texas 78711 or by email to TravelTexas@gov.texas.gov with the subject line "Advertising Rules Rule Review."

TRD-202004295

Brad Smyth  
Director, Tourism  
Office of the Governor, Economic Development and Tourism Office  
Filed: October 15, 2020



Texas Film Commission

**Title 13, Part 8**

TITLE 13. Cultural Resources

PART 8. Texas Film Commission

CHAPTER 121. Texas Moving Image Industry Incentive Program

The Texas Film Commission within the Office of the Governor files this notice of intention to review 13 TAC Chapter 121, concerning the Texas Moving Image Industry Incentive Program. The review is being conducted in accordance with Texas Government Code §2001.039.

An assessment will be made by the Texas Film Commission as to whether the reasons for adopting the rules continue to exist. Each rule will be reviewed to determine whether to readopt, readopt with amendments, or repeal the rule.

Comments may be submitted for 30 days following the date of publication of this notice by mail to Stephanie Whallon, Office of the Governor, Texas Film Commission, P.O. Box 12428, Austin, Texas 78711 or by email to stephanie.whallon@gov.texas.gov with the subject line "TMIIP Rule Review."

TRD-202004284  
Stephanie Whallon  
Director  
Texas Film Commission  
Filed: October 15, 2020



TITLE 13. Cultural Resources

PART 8. Texas Film Commission

CHAPTER 122. Temporary Use of State Buildings and Grounds by Television or Film Production Companies

The Texas Film Commission within the Office of the Governor files this notice of intention to review 13 TAC Chapter 122, concerning the Temporary Use of State Buildings and Grounds by Television or Film Production Companies. The review is being conducted in accordance with Texas Government Code §2001.039.

An assessment will be made by the Texas Film Commission as to whether the reasons for adopting the rules continue to exist. Each rule will be reviewed to determine whether to readopt, readopt with amendments, or repeal the rule.

Comments may be submitted for 30 days following the date of publication of this notice by mail to Stephanie Whallon, Office of the Governor, Texas Film Commission, P.O. Box 12428, Austin, Texas 78711 or by email to stephanie.whallon@gov.texas.gov with the subject line "Temporary Use of State Buildings and Grounds by Television or Film Production Companies Rule Review."

TRD-202004285  
Stephanie Whallon  
Director  
Texas Film Commission  
Filed: October 15, 2020



TITLE 13. Cultural Resources

PART 8. Texas Film Commission

CHAPTER 123. Media Production Development Zones

The Texas Film Commission within the Office of the Governor files this notice of intention to review 13 TAC Chapter 123, concerning Media Production Development Zones. The review is being conducted in accordance with Texas Government Code §2001.039.

An assessment will be made by the Texas Film Commission as to whether the reasons for adopting the rules continue to exist. Each rule will be reviewed to determine whether to readopt, readopt with amendments, or repeal the rule.

Comments may be submitted for 30 days following the date of publication of this notice by mail to Stephanie Whallon, Office of the Governor, Texas Film Commission, P.O. Box 12428, Austin, Texas 78711 or by email to Stephanie.Whallon@gov.texas.gov with the subject line "MPDZ Rule Review."

TRD-202004286  
Stephanie Whallon  
Director  
Texas Film Commission  
Filed: October 15, 2020



### Adopted Rule Reviews

Office of Consumer Credit Commissioner

#### Title 7, Part 5

The Finance Commission of Texas (commission) has completed the rule review of Texas Administrative Code, Title 7, Part 5, Chapter 84, concerning Motor Vehicle Installment Sales, in its entirety. The rule review was conducted under Texas Government Code, §2001.039.

Notice of the review of 7 TAC Chapter 84 was published in the July 31, 2020, issue of the *Texas Register* (45 TexReg 5365). The commission received no comments in response to that notice. The commission believes that the reasons for initially adopting the rules contained in this chapter continue to exist.

As a result of internal review by the Office of Consumer Credit Commissioner, the commission has determined that certain revisions are appropriate and necessary. Those proposed changes are published elsewhere in this issue of the *Texas Register*.

As a result of the rule review, the commission finds that the reasons for initially adopting the rules in 7 TAC Chapter 84 continue to exist, and readopts this chapter in accordance with the requirements of Texas Government Code, §2001.039.

TRD-202004335  
Matthew Nance  
Deputy General Counsel  
Office of Consumer Credit Commissioner  
Filed: October 16, 2020



# TABLES &

---

# GRAPHICS

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

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

---

Figure: 4 TAC §40.6(b)(1)(C)

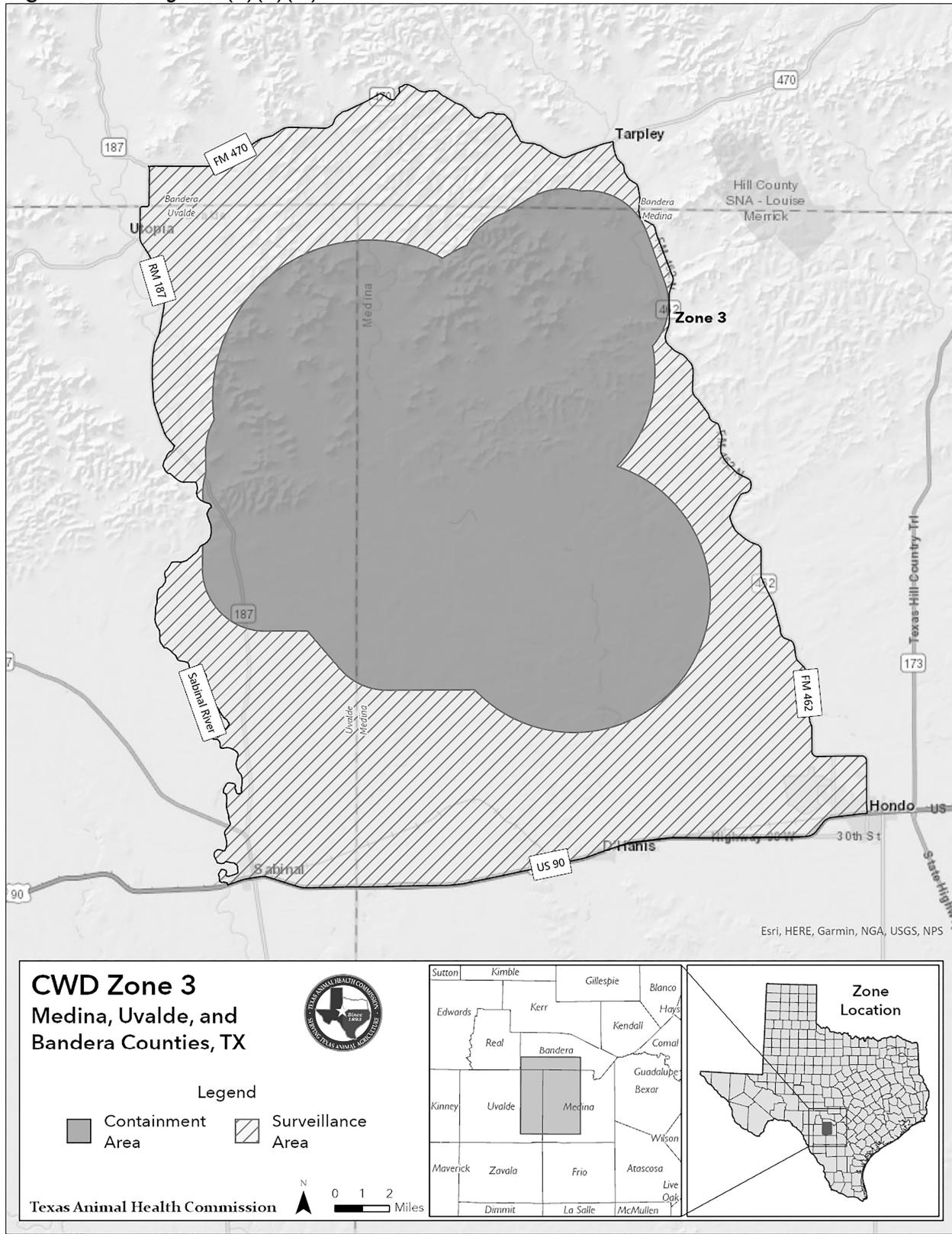




Figure: 7 TAC §3.37(a)

*First determine the bank's assessable asset group, then:*

Steps	Assessment Calculation:	Assessable Asset Group:						
		1	2	3	4	5	6	7
1.	For assessable assets of at least (in thousands)	\$0	\$10,000	\$25,000	\$40,000	\$70,000	\$100,000	\$250,000
	But not greater than (in thousands):	\$10,000	\$25,000	\$40,000	\$70,000	\$100,000	\$250,000	\$1,000,000
2.	Take the total assessable assets over (in thousands):	\$0	\$10,000	\$25,000	\$40,000	\$70,000	\$100,000	\$250,000
3.	And multiply by the <b>marginal assessment rate</b> :	0.851675	0.48322	0.229529	0.224697	0.217448	0.132885	0.089995
4.	Add this result to the <b>base assessment amount</b> :	\$3,006	\$11,523	\$18,771	\$22,214	\$28,955	\$35,478	\$55,411
5.	Multiply the total by the factor corresponding to the bank's CAMELS composite rating (as defined in §3.36(b)):							
	a.	2.0	2.0	2.0	2.0	2.0	2.0	2.0
	b.	1.0	1.0	1.0	1.0	1.0	1.0	1.0
6.	And multiply the total by 0.875 if bank has on-book assets of \$500 million or less and a CAMELS composite rating of 1 or 2.							
Steps	Assessment Calculation:	Assessable Asset Group:						
		8	9	10	11	12	13	14
1.	For assessable assets of at least (in thousands):	\$1,000,000	\$5,000,000	\$10,000,000	\$20,000,000	\$40,000,000	\$60,000,000	\$80,000,000
	But not greater than (in thousands):	\$5,000,000	\$10,000,000	\$20,000,000	\$40,000,000	\$60,000,000	\$80,000,000	-----
2.	Take the total assessable assets over (in thousands):	\$1,000,000	\$5,000,000	\$10,000,000	\$20,000,000	\$40,000,000	\$60,000,000	\$80,000,000
3.	And multiply by the <b>marginal assessment rate</b> :	0.079732	0.072483	0.058173	0.034656	0.02228	0.014853	0.009902
4.	Add this result to the <b>base assessment amount</b> :	\$122,457	\$441,385	\$803,800	\$1,385,530	\$2,078,650	\$2,524,250	\$2,821,310
5.	Multiply the total by the factor corresponding to the bank's CAMELS composite rating (as defined in §3.36(b)):							
	a.	2.0	2.0	2.0	2.0	2.0	2.0	2.0
	b.	1.0	1.0	1.0	1.0	1.0	1.0	1.0

# CAB NAME HERE

## Payday Loan

\$\_\_\_\_\_, One Payment

### Cost Disclosure

#### Cost of this loan:

Borrowed amount (cash advance)	\$ _____
Interest paid to lender (interest rate: __ %)	\$ _____
Fees paid to CAB name here	\$ _____
Total of payments (if I pay on time)	\$ _____





APR	_____ %
Term of loan	_____

If I pay off the loan in:	I will have to pay interest and fees of approximately:	I will have to pay a total of approximately:
2 Weeks	\$ _____	\$ _____
1 Month	\$ _____	\$ _____
2 Months	\$ _____	\$ _____
3 Months	\$ _____	\$ _____

#### Cost of other types of loans:

Least Expensive	Credit Cards	Secured Loans	Signature Loans	Pawn Loans	Auto Title Loans	Payday Loans	Most Expensive
	↓	↓	↓	↓	↓	↓	
	25%	30%	89%	180%	238%	370%	Average APR
	\$2.05	\$3.55	\$13.38	\$15.00	\$20.66	\$30.42	Average fees & interest per \$100 borrowed over 1 month

#### Repayment:

Of 10 people who get a new single-payment payday loan:	
	4 ¼ will pay the loan on time as scheduled (typically before 30 days)
	1 ¼ will renew 1 time before paying off the loan
	1 ½ will renew 2 to 4 times before paying off the loan
	2 ½ will renew 5 or more times or will never pay off the loan

This data is from 2019 reports to the OCCC.

#### Before getting this loan, ask yourself:

- Do I need to borrow this money?
- Can I pay back the loan **in full** when it is due?
- Can I pay my bills and repay this loan?
- Can I afford late charges if I miss a payment?
- Do I have other credit options?

#### OCCC notice:

- This company is regulated by the Texas Office of Consumer Credit Commissioner (OCCC).
- OCCC Consumer Helpline: (800) 538-1579, [consumer.complaints@occc.texas.gov](mailto:consumer.complaints@occc.texas.gov).
- Visit [occc.texas.gov](http://occc.texas.gov) for more information.
- This disclosure is provided under Texas Finance Code Section 393.223.

# CAB NAME HERE

## Payday Loan

\$ \_\_\_\_\_, \_\_\_\_\_ Payments

## Cost Disclosure

### Cost of this loan:

<b>Borrowed amount</b> (cash advance)	\$ _____
<b>Interest paid to lender</b> (interest rate: __ %)	\$ _____
<b>Fees paid to</b> <u>CAB name here</u>	\$ _____
<b>Payment amounts</b> (payments due every _____)	Payments #1-# _____ \$ _____ (Final) Payment # _____ \$ _____
<b>Total of payments</b> (if I pay on time)	\$ _____




<b>APR</b>	_____ %
<b>Term of loan</b>	_____

<b>If I pay off the loan in:</b>	<b>I will have to pay interest and fees of approximately:</b>	<b>I will have to pay a total of approximately:</b>
2 Weeks	\$ _____	\$ _____
1 Month	\$ _____	\$ _____
2 Months	\$ _____	\$ _____
3 Months	\$ _____	\$ _____
	\$ _____	\$ _____

### Cost of other types of loans:



### Repayment:

Of 10 people who get a new multi-payment payday loan:	
	5 will pay the loan on time as scheduled (typically 5 months)
	1 will renew 1 to 4 times before paying off the loan
	4 will renew 5 or more times or will never pay off the loan.

This data is from 2019 reports to the OCCC.

### Before getting this loan, ask yourself:

- Do I need to borrow this money?
- Can I pay back the loan *in full* when it is due?
- Can I pay my bills and repay this loan?
- Can I afford late charges if I miss a payment?
- Do I have other credit options?

### OCCC notice:

- This company is regulated by the Texas Office of Consumer Credit Commissioner (OCCC).
- OCCC Consumer Helpline: (800) 538-1579, [consumer.complaints@occc.texas.gov](mailto:consumer.complaints@occc.texas.gov).
- Visit [occc.texas.gov](http://occc.texas.gov) for more information.
- This disclosure is provided under Texas Finance Code Section 393.223.

# CAB NAME HERE

## Auto Title Loan \$\_\_\_\_\_, One Payment Cost Disclosure



### You can lose your car.

If you miss a payment or make a late payment, your car can be repossessed.

### Cost of this loan:

Borrowed amount (cash advance)	\$ _____
Interest paid to lender (interest rate: __ %)	\$ _____
Fees paid to <u>CAB name here</u> (includes a one-time \$__ title fee)	\$ _____
Total of payments (if I pay on time)	\$ _____

APR	_____ %
Term of loan	_____

If I pay off the loan in:	I will have to pay interest and fees of approximately:	I will have to pay a total of approximately:
2 Weeks	\$ _____	\$ _____
1 Month	\$ _____	\$ _____
2 Months	\$ _____	\$ _____
3 Months	\$ _____	\$ _____

### Cost of other types of loans:

Least Expensive	Credit Cards	Secured Loans	Signature Loans	Pawn Loans	Auto Title Loans	Payday Loans	Most Expensive
	↓	↓	↓	↓	↓	↓	
	25%	30%	89%	180%	238%	370%	Average APR
	\$2.05	\$3.55	\$13.38	\$15.00	\$20.66	\$30.42	Average fees & interest per \$100 borrowed over 1 month

### Repayment:

Of 10 people who get a new single-payment auto title loan:	
	2 will pay the loan on time as scheduled (typically 30 days)
	½ will renew 1 time before paying off the loan
	1½ will renew 2 to 4 times before paying off the loan
	6 will renew 5 or more times or will never pay off the loan

This data is from 2019 reports to the OCCC.

### Before getting this loan, ask yourself:

- Do I need to borrow this money?
- Can I pay back the loan **in full** when it is due?
- Can I pay my bills and repay this loan?
- Can I afford late charges if I miss a payment?
- Do I have other credit options?

### OCCC notice:

- This company is regulated by the Texas Office of Consumer Credit Commissioner (OCCC).
- OCCC Consumer Helpline: (800) 538-1579, [consumer.complaints@occc.texas.gov](mailto:consumer.complaints@occc.texas.gov).
- Visit [occc.texas.gov](http://occc.texas.gov) for more information.
- This disclosure is provided under Texas Finance Code Section 393.223.

# CAB NAME HERE

## Auto Title Loan

\$\_\_\_\_\_, \_\_\_ Payments

## Cost Disclosure



### You can lose your car.

If you miss a payment or make a late payment, your car can be repossessed.

### Cost of this loan:

<b>Borrowed amount</b> (cash advance)	\$ _____
<b>Interest paid to lender</b> (interest rate: __ %)	\$ _____
<b>Fees paid to</b> <u>CAB name here</u> (includes a one-time \$__ title fee)	\$ _____
<b>Payment amounts</b> (payments due every _____)	Payments #1-# _____ \$ _____ (Final) Payment # _____ \$ _____
<b>Total of payments</b> (if I pay on time)	\$ _____

<b>APR</b>	_____ %
<b>Term of loan</b>	_____

If I pay off the loan in:	I will have to pay interest and fees of approximately:	I will have to pay a total of approximately:
2 Weeks	\$ _____	\$ _____
1 Month	\$ _____	\$ _____
2 Months	\$ _____	\$ _____
3 Months	\$ _____	\$ _____
	\$ _____	\$ _____

### Cost of other types of loans:

Least Expensive	Credit Cards	Secured Loans	Signature Loans	Pawn Loans	Auto Title Loans	Payday Loans	Most Expensive
	25%	30%	89%	180%	238%	370%	Average APR
	\$2.05	\$3.55	\$13.38	\$15.00	\$20.66	\$30.42	Average fees & interest per \$100 borrowed over 1 month

### Repayment:

Of 10 people who get a new multi-payment auto title loan:	
	4 ¾ will pay the loan on time as scheduled (typically 5 - 6 months)
	½ will renew 1 time before paying off the loan
	1 ¼ will renew 2 to 4 times before paying off the loan
	3 ½ will renew 5 or more times or will never pay off the loan

This data is from 2019 reports to the OCCC.

### Before getting this loan, ask yourself:

- Do I need to borrow this money?
- Can I pay back the loan **in full** when it is due?
- Can I pay my bills and repay this loan?
- Can I afford late charges if I miss a payment?
- Do I have other credit options?

### OCCC notice:

- This company is regulated by the Texas Office of Consumer Credit Commissioner (OCCC).
- OCCC Consumer Helpline: (800) 538-1579, [consumer.complaints@occc.texas.gov](mailto:consumer.complaints@occc.texas.gov).
- Visit [occc.texas.gov](http://occc.texas.gov) for more information.
- This disclosure is provided under Texas Finance Code Section 393.223.

Figure: 7 TAC §84.201(d)(2)(B)(iii)

TERM - # OF MONTHS	ADD-ON RATES PER \$100.00 PER ANNUM			
	\$7.50	\$10.00	\$12.50	\$15.00
1	18.0000%	18.0000%	18.0000%	18.0000%
2	18.0000%	18.0000%	18.0000%	19.9452%
3	18.0000%	18.0000%	18.6541%	22.3624%
4	18.0000%	18.0000%	19.8374%	23.7670%
5	18.0000%	18.0000%	20.5996%	24.6655%
6	18.0000%	18.0000%	21.1215%	25.2754%
7	18.0000%	18.0000%	21.4935%	25.7054%
8	18.0000%	18.0000%	21.7659%	26.0160%
9	18.0000%	18.0000%	21.9688%	26.2435%
10	18.0000%	18.0000%	22.1215%	26.4109%
11	18.0000%	18.0000%	22.2367%	26.5338%
12	18.0000%	18.0000%	22.3232%	26.6226%
13	18.0000%	18.0338%	22.3875%	26.6849%
14	18.0000%	18.0812%	22.4340%	26.7265%
15	18.0000%	18.1171%	22.4664%	26.7513%
16	18.0000%	18.1435%	22.4872%	26.7626%
17	18.0000%	18.1621%	22.4985%	26.7628%
18	18.0000%	18.1743%	22.5020%	26.7540%
19	18.0000%	18.1809%	22.4988%	26.7375%
20	18.0000%	18.1830%	22.4901%	26.7148%
21	18.0000%	18.1811%	22.4768%	26.6867%
22	18.0000%	18.1758%	22.4594%	26.6542%
23	18.0000%	18.1677%	22.4387%	26.6178%
24	18.0000%	18.1570%	22.4150%	26.5783%
25	18.0000%	18.1442%	22.3889%	26.5360%
26	18.0000%	18.1294%	22.3605%	26.4915%
27	18.0000%	18.1130%	22.3304%	26.4449%
28	18.0000%	18.0952%	22.2986%	26.3968%
29	18.0000%	18.0761%	22.2654%	26.3472%
30	18.0000%	18.0559%	22.2311%	26.2964%
31	18.0000%	18.0347%	22.1957%	26.2446%
32	18.0000%	18.0126%	22.1594%	26.1920%
33	18.0000%	18.0000%	22.1224%	26.1387%
34	18.0000%	18.0000%	22.0847%	26.0848%
35	18.0000%	18.0000%	22.0464%	26.0305%
36	18.0000%	18.0000%	22.0077%	25.9759%
37	18.0000%	18.0000%	21.9686%	25.9210%
38	18.0000%	18.0000%	21.9292%	25.8659%
39	18.0000%	18.0000%	21.8895%	25.8106%
40	18.0000%	18.0000%	21.8496%	25.7553%
41	18.0000%	18.0000%	21.8095%	25.7000%
42	18.0000%	18.0000%	21.7693%	25.6447%
43	18.0000%	18.0000%	21.7290%	25.5894%
44	18.0000%	18.0000%	21.6886%	25.5343%
45	18.0000%	18.0000%	21.6483%	25.4793%
46	18.0000%	18.0000%	21.6079%	25.4245%
47	18.0000%	18.0000%	21.5676% [ <del>21.5679%</del> ]	25.3699%
48	18.0000%	18.0000%	21.5273%	25.3155%
49	18.0000%	18.0000%	21.4871%	25.2613%
50	18.0000%	18.0000%	21.4469%	25.2074%

TERM - # OF MONTHS	ADD-ON RATES PER \$100.00 PER ANNUM			
	\$7.50	\$10.00	\$12.50	\$15.00
51	18.0000%	18.0000%	21.4069%	25.1537%
52	18.0000%	18.0000%	21.3670%	25.1003%
53	18.0000%	18.0000%	21.3272%	25.0473%
54	18.0000%	18.0000%	21.2876%	24.9945%
55	18.0000%	18.0000%	21.2481%	24.9420%
56	18.0000%	18.0000%	21.2088%	24.8898%
57	18.0000%	18.0000%	21.1696%	24.8380%
58	18.0000%	18.0000%	21.1307%	24.7865%
59	18.0000%	18.0000%	21.0919%	24.7354%
60	18.0000%	18.0000%	21.0533%	24.6845%
61	18.0000%	18.0000%	21.0149%	24.6341%
62	18.0000%	18.0000%	20.9767%	24.5839%
63	18.0000%	18.0000%	20.9387%	24.5342%
64	18.0000%	18.0000%	20.9009%	24.4847%
65	18.0000%	18.0000%	20.8633%	24.4357%
66	18.0000%	18.0000%	20.8259%	24.3870%
67	18.0000%	18.0000%	20.7888%	24.3386%
68	18.0000%	18.0000%	20.7518%	24.2906%
69	18.0000%	18.0000%	20.7151%	24.2430%
70	18.0000%	18.0000%	20.6786%	24.1957%
71	18.0000%	18.0000%	20.6423%	24.1488%
72	18.0000%	18.0000%	20.6063%	24.1022%
73	18.0000%	18.0000%	20.5705%	24.0559%
74	18.0000%	18.0000%	20.5349%	24.0101%
75	18.0000%	18.0000%	20.4995%	23.9645%
76	18.0000%	18.0000%	20.4643%	23.9194%
77	18.0000%	18.0000%	20.4294%	23.8745%
78	18.0000%	18.0000%	20.3947%	23.8300%
79	18.0000%	18.0000%	20.3602%	23.7859%
80	18.0000%	18.0000%	20.3259%	23.7421%
81	18.0000%	18.0000%	20.2919%	23.6986%
82	18.0000%	18.0000%	20.2581%	23.6555%
83	18.0000%	18.0000%	20.2245%	23.6127%
84	18.0000%	18.0000%	20.1911%	23.5702%





# IN ADDITION

The *Texas Register* is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings issued by the Office of Consumer Credit Commissioner, and consultant proposal requests and awards. State agencies also may publish other notices of general interest as space permits.

## Texas State Affordable Housing Corporation

Draft Bond Program Policies and Request for Proposals Available for Public Comment

The Texas State Affordable Housing Corporation ("Corporation") has posted the draft of its 2021 Tax-Exempt Bond Program Policies and Request for Proposals. The Corporation will include written public comments received before December 9, 2020, in its final recommendations to the Board. Comments may be submitted by email to: [ddanenfelzer@tsahc.org](mailto:ddanenfelzer@tsahc.org). Comments will also be accepted by USPS at the offices of the Corporation sent to:

Texas State Affordable Housing Corporation

Attn: Development Finance Programs

2200 East Martin Luther King Jr. Blvd.

Austin, Texas 78702

A copy of the draft policies and request for proposals is available on the Corporation's website at:

<https://www.tsahc.org/developers/tax-exempt-bonds>

TRD-202004271

David Long

President

Texas State Affordable Housing Corporation

Filed: October 14, 2020

## Office of the Attorney General

Texas Health and Safety Code and Texas Water Code Settlement Notice

The State of Texas gives notice of the following proposed resolution of an environmental enforcement action under the Texas Water Code and Texas Health and Safety Code. Before the State may enter into a voluntary settlement agreement, pursuant to section 7.110 of the Texas Water Code the State shall permit the public to comment in writing. The Attorney General will consider any written comments and may withdraw or withhold consent to the proposed agreement if the comments disclose facts or considerations indicating that consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the law.

Case Title and Court: *State of Texas v. KMCO, LLC*; Cause No. D-1-GN-19-001795; in the 126th Judicial District Court, Travis County, Texas.

Background: The State initiated the enforcement lawsuit on behalf of the Texas Commission on Environmental Quality ("TCEQ"), pursuant to the Texas Solid Waste Disposal Act and the Texas Clean Air Act, codified on Chapters 361 and 382 of the Texas Health and Safety Code, and rules adopted by TCEQ, against KMCO, LLC ("KMCO"). KMCO owns and operates an industrial organic chemical manufacturing plant located in Crosby, Harris County, Texas in which an unauthorized emission event occurred and resulted in the death of an employee and injuries to several others.

Proposed Settlement: The parties propose an Agreed Final Judgment which provides for an award of civil penalties in the amount of \$10,000,000.00 and attorney's fees in the amount of \$60,000.00 to the State of Texas, respectively.

For a complete description of the proposed settlement, the Agreed Final Judgment should be reviewed in its entirety. The proposed judgment may be obtained by mail for the cost of copying. Requests for copies of the proposed judgment and settlement, and written comments on the same, should be directed to David Terry, Assistant Attorney General, Office of the Texas Attorney General, P.O. Box 12548, MC 066, Austin, Texas 78711-2548, (512) 463-2012, facsimile (512) 320-0911, [David.Terry@oag.texas.gov](mailto:David.Terry@oag.texas.gov). Written comments must be received within 30 days of publication of this notice to be considered.

TRD-202004339

Lesley French

General Counsel

Office of the Attorney General

Filed: October 16, 2020

## Office of Consumer Credit Commissioner

Notice of Rate Ceilings

The Consumer Credit Commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in §§303.003, 303.009 and 304.003, Texas Finance Code.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 10/26/20 - 11/01/20 is 18% for Consumer<sup>1</sup>/Agricultural/Commercial<sup>2</sup> credit through \$250,000.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 10/26/20 - 11/01/20 is 18% for Commercial over \$250,000.

The judgment ceiling as prescribed by §304.003 for the period of 11/01/20 - 11/30/20 is 5.00% for Consumer/Agricultural/Commercial credit through \$250,000.

The judgment ceiling as prescribed by §304.003 for the period of 11/01/20 - 11/30/20 is 5.00% for commercial over \$250,000.

<sup>1</sup> Credit for personal, family or household use.

<sup>2</sup> Credit for business, commercial, investment or other similar purpose.

TRD-202004370

Leslie L. Pettijohn

Commissioner

Office of Consumer Credit Commissioner

Filed: October 20, 2020

## Credit Union Department

Application to Expand Field of Membership

Notice is given that the following applications have been filed with the Credit Union Department (Department) and is under consideration.

An application was received from EECU, Fort Worth, Texas, to expand its field of membership. The proposal would permit persons who live, work, worship, or attend school, and businesses and other legal entities in Erath, Somervell, Bosque, and Hill Counties, Texas, to be eligible for membership in the credit union.

An application was received from EECU, Fort Worth, Texas, to expand its field of membership. The proposal would permit persons who live, work, worship, or attend school, and businesses and other legal entities in Collin and Rockwall Counties, Texas, to be eligible for membership in the credit union.

An application was received from GECU, El Paso, Texas, to expand its field of membership. The proposal would permit employees of the credit union, to be eligible for membership in the credit union.

Comments or a request for a meeting by any interested party relating to an application must be submitted in writing within 30 days from the date of this publication. Credit unions that wish to comment on any application must also complete a Notice of Protest form. The form may be obtained by contacting the Department at (512) 837-9236 or downloading the form at <http://www.cud.texas.gov/page/bylaw-charter-applications>. Any written comments must provide all information that the interested party wishes the Department to consider in evaluating the application. All information received will be weighed during consideration of the merits of an application. Comments or a request for a meeting should be addressed to the Credit Union Department, 914 East Anderson Lane, Austin, Texas 78752-1699.

TRD-202004426  
John J. Kolhoff  
Commissioner  
Credit Union Department  
Filed: October 21, 2020



#### Notice of Final Action Taken

In accordance with the provisions of 7 TAC §91.103, the Credit Union Department provides notice of the final action taken on the following applications:

Application to Expand Field of Membership - Approved

Plus4 Credit Union, Houston, Texas - See *Texas Register* issue dated July 24, 2020.

Neighborhood Credit Union, Dallas, Texas - See *Texas Register* issue dated July 24, 2020.

Texans Credit Union #1, Richardson, Texas - See *Texas Register* issue dated June 26, 2020.

Texans Credit Union #2, Richardson, Texas - See *Texas Register* issue dated June 26, 2020.

Texans Credit Union #3, Richardson, Texas - See *Texas Register* issue dated June 26, 2020.

Texans Credit Union #4, Richardson, Texas - See *Texas Register* issue dated June 26, 2020.

Texans Credit Union #5, Richardson, Texas - See *Texas Register* issue dated June 26, 2020.

Texans Credit Union #6, Richardson, Texas - See *Texas Register* issue dated June 26, 2020.

Texans Credit Union #7, Richardson, Texas - See *Texas Register* issue dated June 26, 2020.

TRD-202004425  
John J. Kolhoff  
Commissioner  
Credit Union Department  
Filed: October 21, 2020



#### Notice of Final Action Taken

In accordance with the provisions of 7 TAC §91.103, the Credit Union Department provides notice of the final action taken on the following application:

Application to Expand Field of Membership - Approved

First Central Credit Union, Waco, Texas - See *Texas Register* issue dated August 28, 2020.

TRD-202004427  
John J. Kolhoff  
Commissioner  
Credit Union Department  
Filed: October 21, 2020



### Texas Education Agency

Notice of Correction Concerning the 2021 - 2022 Nita M. Lowey 21st Century Community Learning Centers, Cycle 11, Year 1 Grant Program under Request for Applications (RFA) #701-21-102

Filing Authority. The availability of grant funds under RFA #701-21-102 is authorized by Public Law 114-95, Elementary and Secondary Education Act of 1965, as amended by Every Student Succeeds Act, Title IV, Part B (20 U.S.C. §§7171-7176).

The Texas Education Agency (TEA) published Request for Applications Concerning the 2021-2022 Nita M. Lowey 21st Century Community Learning Centers (CCLC), Cycle 11, Year 1 Grant Program in the October 9, 2020, issue of the *Texas Register* (45 TexReg 7312).

TEA is amending the applicant eligibility and award amounts and clarifying the correct email to contact for questions.

In the Eligible Applicants section, the criteria is amended to read, "A campus is ineligible to be included in a funded application if it meets either of the following conditions: the campus or school was newly opened in the school year 2020-2021 or the campus is a center or center feeder in an active Texas 21st CCLC, Cycle 10 grant program. If an eligible applicant includes one or more ineligible campus or feeder campus, TEA may deem the entire application ineligible for peer review. Each eligible applicant may submit only one application for funding up to 10 centers."

In the Project Amount section, the anticipated award range is amended to read, "It is anticipated that approximately 40 grants will be awarded ranging in amounts from \$50,000 to \$1.7 million each year of the five-year project period."

Questions regarding this program must be submitted in writing to [21stcentury@tea.texas.gov](mailto:21stcentury@tea.texas.gov), the TEA email address identified in the Program Guidelines of the RFA, no later than Friday, November 13, 2020.

Issued in Austin, Texas, on October 21, 2020.

TRD-202004428  
Cristina De La Fuente-Valadez  
Director, Rulemaking  
Texas Education Agency  
Filed: October 21, 2020

◆ ◆ ◆  
**Office of the State Entomologist**

**Notice of Agency Name Change**

The term "State Entomologist" is no longer a title held under the Texas Apiary Inspection Service (TAIS). All of the powers and duties of the State Entomologist are now held by the Chief Apiary Inspector. All personnel, equipment, data, documents, facilities, contracts, items, and other property, rules, decisions and proceedings of or involving the State Entomologist are unaffected by the change in the name of authority.

The TAIS is proposing changes to Title 4, Chapter 71 to update this terminology. The term "state entomologist" will be removed from the list of definitions in this chapter and will be replaced with "chief apiary inspector". Additionally, the name of Title 4, Part 4 will be changed from "Office of the State Entomologist" to "Office of the Chief Apiary Inspector" when these proposed changes are adopted. The name of Chapter 71 will remain "Bees".

TRD-202004272  
Lynda Cook  
Assistant General Counsel  
Office of the State Entomologist  
Filed: October 14, 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 **December 2, 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 **December 2, 2020**. Written comments may also be sent by facsimile machine to the enforcement coordinator at (512) 239-2550. The commission's enforce-

ment 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: American Religious Town Hall Meeting, Incorporated; DOCKET NUMBER: 2020-0274-MWD-E; IDENTIFIER: RN105460646; LOCATION: Whitney, Hill County; TYPE OF FACILITY: wastewater treatment facility; RULES VIOLATED: 30 TAC §305.125(1) and (5), and Texas Pollutant Discharge Elimination System (TPDES) Permit Number WQ0014871001, 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 (18), and TPDES Permit Number WQ0014871001, Other Requirements Number 8, by failing to submit a quarterly progress report by the 14th day of the following schedule date; PENALTY: \$7,812; ENFORCEMENT COORDINATOR: Christopher Moreno, (254) 761-3038; REGIONAL OFFICE: 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

(2) COMPANY: Aqua Utilities, Incorporated; DOCKET NUMBER: 2020-0557-PWS-E; IDENTIFIER: RN102692480; LOCATION: Decatur, Wise County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.44(h)(1)(A), by failing to ensure that additional protection is provided at all residences or establishments where an actual or potential contamination hazard exists in the form of an air gap or backflow prevention assembly (BPA), as identified in 30 TAC §290.47(f); and 30 TAC §290.44(h)(4), by failing to have all BPAs tested upon installation and on an annual basis by a recognized backflow assembly tester and certify that they are operating within specifications; PENALTY: \$3,000; ENFORCEMENT COORDINATOR: Miles Wehner, (512) 239-2813; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(3) COMPANY: City of Conroe; DOCKET NUMBER: 2019-1587-MWD-E; IDENTIFIER: RN101607257; LOCATION: Conroe, Montgomery County; TYPE OF FACILITY: wastewater treatment facility; RULES VIOLATED: 30 TAC §305.125(1) and (5), TWC, §26.121(a)(1), and Texas Pollutant Discharge Elimination System Permit Number WQ0010008002, Permit Conditions Number 2.g, by failing to prevent an unauthorized discharge of sewage into or adjacent to any water in the state; PENALTY: \$6,750; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$6,750; ENFORCEMENT COORDINATOR: Harley Hobson, (512) 239-1337; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(4) COMPANY: City of Garland; DOCKET NUMBER: 2020-0879-AIR-E; IDENTIFIER: RN103049490; LOCATION: Rowlett, Dallas County; TYPE OF FACILITY: landfill; RULES VIOLATED: 30 TAC §101.4 and Texas Health and Safety Code, §382.085(a) and (b), by failing to prevent nuisance odor conditions; PENALTY: \$7,500; ENFORCEMENT COORDINATOR: Amanda Diaz, (713) 422-8912; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(5) COMPANY: City of Paint Rock; DOCKET NUMBER: 2020-0536-PWS-E; IDENTIFIER: RN101451730; LOCATION: Paint Rock, Concho County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.46(q)(1), by failing to issue a boil water notice (BWN) to customers of the facility within 24 hours of a water outage using the prescribed notification format as specified in 30 TAC §290.47(c); and 30 TAC §290.46(q)(6) and Texas Health and Safety Code, §341.0315(c), by failing to meet the required actions prior to rescinding a BWN; PENALTY: \$1,036; ENFORCEMENT COORDI-

NATOR: Julianne Dewar, (817) 588-5861; REGIONAL OFFICE: 622 South Oakes, Suite K, San Angelo, Texas 76903-7035, (325) 655-9479.

(6) COMPANY: City of Pasadena; DOCKET NUMBER: 2020-0476-MWD-E; IDENTIFIER: RN101609774; LOCATION: Pasadena, Harris 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 WQ0010053011, Permit Conditions Number 2.g, by failing to prevent an unauthorized discharge of wastewater into or adjacent to any water in the state; and 30 TAC §305.125(1) and TPDES Permit Number WQ0010053011, Monitoring and Reporting Requirements Number 7.a, by failing to report an unauthorized discharge orally to the Regional Office within 24 hours of becoming aware of the non-compliance, and in writing to the Regional Office and the Enforcement Division within five working days of becoming aware of the non-compliance; PENALTY: \$10,625; ENFORCEMENT COORDINATOR: Christopher Moreno, (254) 761-3038; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(7) COMPANY: City of Roaring Springs; DOCKET NUMBER: 2020-0923-PWS-E; IDENTIFIER: RN101200095; LOCATION: Roaring Springs, Motley County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.115(f)(1) and Texas Health and Safety Code, §341.0315(c), by failing to comply with the maximum contaminant level of 0.080 milligrams per liter for total trihalomethanes based on the locational running annual average; PENALTY: \$1,500; ENFORCEMENT COORDINATOR: Amanda Conner, (512) 676-7487; REGIONAL OFFICE: 5012 50th Street, Suite 100, Lubbock, Texas 79414-3426, (806) 796-7092.

(8) COMPANY: City of Roscoe; DOCKET NUMBER: 2019-1300-MWD-E; IDENTIFIER: RN105605927; LOCATION: Roscoe, Nolan County; TYPE OF FACILITY: wastewater treatment facility; RULES VIOLATED: 30 TAC §305.125(1) and Texas Pollutant Discharge Elimination System (TPDES) Permit Number WQ0010263002, Operational Requirements Number 5, by failing to provide a means of measuring effluent flow; 30 TAC §305.125(1) and TPDES Permit Number WQ0010263002, Operational Requirements Number 1 and Special Provisions Number 3, by failing to properly operate and maintain the pond system; 30 TAC §305.125(1), TPDES Permit Number WQ0010263002, Special Provisions Number 19, and TCEQ Agreed Order Docket Number 2016-1533-MWD-E, Ordering Provision Number 2.a.iii, by failing to provide certification by a Texas Licensed Professional Engineer that the pond liners meet the appropriate criteria prior to utilization; 30 TAC §305.125(1) and (11)(B) and §319.7(c), and TPDES Permit Number WQ0010263002, Special Provisions Number 5, by failing to maintain monitoring and reporting records at the facility and making them readily available for review by a TCEQ representative for a period of three years; and 30 TAC §30.350(d) and (j) and §305.125(1), TPDES Permit Number WQ0010263002, Special Provisions Number 2, and TCEQ Agreed Order Docket Number 2016-1533-MWD-E, Ordering Provision Number 2.a.iv, by failing to employ or contract with one or more licensed wastewater treatment facility operators or wastewater system operations companies holding a valid Class D license or higher; PENALTY: \$70,650; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$70,650; ENFORCEMENT COORDINATOR: Aaron Vincent, (512) 239-0855; REGIONAL OFFICE: 1977 Industrial Boulevard, Abilene, Texas 79602-7833, (325) 698-9674.

(9) COMPANY: COUNTRY TERRACE WATER COMPANY, INCORPORATED; DOCKET NUMBER: 2020-0885-PWS-E; IDENTIFIER: RN102675576; LOCATION: Houston, Harris County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.39(j), by failing to notify the executive director (ED) prior to

making any significant change or addition to the system's production, treatment, storage, pressure maintenance, or distribution facilities; and 30 TAC §290.46(f)(2) and (3)(D)(ii), by failing to maintain water works operations and maintenance records and make them readily available for review by the ED upon request; PENALTY: \$100; ENFORCEMENT COORDINATOR: Ryan Byer, (512) 239-2571; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(10) COMPANY: David P. Everett, Sr. dba Cooney Cavern Lodge; DOCKET NUMBER: 2020-0857-PWS-E; IDENTIFIER: RN102694197; LOCATION: Clifton, Bosque County; TYPE OF FACILITY: community public water supply; RULES VIOLATED: 30 TAC §290.45(b)(1)(A)(i) and Texas Health and Safety Code, §341.0315(c), by failing to provide a minimum well capacity of 1.5 gallons per minute per connection; PENALTY: \$262; ENFORCEMENT COORDINATOR: Carlos Molina, (512) 239-2557; REGIONAL OFFICE: 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

(11) COMPANY: Elvira Zavala-Patton; DOCKET NUMBER: 2020-0506-MSW-E; IDENTIFIER: RN110860616; LOCATION: Clint, El Paso County; TYPE OF FACILITY: unauthorized municipal solid waste disposal site; RULES VIOLATED: 30 TAC §330.15(a) and (c), by failing to not cause, suffer, allow, or permit the unauthorized storage/disposal of municipal solid waste; PENALTY: \$3,937; ENFORCEMENT COORDINATOR: Ken Moller, (512) 239-6111; REGIONAL OFFICE: 401 East Franklin Avenue, Suite 560, El Paso, Texas 79901-1212, (915) 834-4949.

(12) COMPANY: Great Western Drilling Ltd.; DOCKET NUMBER: 2020-0929-AIR-E; IDENTIFIER: RN111044020; LOCATION: Levelland, Hockley County; TYPE OF FACILITY: oil storage tank battery; RULES VIOLATED: 30 TAC §116.110(a) and Texas Health and Safety Code, §382.0518(a) and §382.085(b), by failing to obtain authorization prior to constructing or modifying a source of air contaminants; PENALTY: \$1,125; ENFORCEMENT COORDINATOR: Johnnie Wu, (512) 239-2524; REGIONAL OFFICE: 5012 50th Street, Suite 100, Lubbock, Texas 79414-3426, (806) 796-7092.

(13) COMPANY: Harris County Water Control and Improvement District 50; DOCKET NUMBER: 2019-1745-PWS-E; IDENTIFIER: RN101410504; LOCATION: El Lago, Harris County; TYPE OF FACILITY: public water supply; RULE VIOLATED: 30 TAC §290.41(c)(1)(B), by failing to locate the facility's wells at least 500 feet from a sewage treatment plant; PENALTY: \$522; ENFORCEMENT COORDINATOR: Samantha Duncan, (512) 239-2511; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(14) COMPANY: Lucky Star RVP, LLC; DOCKET NUMBER: 2020-0872-PWS-E; IDENTIFIER: RN107167207; LOCATION: Midland, Midland County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.106(f)(2) and Texas Health and Safety Code, §341.031(a), by failing to comply with the acute maximum contaminant level of ten milligrams per liter for nitrate; PENALTY: \$3,900; ENFORCEMENT COORDINATOR: Amanda Conner, (512) 676-7487; REGIONAL OFFICE: 9900 West IH-20, Suite 100, Midland, Texas 79706, (432) 570-1359.

(15) COMPANY: PCI Nitrogen, LLC; DOCKET NUMBER: 2020-0977-AIR-E; IDENTIFIER: RN101621944; 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 4209A, Special Conditions Number 1, Federal Operating Permit Number O1252, General Terms and Conditions and Special Terms and Conditions Number 12, and

Texas Health and Safety Code, §382.085(b), by failing to prevent unauthorized emissions; PENALTY: \$13,126; ENFORCEMENT COORDINATOR: Mackenzie Mehlmann, (512) 239-2572; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(16) COMPANY: Shaukat Nazarali dba Amys Wheel In; DOCKET NUMBER: 2020-0995-PST-E; IDENTIFIER: RN100804277; LOCATION: Fort Worth, Tarrant 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 in a manner which will detect a release at a frequency of at least once every 30 days; PENALTY: \$3,000; ENFORCEMENT COORDINATOR: Terrany Binford, (512) 567-3302; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(17) COMPANY: Union Carbide Corporation; DOCKET NUMBER: 2020-0062-IWD-E; IDENTIFIER: RN102181526; LOCATION: Seadrift, Calhoun County; TYPE OF FACILITY: plastic production plant; RULES VIOLATED: 30 TAC §305.125(1), TWC, §26.121(a)(1), and Texas Pollutant Discharge Elimination System Permit Number WQ0000447000, Effluent Limitations and Monitoring Requirements Number 3, Outfall Number 002, by failing to prevent the discharge of solids into or adjacent to any water in the state; PENALTY: \$3,750; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$1,500; ENFORCEMENT COORDINATOR: Katelyn Tubbs, (512) 239-2512; REGIONAL OFFICE: 6300 Ocean Drive, Suite 1200, Corpus Christi, Texas 78412-5839, (361) 825-3100.

(18) COMPANY: Victoria Port Power LLC; DOCKET NUMBER: 2020-0815-AIR-E; IDENTIFIER: RN109784165; LOCATION: Victoria, Victoria County; TYPE OF FACILITY: power generation plant; RULES VIOLATED: 30 TAC §122.143(4) and §122.146(2), Federal Operating Permit Number O3978, General Terms and Conditions and Special Terms and Conditions Number 11, and Texas Health and Safety Code, §382.085(b), by failing to submit a permit compliance certification within 30 days of any certification period; PENALTY: \$2,438; ENFORCEMENT COORDINATOR: Mackenzie Mehlmann, (512) 239-2572; REGIONAL OFFICE: 6300 Ocean Drive, Suite 1200, Corpus Christi, Texas 78412-5839, (361) 825-3100.

(19) COMPANY: WPX Energy Permian, LLC; DOCKET NUMBER: 2020-0941-AIR-E; IDENTIFIER: RN109801324; LOCATION: Wink, Winkler County; TYPE OF FACILITY: an oil and gas separation station; RULES VIOLATED: 30 TAC §§106.6(b), 106.352(b)(6)(F), and 116.110(a), Permit By Rule Registration Number 146976, and Texas Health and Safety Code (THSC), §382.0518(a) and §382.085(b), by failing to comply with all representations with regard to construction plans, operating procedures, and maximum emissions rates in any certified registration, and failing to obtain authorization prior to construction or modification of a source of air emissions; and 30 TAC §122.121 and THSC, §382.054 and §382.085(b), by failing to obtain a federal operating permit prior to operating the emission units at a major source; PENALTY: \$18,937; ENFORCEMENT COORDINATOR: Yuliya Dunaway, (210) 403-4077; REGIONAL OFFICE: 9900 West IH-20, Suite 100, Midland, Texas 79706, (432) 570-1359.

(20) COMPANY: WTG Jameson, LP; DOCKET NUMBER: 2020-0757-AIR-E; IDENTIFIER: RN101246478; LOCATION: Silver, Coke County; TYPE OF FACILITY: natural gas processing plant; RULES VIOLATED: 30 TAC §§116.115(b)(2)(F) and (c), 116.615(2), and 122.143(4), Standard Permit Registration Number 53757, Air Quality Standard Permit for Oil and Gas Handling and Production Facilities, Special Conditions Number (h), Federal Operating Permit (FOP) Number O865, General Terms and Conditions (GTC) and

Special Terms and Conditions (STC) Numbers 10 and 13.B, and Texas Health and Safety Code (THSC), §382.085(b), by failing to comply with the maximum emissions rate; and 30 TAC §122.143(4), FOP Number O865, GTC and STC Number 8, and THSC, §382.085(b), by failing to comply with the fuel consumption limit; PENALTY: \$88,125; ENFORCEMENT COORDINATOR: Johnnie Wu, (512) 239-2524; REGIONAL OFFICE: 622 South Oakes, Suite K, San Angelo, Texas 76903-7035, (325) 655-9479.

TRD-202004359

Charmaine Backens

Director, Litigation Division

Texas Commission on Environmental Quality

Filed: October 20, 2020



#### Enforcement Orders

An agreed order was adopted regarding City of Bellaire, Docket No. 2019-0042-MWD-E on October 20, 2020 assessing \$2,813 in administrative penalties with \$562 deferred. Information concerning any aspect of this order may be obtained by contacting Herbert 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 Silvia M. Orozco, Docket No. 2019-0366-OSS-E on October 20, 2020 assessing \$500 in administrative penalties with \$100 deferred. Information concerning any aspect of this order may be obtained by contacting Christopher Moreno, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Tarleton State University, Docket No. 2019-0680-AGR-E on October 20, 2020 assessing \$2,814 in administrative penalties with \$562 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 Fred T. Riter dba Canyon Lake RV Park, Docket No. 2019-0862-PWS-E on October 20, 2020 assessing \$920 in administrative penalties with \$184 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 City of Joaquin, Docket No. 2019-1012-PWS-E on October 20, 2020 assessing \$310 in administrative penalties with \$62 deferred. Information concerning any aspect of this order may be obtained by contacting Miles Wehner, 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 West End Marina, Inc., Docket No. 2019-1641-PST-E on October 20, 2020 assessing \$1,575 in administrative penalties with \$315 deferred. Information concerning any aspect of this order may be obtained by contacting Alain Elegbe, 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 Bell County Water Control and Improvement District 2, Docket No. 2019-1788-PWS-E on October 20, 2020 assessing \$205 in administrative penalties with \$41 deferred. Information concerning any aspect of this order may be obtained by contacting Miles Wehner, 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 Monument Chemical Houston, LLC, Docket No. 2020-0168-AIR-E on October 20, 2020 assessing \$3,075 in administrative penalties with \$615 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 Susan E. Cole dba Harmony Water System and Donald R. Cole dba Harmony Water System, Docket No. 2020-0176-PWS-E on October 20, 2020 assessing \$1,014 in administrative penalties with \$202 deferred. Information concerning any aspect of this order may be obtained by contacting Miles Wehner, 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 UVALDE COUNTY FARMERS' COOPERATIVE, Docket No. 2020-0317-PST-E on October 20, 2020 assessing \$2,438 in administrative penalties with \$487 deferred. Information concerning any aspect of this order may be obtained by contacting Stephanie McCurley, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Aqua Utilities, Inc., Docket No. 2020-0343-PWS-E on October 20, 2020 assessing \$207 in administrative penalties with \$41 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 POYNOR COMMUNITY WATER SUPPLY CORPORATION, Docket No. 2020-0403-PWS-E on October 20, 2020 assessing \$1,500 in administrative penalties with \$300 deferred. Information concerning any aspect of this order may be obtained by contacting Ryan Byer, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Troy G. Waller dba Rockwell Acres Water System, Docket No. 2020-0446-PWS-E on October 20, 2020 assessing \$975 in administrative penalties with \$975 deferred. 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 A & S Dynamics, LLC. dba Diesel of Houston, Docket No. 2020-0462-AIR-E on October 20, 2020 assessing \$5,338 in administrative penalties with \$1,067 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 Grace Chapel Assembly of God of Magnolia, Docket No. 2020-0467-PWS-E on October 20, 2020 assessing \$60 in administrative penalties with \$12 deferred. Information concerning any aspect of this order may be obtained by contacting Julianne Dewar, 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 OILTON RURAL WATER SUPPLY CORPORATION THE STATE OF TEXAS, Docket No. 2020-0522-PWS-E on October 20, 2020 assessing \$635 in administrative penalties with \$127 deferred. 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.

A field citation was adopted regarding Robbie Robinson Ltd., Docket No. 2020-0632-WQ-E on October 20, 2020 assessing \$875 in administrative penalties. Information concerning any aspect of this citation may be obtained by contacting Mark Gamble, 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 ST. ELIAS ANTIOCHIAN ORTHODOX CHURCH, Docket No. 2020-0671-EAQ-E on October 20, 2020 assessing \$938 in administrative penalties with \$187 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 MightyWash Operations, L.L.C., Docket No. 2020-0682-SLG-E on October 20, 2020 assessing \$1,875 in administrative penalties with \$375 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 Solvay Specialty Polymers USA, L.L.C., Docket No. 2020-0758-AIR-E on October 20, 2020 assessing \$2,087 in administrative penalties with \$417 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.

TRD-202004431  
Bridget C. Bohac  
Chief Clerk  
Texas Commission on Environmental Quality  
Filed: October 21, 2020



#### Enforcement Orders

An agreed order was adopted regarding Huntsman Petrochemical LLC, Docket No. 2016-1906-AIR-E on October 21, 2020, assessing \$90,440 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Robyn Babyak, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was adopted regarding Terry Lummus, Docket No. 2018-1545-MSW-E on October 21, 2020, assessing \$1,312 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Benjamin Warms, 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 the City of Celeste, Docket No. 2019-0337-MWD-E on October 21, 2020, assessing \$17,588 in administrative penalties with \$3,517 deferred. Information concerning any aspect of this order may be obtained by contacting Ronica Rodriguez, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Chase Industries, Inc., Docket No. 2019-0558-AIR-E on October 21, 2020, assessing \$120,543 in administrative penalties with \$24,108 deferred. Information concerning any aspect of this order may be obtained by contacting Margarita Den-

nis, 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 Edinburg, Docket No. 2019-1079-MWD-E on October 21, 2020, assessing \$35,938 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Katelyn Tubbs, 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 Blanchard Refining Company LLC, Docket No. 2019-1222-AIR-E on October 21, 2020, assessing \$13,125 in administrative penalties. 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.

A default order was adopted regarding Traveling Tiger Centers LLC, Docket No. 2019-1237-PWS-E on October 21, 2020, assessing \$1,447 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Taylor Pearson, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default and shutdown order was adopted regarding A & K ENTERPRISES, INC. dba Country Food Store, Docket No. 2019-1245-PST-E on October 21, 2020, assessing \$28,447 in administrative penalties with \$5,689 deferred. Information concerning any aspect of this order may be obtained by contacting John S. Merculief II, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Flint Hills Resources Houston Chemical, LLC, Docket No. 2019-1331-AIR-E on October 21, 2020, assessing \$56,552 in administrative penalties. 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 Polk County dba Polk County Landfill and Santek Environmental of Texas, LLC dba Polk County Landfill, Docket No. 2019-1332-MLM-E on October 21, 2020, assessing \$8,925 in administrative penalties with \$1,785 deferred. Information concerning any aspect of this order may be obtained by contacting Hailey Johnson, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding the City of Pflugerville, Docket No. 2019-1616-PWS-E on October 21, 2020, assessing \$27,300 in administrative penalties with \$5,460 deferred. Information concerning any aspect of this order may be obtained by contacting Steven Hall, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Lou Felps dba Stonegate Subdivision Water System, Docket No. 2019-1670-PWS-E on October 21, 2020, assessing \$771 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Marla Waters, 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 Duncanville Independent School District, Docket No. 2020-0041-PST-E on October 21, 2020, assessing \$28,750 in administrative penalties with \$5,750 deferred. Information concerning any aspect of this order may be obtained by contacting Hailey Johnson, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding AAAIS REAL ESTATE, INC. dba Oasis Travel Plaza, Docket No. 2020-0090-PWS-E on October 21, 2020, assessing \$8,738 in administrative penalties with \$1,747 deferred. Information concerning any aspect of this order may be obtained by contacting Yuliya Dunaway, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Wal-Mart Stores Texas, LLC, Docket No. 2020-0171-EAQ-E on October 21, 2020, assessing \$9,563 in administrative penalties with \$1,912 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 Shandha Inc dba 3 Star Mart, Docket No. 2020-0238-PST-E on October 21, 2020, assessing \$7,875 in administrative penalties with \$1,575 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 Equistar Chemicals, LP, Docket No. 2020-0524-AIR-E on October 21, 2020, assessing \$8,175 in administrative penalties with \$1,635 deferred. Information concerning any aspect of this order may be obtained by contacting Toni Red, Enforcement Coordinator at (512) 239-2545, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

TRD-202004433

Bridget C. Bohac

Chief Clerk

Texas Commission on Environmental Quality

Filed: October 21, 2020



#### Notice of District Petition

Notice issued October 16, 2020

TCEQ Internal Control No. D-05152020-034; Lefevre Development, Inc., a Texas corporation, and LEFCO Investments, Inc., a Texas corporation (Petitioners) filed a petition and an amended petition for creation of Montgomery County Municipal Utility District No. 160 (District) with the Texas Commission on Environmental Quality (TCEQ). The amended petition was filed pursuant to Article XVI, §59 of the Constitution of the State of Texas; Chapters 49 and 54 of the Texas Water Code; 30 Texas Administrative Code Chapter 293; and the procedural rules of the TCEQ. The amended petition states that: (1) the Petitioners hold title to a majority in value of the land to be included in the proposed District; (2) there are no lienholders on the property to be included in the proposed District; (3) the proposed District will contain approximately 140.6575 acres located within Montgomery County, Texas; and (4) all of the land within the proposed District is within the corporate limits of the City of Montgomery. By Resolution No. 2020-02, passed and adopted on February 11, 2020, the city of Montgomery, Texas gave its consent to the creation of the proposed District, pursuant to Texas Water Code §54.016. The amended petition further states that the proposed District will: (1) purchase, construct, acquire, improve, or extend inside or outside of the boundaries any and all works, improvements, facilities, plants, equipment, and appliances necessary or helpful to supply and distribute water for municipal, domestic, and commercial purposes; (2) collect, transport, process, dispose of and control domestic, and commercial wastes; (3) gather, conduct, divert, abate, amend, and control local storm water or other local harmful excesses of water; (4) design, acquire, construct, finance, improve, op-

erate, and maintain macadamized, graveled, or paved roads and turnpikes, or improvements in aid of those roads; (5) design, acquire, construct, finance, improve, and maintain parks and recreational facilities; (6) purchase, construct, acquire, improve, or extend inside or outside of its boundaries such additional facilities, systems, plants, and enterprises as shall be consonant with the purposes for which the District is created. According to the amended petition, a preliminary investigation has been made to determine the cost of the project, and it is estimated by the Petitioners that the cost of said project will be approximately \$11,140,000 (\$4,100,000 for water, wastewater, and drainage plus \$2,600,000 for recreation plus \$4,440,000 for roads).

**INFORMATION SECTION**

To view the complete issued notice, view the notice on our web site at [www.tceq.texas.gov/agency/cc/pub\\_notice.html](http://www.tceq.texas.gov/agency/cc/pub_notice.html) or call the Office of the Chief Clerk at (512) 239-3300 to obtain a copy of the complete notice. When searching the web site, type in the issued date range shown at the top of this document to obtain search results.

The TCEQ may grant a contested case hearing on the petition if a written hearing request is filed within 30 days after the newspaper publication of the notice. To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) the name of the Petitioner and the TCEQ Internal Control Number; (3) the statement "I/we request a contested case hearing"; (4) a brief description of how you would be affected by the petition in a way not common to the general public; and (5) the location of your property relative to the proposed District's boundaries. You may also submit your proposed adjustments to the petition. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below. The Executive Director may approve the petition unless a written request for a contested case hearing is filed within 30 days after the newspaper publication of this notice. If a hearing request is filed, the Executive Director will not approve the petition and will forward the petition and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting. If a contested case hearing is held, it will be a legal proceeding similar to a civil trial in state district court. Written hearing requests should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087. For information concerning

the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Districts Review Team, at (512) 239-4691. Si desea información en español, puede llamar al (512) 239-0200. General information regarding TCEQ can be found at our web site at [www.tceq.texas.gov](http://www.tceq.texas.gov).

TRD-202004352  
 Bridget C. Bohac  
 Chief Clerk  
 Texas Commission on Environmental Quality  
 Filed: October 19, 2020



**Notice of Public Meeting for Air Quality Permits: Proposed Air Quality Permit Numbers 1467, PSDTX1090M1, N284, and GHGPSDTX199**

**APPLICATION.** El Paso Electric Company, P.O. Box 982, El Paso, Texas 79960-0982, has applied to the Texas Commission on Environmental Quality (TCEQ) for amendment of State Air Quality Permit 1467, modification to Prevention of Significant Deterioration (PSD) Air Quality Permit PSDTX1090M1, issuance of Nonattainment Permit Number N284, and issuance of Greenhouse Gas (GHG) PSD Air Quality Permit GHGPSDTX199 for emissions of GHGs, which would authorize modification of the Newman Power Station located at 4900 Stan Roberts Senior Avenue, El Paso, El Paso County, Texas 79934. The existing facility will emit the following air contaminants in a significant amount to require a Nonattainment Review: particulate matter with diameters of 10 microns or less. The facility will emit the following air contaminants in a significant amount: carbon monoxide, nitrogen oxides, organic compounds, particulate matter including particulate matter with diameters of 2.5 microns or less, and greenhouse gases. In addition, the facility will emit: ammonia, hazardous air pollutants, sulfur dioxide, and sulfuric acid mist. No other pollutant emission increase will result from this facility.

The degree of PSD increment predicted to be consumed by the existing facility and other increment-consuming sources in the area is as follows:

**Nitrogen Dioxide**

Maximum Averaging Time	Maximum Increment Consumed (µg/m³)	Allowable Increment (µg/m³)
Annual	0.8	25

**PM<sub>2.5</sub>**

Maximum Averaging Time	Maximum Increment Consumed (µg/m³)	Allowable Increment (µg/m³)
24-hour	0.3	9
Annual	0.05	4

The executive director has determined that the emissions of air contaminants from the existing facility which are subject to PSD review will not violate any state or federal air quality regulations and will not have any significant adverse impact on soils, vegetation, or visibility. All air contaminants have been evaluated, and "best available control technology" will be used for the control of these contaminants.

El Paso County has been designated nonattainment for PM10 because Continuous Ambient Air Monitoring Stations have shown that ambient concentrations of PM10 exceed the National Ambient Air Quality Standards (NAAQS) for PM10. The Federal Clean Air Act (FCAA) requires that new major stationary sources and major modifications at



sources in designated nonattainment areas must satisfy nonattainment new source review prior to commencement of construction.

As required by the nonattainment review, all air contaminants have been evaluated and the "lowest achievable emission rate" has been addressed for the control of these contaminants. The PM10 emission increases from this project will be offset with emission reductions by a ratio of 1 to 1. Furthermore, the applicant has demonstrated that the benefits of the existing facility significantly outweigh the environmental and social costs imposed as a result of its location, construction, or modification. Finally, the applicant has certified that all major stationary sources owned or operated by the applicant in the state are in compliance or on a schedule for compliance with all applicable state and federal emission limitations and standards. The executive director, therefore, has made the preliminary determination to issue this permit.

The executive director has completed the technical review of the application and prepared a draft permit which, if approved, would establish the conditions under which the facility must operate.

**INFORMATION AVAILABLE ONLINE.** These documents are accessible through the Commission's Web site at [www.tceq.texas.gov/goto/cid](http://www.tceq.texas.gov/goto/cid): the executive director's preliminary decision which includes the draft permit, the executive director's preliminary determination summary, air quality analysis, and, once available, the executive director's response to comments and the final decision on this application. Access the Commissioners' Integrated Database (CID) using the above link and enter the permit number for this application. This link to an electronic map of the site or facility's general location is provided as a public courtesy and not part of the application or notice. For exact location, refer to application. <http://www.tceq.texas.gov/assets/public/hb610/index.html?lat=31.982222&lng=-106.430555&zoom=13&type=r>.

**PUBLIC COMMENT/PUBLIC MEETING. You may submit public comments to the Office of the Chief Clerk at the address below.** The TCEQ will consider all public comments in developing a final decision on the application. A public meeting will be held and will consist of two parts, an Informal Discussion Period and a Formal Comment Period. A public meeting is not a contested case hearing under the Administrative Procedure Act. During the Informal Discussion Period, the public will be encouraged to ask questions of the applicant and TCEQ staff concerning the permit application. The comments and questions submitted orally during the Informal Discussion Period will not be considered before a decision is reached on the permit application and no formal response will be made. Responses will be provided orally during the Informal Discussion Period. During the Formal Comment Period on the permit application, members of the public may state their formal comments orally into the official record. At the conclusion of the comment period, all formal comments will be considered before a decision is reached on the permit application. A written response to all formal comments will be prepared by the executive director and will be sent to each person who submits a formal comment or who requested to be on the mailing list for this permit application and provides a mailing address. Only relevant and material issues raised during the Formal Comment Period can be considered if a contested case hearing is granted on this permit application.

**The Public Meeting is to be held:**

**Tuesday, November 17, 2020 at 7:00 p.m. MST** (Mountain Standard Time)

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 143-437-923. 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, (415) 655-0052 and enter access code 740-300-505.

Las personas que deseen escuchar o participar en la reunión en español pueden llamar al (844) 368-7161 e ingresar el código de acceso 904535#. Para obtener más información o asistencia, comuníquese con Jaime Fernández al (512) 239-2566. 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 or by mail before the close of the public comment period to the Office of the Chief Clerk, TCEQ, Mail Code MC-105, P.O. Box 13087, Austin, Texas 78711-3087 or electronically at <https://www14.tceq.texas.gov/epic/eComment/>. If you need more information about the permit application or the permitting process, please call the TCEQ Public Education Program, toll free, at (800) 687-4040. General information can be found at our Web site at [www.tceq.texas.gov](http://www.tceq.texas.gov). *Si desea información en español, puede llamar al (800) 687-4040.*

**AGENCY CONTACTS AND INFORMATION.** Public comments and requests must be submitted either electronically at [www14.tceq.texas.gov/epic/eComment/](http://www14.tceq.texas.gov/epic/eComment/), or in writing to the Texas Commission on Environmental Quality, Office of the Chief Clerk, MC-105, P.O. Box 13087, Austin, Texas 78711-3087. Please be aware that any contact information you provide, including your name, phone number, email address and physical address will become part of the agency's public record. For more information about this permit application or the permitting process, please call the Public Education Program toll free at (800) 687-4040. *Si desea información en español, puede llamar al (800) 687-4040.*

The permit application, executive director's preliminary decision, draft permit, and the executive director's preliminary determination summary and executive director's air quality analysis, will be available for viewing and copying at the TCEQ central office, the TCEQ El Paso regional office, and online at <https://www.epelectric.com/company/public-notice/newman-generating-station-proposed-air-quality-permit-amendment>. The facility's compliance file, if any exists, is available for public review at the TCEQ El Paso Regional Office, 401 East Franklin Avenue Suite 560, El Paso, Texas. Further information may also be obtained from El Paso Electric Company at the address stated above or by calling Mr. Daniel Perez, Supervisor - Environmental Compliance at (915) 543-4166.

Persons with disabilities who need special accommodations at the meeting should call the Office of the Chief Clerk at (512) 239-3300 or (800) RELAY-TX (TDD) at least one week prior to the meeting.

Notice Issuance Date: October 16, 2020

TRD-202004354

Bridget C. Bohac

Chief Clerk

Texas Commission on Environmental Quality

Filed: October 19, 2020

◆ ◆ ◆  
Notice of Water Rights Application

Notices issued October 16, 2020

APPLICATION NO. 13619; CADG Erwin Farms, LLC, 1800 Valley View Ln., Farmers Branch, Texas 75234, Applicant, seeks authorization to maintain an existing dam and reservoir located on an unnamed tributary of Honey Creek, Trinity River Basin and impound therein not to exceed 8.7 acre-feet of water for recreational purposes in Collin County. More information on the application and how to participate in the permitting process is given below. The application was received on July 10, 2019. Additional information and fees were received on October 2 and 9, 2019, November 19, 21, and 22, 2019, and May 6, 2020. The application was declared administratively complete and accepted for filing with the Office of the Chief Clerk on December 11, 2019. The Executive Director has completed the technical review of the application and prepared a draft permit. The draft Water Use Permit, if granted, would contain special conditions, including but not limited to, maintaining the alternate source of water. The application, technical memoranda, and Executive Director's draft permit are available for viewing on the TCEQ web page at: [www.tceq.texas.gov/permitting/water\\_rights/wr-permitting/wr-apps-pub-notice](http://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.

APPLICATION NO. 13640; Corpus Christi Alumina, LLC, 330 Madison Avenue, New York, New York, 10017, Applicant, seeks authorization to divert and use 1,000 acre-feet of water per year from a point on Corpus Christi Bay, San Antonio-Nueces Coastal Basin, at a maximum diversion rate of 1.78 cfs (800 gpm), for industrial purposes in San Patricio County. More information on the application and how to participate in the permitting process is given below. The application and fees were received on November 4, 2019. Additional information and fees were received on February 18, February 26, and March 3, 2020. The application was declared administratively complete and accepted for filing with the Office of the Chief Clerk on March 13, 2020. The Executive Director completed the technical review of the application and prepared a draft Water Use Permit. The draft Water Use Permit, if granted, would include special conditions including, but not limited to, maintaining a measuring device at the diversion point. The application, technical memoranda, and Executive Director's draft permit are available for viewing on the TCEQ web page at: [www.tceq.texas.gov/permitting/water\\_rights/wr-permitting/wr-apps-pub-notice](http://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, within 30 days of the date of newspaper publication of the notice. To view the complete issued notice, view the notice on our web site at [www.tceq.texas.gov/agency/cc/pub\\_notice.html](http://www.tceq.texas.gov/agency/cc/pub_notice.html) or call the Office of the Chief Clerk at (512) 239-3300 to obtain a copy of the complete notice. When searching the web site, type in the issued date range shown at the top of this document to obtain search results. A public meeting is intended for the taking of public comment, and is not a contested case hearing. The Executive Director can consider approval of an application unless a written request for a contested case hearing is filed. 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 permit number; (3) the statement [I/we] request a contested case hearing; and (4) a brief and specific description of how you would be affected by the application in a way not common to the general public. You may also submit any proposed conditions to the requested application which would satisfy your concerns. Requests for a contested case hearing must be submitted in

writing to the TCEQ 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 requested permit and may 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. 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](http://www.tceq.texas.gov). Si desea información en español, puede llamar al (800) 687-4040.

TRD-202004353

Bridget C. Bohac

Chief Clerk

Texas Commission on Environmental Quality

Filed: October 19, 2020



### Request for Nominations for Appointment to Serve on the Irrigator Advisory Council

The Texas Commission on Environmental Quality (TCEQ) is requesting nominations for three individuals to serve on the Irrigator Advisory Council (council). Two of the individuals must be irrigators licensed to work in Texas, and one individual must represent the public. To be eligible to be a "public member", the person or person's spouse may not be licensed by an occupational regulatory agency in the field of irrigation. The person or the person's spouse may not be employed by, participate in the management of, or have, other than as a consumer, a financial interest in a business entity or other organization related to the field of irrigation. Council members will be asked to serve a six-year term beginning in 2021.

The Texas Occupations Code, Chapter 1903, Subchapter D (see also 30 TAC §344.80) provides the structure of the nine-member council appointed by the TCEQ. The council is comprised of nine members that are appointed by the TCEQ: six licensed irrigators, who are residents of Texas, experienced in the irrigation business, and familiar with irrigation methods and techniques; and three public members.

The council provides advice to the TCEQ and TCEQ staff concerning matters that relate to irrigation. It is grounds for removal from the council when a council member misses three consecutive, regularly, scheduled meetings or more than half of all the regularly scheduled meetings in a one-year period. The council members generally meet for one day in Austin in February, May, August, and November of each year. Council members are not paid for their services, but are eligible for reimbursement of travel expenses at state rates as appropriated by the legislature.

To nominate an individual: 1) ensure that the individual is qualified for the position for which he/she is being considered; 2) submit a brief résumé which includes relevant work experience; and 3) provide the nominee a copy of the nomination. The nominee must submit a letter that indicates his/her agreement to serve, if appointed. A person may nominate themselves by: 1) ensuring that he/she is qualified for the position; 2) submitting a brief résumé which includes relevant work experience; and 3) submitting a letter that indicates his/her agreement to serve, if appointed.

Written nominations and letters from nominees must be received by **5:00 p.m. on December 4, 2020**. The appointments will be consid-

ered by the TCEQ at a future agenda. Please mail all correspondence to Mr. Shannon W. Frazier, Texas Commission on Environmental Quality, Program Support Section, MC-235, P.O. Box 13087, Austin, Texas 78711-3087 or fax to (512) 239-2249. Questions regarding the council may be directed to Shannon Frazier at (512) 239-1935 or e-mail: [shannon.frazier@tceq.texas.gov](mailto:shannon.frazier@tceq.texas.gov). Additional information regarding the council is available on the website: [https://www.tceq.texas.gov/drinkingwater/irrigation/irr\\_advisory.html](https://www.tceq.texas.gov/drinkingwater/irrigation/irr_advisory.html).

TRD-202004371  
Robert Martinez  
Director, Environmental Law Division  
Texas Commission on Environmental Quality  
Filed: October 20, 2020

◆ ◆ ◆

## Texas Ethics Commission

### List of Late Filers

Below is a list from the Texas Ethics Commission naming the filers who failed to pay the penalty fine for failure to file the report, or filing a late report, in reference to the specified filing deadline. If you have any questions, you may contact Sue Edwards at (512) 463-5800.

#### Deadline: Semiannual Report due January 15, 2020

Tony Valdivia, 11306 Candle Park, San Antonio, Texas 78249

#### Deadline: Semiannual Report due July 15, 2020

Bryan V. Acklin, 1234 Jackson Blvd, Houston, Texas 77006

Michael D. Antalan, 9550 Spring Green Blvd #123, Katy, Texas 77494

James A. Armstrong III, 1839 Leath St., Dallas, Texas 75212

Matthew S. Beebe, 70 NE Loop 410 Ste. 755, San Antonio, Texas 78216

Michael Berlanga, 4110 Greensboro, San Antonio, Texas 78229

Maria Y. Berry, 210 Taos Drive, Woodway, Texas 76712-3848

Evan A. Bohl, 6206 Checkrein St., San Antonio, Texas 78240

William J. Booher, 8127 Weeping Willow Pl., Missouri City, Texas 77459

Meghan L. Brown-Scoggins, 17410 Woodfalls Ln., Richmond, Texas 77407

Kim A Cooks, P.O. Box 224102, Dallas, Texas 75222

Michael E. Cooper, P.O. Box 33041, Fort Worth, Texas 76162

Sandra Crenshaw, P.O. Box 15088, Dallas, Texas 75315

Randle C. Daniels, 5021 Locke Ave., Fort Worth, Texas 76107

Brennen P. Dunn, 2646 South Loop West, Ste. 305, Houston, Texas 77054

Douglas M. Earnest, 20931 Joe Paul Ln., Dallas, Texas 75222

Charlotte W. Eisenhauer, 5150 Broadway #293, San Antonio, Texas 78209

Michelle E. Espinal, 1200 Main Street #2408, Dallas, Texas 75202

Cristo R. Fernandez, 22518 Bassett Hollow Lane, Richmond, Texas 77469

Matthew Taylor Flores, 5707 4th Ave. #710, Canyon, Texas 79015

Pete Gallego, 300 Convent Ste. 2500, San Antonio, Texas 78205

Adrian Garcia, P.O. Box 10087, Houston, Texas 77018

John C. Garcia, P.O. Box 94, Andrews, Texas 79714

Richard Gonzales, 1404 May Dr., Edinburg, Texas 78539

Rocio E. Gosewehr Hernandez, 6136 Frisco Square Blvd, Ste. 445, Frisco, Texas 75034

Christopher L. Graham, P.O. Box 625, DeSoto, Texas 75123

Dorothy Morgan A. Graham, 43 North Coria, Brownsville, Texas 78520

Stephen P. Gunnels, 13815 Barons Bridge, Houston, Texas 77069

Charles J. Hasse, 132 Sally Ln., Brownsville, Texas 78526

Tony Valdivia, 11306 Candle Park, San Antonio, Texas 78249

TRD-202004344

Anne Peters  
Executive Director  
Texas Ethics Commission  
Filed: October 19, 2020

◆ ◆ ◆

## General Land Office

### Notice and Opportunity to Comment on Requests for Consistency Agreement/Concurrence Under the Texas Coastal Management Program

On January 10, 1997, the State of Texas received federal approval of the Coastal Management Program (CMP) (62 *Federal Register* pp. 1439 - 1440). Under federal law, federal agency activities and actions affecting the Texas coastal zone must be consistent with the CMP goals and policies identified in 31 TAC Chapter 501. Requests for federal consistency review were deemed administratively complete for the following project(s) during the period of October 10, 2020, to October 16, 2020. As required by federal law, the public is given an opportunity to comment on the consistency of proposed activities in the coastal zone undertaken or authorized by federal agencies. Pursuant to 31 TAC §§506.25, 506.32, and 506.41, the public comment period extends 30 days from the date published on the Texas General Land Office web site. The notice was published on the web site on Friday, October 23, 2020. The public comment period for this project will close at 5:00 p.m. on Sunday, November 23, 2020.

#### FEDERAL AGENCY ACTIVITIES:

**Applicant:** United States Army Corps of Engineers

**Location:** N/A

**Latitude & Longitude (NAD 83):** N/A

**Project Description:** Nationwide Permits (NWP) authorize certain activities under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act of 1899. The U.S. Army Corps of Engineers (Corps) is proposing to reissue the 52 existing NWPs and associated general conditions and definitions, with some modifications. The Corps is also proposing to issue five new NWPs. Two of those proposed new NWPs would authorize certain categories of mariculture activities (*i.e.*, seaweed and finfish mariculture) that are not authorized by NWP 48. The Corps is also proposing to divide the current NWP that authorizes utility line activities (NWP 12) into three separate NWPs that address the differences in how different linear projects are constructed, the substances they convey, and the different standards and best management practices that help ensure those NWPs authorize only those activities that have no more than minimal adverse environmental effects. Specifically, the Corps is proposing to modify the current util-

ity line NWP 12 to authorize only oil and natural gas pipeline activities. Two proposed new NWPs would authorize activities associated with the construction, maintenance, repair, and removal of electric utility lines/telecommunication lines and utility lines that convey water, sewage, and other substances. The fifth proposed new NWP would authorize discharges of dredged or fill material into jurisdictional waters for the construction, expansion, and maintenance of water reuse and reclamation facilities. The Corps is proposing these modifications to simplify and clarify the NWPs, reduce burdens on the regulated public, and continue to comply with the statutory requirement that these NWPs authorize only activities with no more than minimal individual and cumulative adverse environmental effects. The proposed rule is available through the *Federal Register* web site at: <https://bit.ly/34e1X6Z>.

The Galveston District, as the lead Corps district for the State of Texas, is seeking comments on the proposed Texas Regional Conditions associated with the renewal of the nationwide permit program. The 2020 NWP Texas Regional Conditions can be found at: <https://bit.ly/3dFG00Z>.

**CMP Project No:** 21-1053-F2

Further information on the applications listed above, including a copy of the consistency certifications or consistency determinations for inspection, may be obtained from the Texas General Land Office Public Information Officer at 1700 N. Congress Avenue, Austin, Texas 78701, or via email at [pialegal@glo.texas.gov](mailto:pialegal@glo.texas.gov). Comments should be sent to the Texas General Land Office Coastal Management Program Coordinator at the above address or via email at [federal.consistency@glo.texas.gov](mailto:federal.consistency@glo.texas.gov).

TRD-202004430

Mark A. Havens

Chief Clerk and Deputy Land Commissioner

General Land Office

Filed: October 21, 2020

◆ ◆ ◆

## Texas Health and Human Services Commission

### Revised Notice of Public Hearing on Proposed Medicaid Payment Rates for the Medicaid Biennial Calendar Fee Review

**Hearing.** The Texas Health and Human Services Commission (HHSC) will conduct a public hearing on November 13, 2020, at 9:00 a.m., to receive comment on proposed Medicaid payment rates for the Medicaid Biennial Calendar Fee Review.

Due to the declared state of disaster stemming from COVID-19, this hearing will be conducted online only.

Please register for the HHSC Public Rate Hearing for Medicaid Calendar Fee Review, HCPCS Updates, and Medical Policy Updates to be held on November 13, 2020, 9:00 a.m. CST at:

<https://attendee.gotowebinar.com/register/6544792796314405390>

After registering, you will receive a confirmation email containing information about joining the webinar.

HHSC will broadcast the public hearing; the broadcast can be accessed at <https://hhs.texas.gov/about-hhs/communications-events/live-archived-meetings>. The broadcast will be archived and can be accessed on demand at the same website. The hearing will be held in compliance with Texas Human Resources Code §32.0282, which requires public notice of and hearings on proposed Medicaid reimbursements.

**Proposal.** The payment rates for the Medicaid Biennial Calendar Fee Review are proposed to be effective March 1, 2021, for the following services:

Anesthesia

Ambulatory Surgical Center (ASC)/Hospital Based ASC

Birthing Centers

Clinical Labs

Clinical Labs Gapfill

G Codes Hospitals

General and Integumentary System Surgery

Nervous System Surgery

Orthotic Procedures and Devices

Physician Administered Drugs (PAD) Non-Oncology

PAD Oncology

PAD Vaccines

PAD NDCX List

**Methodology and Justification.** The proposed payment rates were calculated in accordance with Title 1 of the Texas Administrative Code:

§355.8023, which addresses the reimbursement methodology for durable medical equipment, prosthetics, orthotics, and supplies (DMEPOS);

§355.8061, which addresses outpatient hospital reimbursement;

§355.8085, which addresses the reimbursement methodology for physicians and other practitioners;

§355.8121, which addresses the reimbursement for ambulatory surgical centers;

§355.8181, which addresses the reimbursement methodology for birthing center services;

§355.8221, which addresses the reimbursement methodology for certified registered nurse anesthetists and anesthesiologist assistants; and

§355.8441, which addresses the reimbursement methodologies for Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) services (known in Texas as Texas Health Steps).

**Rate Hearing Packet.** A briefing packet describing the proposed payment rates will be made available at <https://rad.hhs.texas.gov/rate-packets> on or after October 30, 2020. Interested parties may obtain a copy of the briefing packet on or after that date by contacting Provider Finance by telephone at (512) 730-7401; by fax at (512) 730-7475; or by e-mail at [RADAcuteCare@hhsc.state.tx.us](mailto:RADAcuteCare@hhsc.state.tx.us).

**Written Comments.** Written comments regarding the proposed payment rates may be submitted in lieu of, or in addition to, oral testimony until 5:00 p.m. the day of the hearing. Written comments may be sent by U.S. mail to the Texas Health and Human Services Commission, Attention: Provider Finance, Mail Code H-400, P.O. Box 149030, Austin, Texas 78714-9030; by fax to Provider Finance at (512) 730-7475; or by e-mail to [RADAcuteCare@hhsc.state.tx.us](mailto:RADAcuteCare@hhsc.state.tx.us). In addition, written comments may be sent by overnight mail to Texas Health and Human Services Commission, Attention: Provider Finance, Mail Code H-400, Brown-Heatly Building, 4900 North Lamar Blvd, Austin, Texas 78751.

**Preferred Communication.** During the current state of disaster due to COVID-19, physical forms of communication are checked with less frequency than during normal business operations. For quickest response, and to help curb the possible transmission of infection, please turn to e-mail or phone if possible for communication with HHSC related to this rate hearing.

Persons with disabilities who wish to attend the hearing and require auxiliary aids or services should contact Provider Finance at (512) 730-7401 at least 72 hours before the hearing so appropriate arrangements can be made.

TRD-202004351

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Filed: October 19, 2020

◆ ◆ ◆  
**Department of State Health Services**

Licensing Actions for Radioactive Materials

During the first half of August 2020, the Department of State Health Services (Department) has taken actions regarding Licenses for the possession and use of radioactive materials as listed in the tables (in alphabetical order by location). The subheading "Location" indicates the city in which the radioactive material may be possessed and/or used. The location listing "Throughout TX [Texas]" indicates that the radioactive material may be used on a temporary basis at locations throughout the state.

In issuing new licenses and amending and renewing existing licenses, the Department's Business Filing and Verification Section has determined that the applicant has complied with the licensing requirements in Title 25 Texas Administrative Code (TAC), Chapter 289, for the noted action. In granting termination of licenses, the Department has determined that the licensee has complied with the applicable decommissioning requirements of 25 TAC, Chapter 289. In granting exemptions to the licensing requirements of Chapter 289, the Department has determined that the exemption is not prohibited by law and will not result in a significant risk to public health and safety and the environment.

A person affected by the actions published in this notice may request a hearing within 30 days of the publication date. A "person affected" is defined as a person who demonstrates that the person has suffered or will suffer actual injury or economic damage and, if the person is not a local government, is (a) a resident of a county, or a county adjacent to the county, in which radioactive material is or will be located, or (b) doing business or has a legal interest in land in the county or adjacent county. 25 TAC §289.205(b)(15); Health and Safety Code §401.003(15). Requests must be made in writing and should contain the words "hearing request," the name and address of the person affected by the agency action, the name and license number of the entity that is the subject of the hearing request, a brief statement of how the person is affected by the action what the requestor seeks as the outcome of the hearing, and the name and address of the attorney if the requestor is represented by an attorney. Send hearing requests by mail to: Hearing Request, Radiation Material Licensing, MC 2835, PO Box 149347, Austin, Texas 78714-9347, or by fax to: 512-834-6690, or by e-mail to: RAMlicensing@dshs.texas.gov.

**NEW LICENSES ISSUED:**

Location of Use/Possession of Material	Name of Licensed Entity	License Number	City of Licensed Entity	Amendment Number	Date of Action
HOUSTON	DOCTORS HOSPITAL 1997 LP	L07071	HOUSTON	000	08/04/20

NEW LICENSES ISSUED: (Continued)

THROUGHOUT TX	ECS SOUTHWEST LLP	L07073	FORT WORTH	000	08/10/20
THROUGHOUT TX	TW LAQUAY MARINE LLC	L07072	PORT LAVACA	000	08/06/20

AMENDMENTS TO EXISTING LICENSES ISSUED:

Location of Use/Possession of Material	Name of Licensed Entity	License Number	City of Licensed Entity	Amendment Number	Date of Action
AMARILLO	BSA HOSPITAL LLC	L06556	AMARILLO	14	08/05/20
ANGLETON	ISOTHERAPEUTICS GROUP LLC	L05969	ANGLETON	43	08/06/20
BAYTOWN	BAYTOWN MEDICAL CENTER LP	L06854	BAYTOWN	04	08/11/20
BISHOP	TICONA POLYMERS INC	L02441	BISHOP	63	08/10/20
DALLAS	CARDINAL HEALTH	L05610	DALLAS	47	08/14/20
DALLAS	METHODIST HOSPITALS OF DALLAS	L00659	DALLAS	138	08/03/20
DALLAS	COLUMBIA HOSPITAL AT MEDICAL CITY DALLAS SUBSIDIARY LP	L01976	DALLAS	228	08/10/20
EDINBURG	MCALLEN HOSPITALS LP	L04262	EDINBURG	27	08/14/20
EL PASO	EL PASO HEALTHCARE SYSTEM LTD	L02551	EL PASO	80	08/05/20
FORT WORTH	COOK CHILDRENS MEDICAL CENTER	L04518	FORT WORTH	36	08/05/20
GONZALES	GONZALES COUNTY HOSPITAL DISTRICT	L03473	GONZALES	22	08/05/20
KOSSE	S SILICA COMPANY	L03150	KOSSE	20	08/12/20
LA PORTE	BRASKEM AMERICA INC	L06292	LA PORTE	13	08/12/20
LUBBOCK	METHODIST CHILDRENS HOSPITAL	L06852	LUBBOCK	05	08/05/20

AMENDMENTS TO EXISTING LICENSES ISSUED: (Continued)

MCALLEN	MCALLEN HOSPITALS LP	L04902	MCALLEN	29	08/11/20
MIDLAND	CHOLIA ANAND MD PA	L06233	MIDLAND	02	08/10/20
PASADENA	TURNER INDUSTRIES GROUP LLC	L06235	PASADENA	13	08/10/20
PLANO	HEARTPLACE PA	L05883	PLANO	31	08/14/20
SAN ANTONIO	BTDI JV LLP	L07013	SAN ANTONIO	02	08/10/20
THROUGHOUT TX	QUALITY INSPECTION & TESTING INC	L06371	BEAUMONT	10	08/14/20
THROUGHOUT TX	QES WIRELINE LLC	L06620	CRESSON	26	08/12/20
THROUGHOUT TX	PROFESSIONAL SERVICES INDUSTRIES INC	L02476	EL PASO	33	08/05/20
THROUGHOUT TX	WEAVER CONSULTANTS GROUP LLC	L06395	FORT WORTH	10	08/11/20
THROUGHOUT TX	PROFESSIONAL SERVICE INDUSTRIES INC	L06169	HARKER HEIGHTS	10	08/05/20
THROUGHOUT TX	METALOGIC INSPECTION SERVICES (SOUTHWEST) LLC	L06772	HOUSTON	11	08/10/20
THROUGHOUT TX	TOTAL NDT LLC	L06736	LONGVIEW	05	08/12/20
THROUGHOUT TX	CDK PERFORATING LLC	L06616	MIDLAND	09	08/10/20
THROUGHOUT TX	O'CONNOR & KEZAR LLC	L06318	SAN ANTONIO	07	08/11/20
THROUGHOUT TX	ARIAS & ASSOCIATES INC	L04964	SAN ANTONIO	58	08/14/20
THROUGHOUT TX	SCHLUMBERGER TECHNOLOGY CORPORATION	L01833	SUGAR LAND	220	08/12/20
TOMBALL	CENTER FOR CARDIOVASCULAR MEDICINE PA	L06523	TOMBALL	05	08/11/20
VICTORIA	CITIZENS MEDICAL CENTER	L00283	VICTORIA	99	08/11/20



AMENDMENTS TO EXISTING LICENSES ISSUED: (Continued)

WESTMINSTER CO	WATER REMEDIATION TECHNOLOGY LLC	L06316	WESTMINSTER CO	10	08/14/20
WICHITA FALLS	UNITED REGIONAL HEALTH CARE SYSTEM INC	L00350	WICHITA FALLS	124	08/14/20

RENEWAL OF LICENSES ISSUED:

Location of Use/Possession of Material	Name of Licensed Entity	License Number	City of Licensed Entity	Amendment Number	Date of Action
DEER PARK	HEXION INC	L05323	DEER PARK	11	08/12/20
HOUSTON	ATOMIC ENERGY INDUSTRIAL LABORATORY INC	L01067	HOUSTON	33	08/06/20
HOUSTON	HARRIS COUNTY HOSPITAL DISTRICT	L04412	HOUSTON	50	08/12/20
PASADENA	ARKEMA INC	L06321	PASADENA	05	08/06/20
THROUGHOUT TX	HALLIBURTON ENERGY SERVICES INC	L03284	ALVARADO	46	08/06/20
THROUGHOUT TX	CUMMINGS WIRELINE SERVICE LLC	L06268	CIBOLO	01	08/10/20
THROUGHOUT TX	NQS INSPECTION LTD	L06262	CORPUS CHRISTI	19	08/03/20
THROUGHOUT TX	ETTL ENGINEERS & CONSULTANTS INC	L01423	TYLER	41	08/12/20

TERMINATIONS OF LICENSES ISSUED:

Location of Use/Possession of Material	Name of Licensed Entity	License Number	City of Licensed Entity	Amendment Number	Date of Action
LA PORTE	PETROCHEM INSPECTION SERVICES INC	L04460	LA PORTE	136	08/03/20
SAN ANGELO	HIRSCHFELD STEEL COMPANY	L04361	SAN ANGELO	21	08/12/20

TRD-202004345  
 Barbara L. Klein  
 General Counsel  
 Department of State Health Services  
 Filed: October 19, 2020

◆ ◆ ◆  
 Licensing Actions for Radioactive Materials

During the second half of August 2020, the Department of State Health Services (Department) has taken actions regarding Licenses for the possession and use of radioactive materials as listed in the tables (in alphabetical order by location). The subheading "Location" indicates the city in which the radioactive material may be possessed and/or used. The location listing "Throughout TX [Texas]" indicates that the radioactive material may be used on a temporary basis at locations throughout the state.

In issuing new licenses and amending and renewing existing licenses, the Department's Business Filing and Verification Section has determined that the applicant has complied with the licensing requirements in Title 25 Texas Administrative Code (TAC), Chapter 289, for the noted action. In granting termination of licenses, the Department has determined that the licensee has complied with the applicable decommissioning requirements of 25 TAC, Chapter 289. In granting exemptions to the licensing requirements of Chapter 289, the Department has determined that the exemption is not prohibited by law and will not result in a significant risk to public health and safety and the environment.

A person affected by the actions published in this notice may request a hearing within 30 days of the publication date. A "person affected" is defined as a person who demonstrates that the person has suffered or will suffer actual injury or economic damage and, if the person is not a local government, is (a) a resident of a county, or a county adjacent to the county, in which radioactive material is or will be located, or (b) doing business or has a legal interest in land in the county or adjacent county. 25 TAC §289.205(b)(15); Health and Safety Code §401.003(15). Requests must be made in writing and should contain the words "hearing request," the name and address of the person affected by the agency action, the name and license number of the entity that is the subject of the hearing request, a brief statement of how the person is affected by the action what the requestor seeks as the outcome of the hearing, and the name and address of the attorney if the requestor is represented by an attorney. Send hearing requests by mail to: Hearing Request, Radiation Material Licensing, MC 2835, PO Box 149347, Austin, Texas 78714-9347, or by fax to: 512-834-6690, or by e-mail to: RAMlicensing@dshs.texas.gov.

NEW LICENSES ISSUED:

Location of Use/Possession of Material	Name of Licensed Entity	License Number	City of Licensed Entity	Amendment Number	Date of Action
FORT WORTH	TEXAS HEALTH HOSPITAL MANSFIELD	L07076	FORT WORTH	000	08/17/20
SPRING	TRINITY EMERGENCY HOSPITAL LLC	L07074	SPRING	000	08/17/20
THE WOODLANDS	THE METHODIST HOSPITAL	L07075	THE WOODLANDS	000	08/17/20
THROUGHOUT TX	HALLIBURTON ENERGY SERVICES INC	L07077	HOUSTON	000	08/18/20

AMENDMENTS TO EXISTING LICENSES ISSUED:

Location of Use/Possession of Material	Name of Licensed Entity	License Number	City of Licensed Entity	Amendment Number	Date of Action
ABILENE	HENDRICK MEDICAL CENTER	L02433	ABILENE	128	08/26/20
ALLEN	TEXAS HEALTH PRESBYTERIAN HOSPITAL	L05765	ALLEN	38	08/24/20
AMARILLO	BSA HOSPITAL LLC	L06556	AMARILLO	15	08/19/20
ARLINGTON	HEARTPLACE PA	L05855	ARLINGTON	17	08/18/20
BEAUMONT	BASF CORPORATION	L02016	BEAUMONT	35	08/24/20
BORGER	WRB REFINING LP	L02480	BORGER	68	08/26/20
CYPRESS	HOUSTON INTERVENTIONAL CARDIOLOGY	L05470	CYPRESS	13	08/18/20
DALLAS	MEDWORKS OF ALABAMA LLC	L07023	DALLAS	02	08/17/20
DALLAS	SOFIE CO	L06174	DALLAS	32	08/24/20
DALLAS	HEARTPLACE PA	L04607	DALLAS	53	08/26/20
DEER PARK	THE LUBRIZOL CORPORATION	L06744	DEER PARK	07	08/26/20
DENTON	TEXAS WOMANS UNIVERSITY	L00304	DENTON	72	08/19/20

AMENDMENTS TO EXISTING LICENSES ISSUED: (Continued)

FORT WORTH	TEXAS ONCOLOGY PA	L05545	FORT WORTH	69	08/19/20
HOUSTON	HARRIS COUNTY HOSPITAL DISTRICT	L04412	HOUSTON	51	08/27/20
HOUSTON	METHODIST HEALTH CENTERS	L05472	HOUSTON	64	08/17/20
HOUSTON	MEMORIAL HERMANN HOSPITAL SYSTEM	L00650	HOUSTON	96	08/24/20
HOUSTON	HARRIS COUNTY HOSPITAL DISTRICT	L01303	HOUSTON	102	08/24/20
HOUSTON	THE METHODIST HOSPITAL	L00457	HOUSTON	211	08/19/20
MANSFIELD	HEALTHSCAN IMAGING LLC	L06856	MANSFIELD	12	08/17/20
MESQUITE	PRIME HEALTHCARE SERVICES MESQUITE LLC	L06726	MESQUITE	05	08/26/20
MIDLAND	KLX ENERGY SERVICES HOLDINGS INC	L07002	MIDLAND	05	08/19/20
MIDLAND	MIDLAND COUNTY HOSPITAL DISTRICT	L00728	MIDLAND	120	08/26/20
NASSAU BAY	HOUSTON METHODIST ST JOHN HOSPITAL	L06650	NASSAU BAY	08	08/26/20
ODESSA	TEXAS ONCOLOGY PA	L05140	ODESSA	23	08/24/20
PARIS	ESSENT PRMC LP	L03199	PARIS	68	08/24/20
PLANO	MIND FOR LIFE LLC	L06619	PLANO	04	08/18/20
PLANO	COLUMBIA MEDICAL CENTER OF PLANO SUBSIDIARY LP	L02032	PLANO	121	08/24/20
PLANO	COLUMBIA MEDICAL CENTER OF PLANO SUBSIDIARY LP	L02032	PLANO	122	08/27/20
ROUND ROCK	SCOTT & WHITE HOSPITAL ROUND ROCK	L06085	ROUND ROCK	32	08/26/20
SAN ANTONIO	MEDI-PHYSICS INC	L04764	SAN ANTONIO	50	08/19/20
SUNNYVALE	TEXAS REGIONAL MEDICAL CENTER LLC	L06692	SUNNYVALE	28	08/20/20
TEXARKANA	J M HURLEY MD PA	L04738	TEXARKANA	20	08/17/20
THROUGHOUT TX	INSPECTION ASSOCIATES INC	L06601	CYPRESS	16	08/26/20

AMENDMENTS TO EXISTING LICENSES ISSUED: (Continued)

THROUGHOUT TX	WOOD ENVIRONMENT & INFRASTRUCTURE SOLUTIONS INC	L03622	EL PASO	40	08/24/20
THROUGHOUT TX	EYNCON LLC	L07070	ENNIS	01	08/26/20
THROUGHOUT TX	NATIONAL INSPECTION SERVICES LLC	L05930	FORT WORTH	49	08/18/20
THROUGHOUT TX	VERSA INTEGRITY GROUP INC	L06669	HOUSTON	27	08/18/20
THROUGHOUT TX	TERRACON CONSULTANTS INC	L05268	HOUSTON	64	08/24/20
THROUGHOUT TX	NIS HOLDINGS INC	L05775	HOUSTON	111	08/24/20
THROUGHOUT TX	INTERTEK ASSET INTEGRITY MANAGEMENT INC	L06801	LONGVIEW	16	08/24/20
THROUGHOUT TX	ARIAS & ASSOCIATES INC	L04964	SAN ANTONIO	59	08/26/20
THROUGHOUT TX	ECOSERV ENVIRONMENTAL SERVICES LLC	L04999	WINNIE	21	08/18/20
VERNON	AMERICAN ELECTRIC POWER-PUBLIC SVC OF OK	L03481	VERNON	29	08/24/20

RENEWAL OF LICENSES ISSUED:

Location of Use/Possession of Material	Name of Licensed Entity	License Number	City of Licensed Entity	Amendment Number	Date of Action
HELOTES	VULCAN CONSTRUCTION MATERIALS LLC	L05382	HELOTES	11	08/24/20
HOUSTON	BAKER HUGHES OILFIELD OPERATIONS LLC	L05104	HOUSTON	18	08/19/20
MIDLOTHIAN	CHAPARRAL STEEL MIDLOTHIAN LP	L02015	MIDLOTHIAN	37	08/19/20

RENEWAL OF LICENSES ISSUED: (Continued)

MONT BELVIEU	EXXON MOBIL CORPORATION	L03119	MONT BELVIEU	33	08/26/20
THROUGHOUT TX	ELLERBEE-WALCZAK INC	L04440	HALTOM CITY	20	08/24/20

TERMINATIONS OF LICENSES ISSUED:

Location of Use/Possession of Material	Name of Licensed Entity	License Number	City of Licensed Entity	Ame nd- men t Num ber	Date of Action
AUSTIN	BIOO SCIENTIFIC CORPORATION	L06248	AUSTIN	04	08/17/20
CHANNELVIEW	PATTERSON TUBULAR SERVICES INC	L03148	CHANNELVIEW	29	08/18/20
PORT NECHES	TPC GROUP LLC	L06106	PORT NECHES	08	08/24/20

TRD-202004346  
 Barbara L. Klein  
 General Counsel  
 Department of State Health Services  
 Filed: October 19, 2020

◆     ◆     ◆  
 Licensing Actions for Radioactive Materials

During the first half of September 2020, the Department of State Health Services (Department) has taken actions regarding Licenses for the possession and use of radioactive materials as listed in the tables (in alphabetical order by location). The subheading "Location" indicates the city in which the radioactive material may be possessed and/or used. The location listing "Throughout TX [Texas]" indicates that the radioactive material may be used on a temporary basis at locations throughout the state.

In issuing new licenses and amending and renewing existing licenses, the Department's Business Filing and Verification Section has determined that the applicant has complied with the licensing requirements in Title 25 Texas Administrative Code (TAC), Chapter 289, for the noted action. In granting termination of licenses, the Department has determined that the licensee has complied with the applicable decommissioning requirements of 25 TAC, Chapter 289. In granting exemptions to the licensing requirements of Chapter 289, the Department has determined that the exemption is not prohibited by law and will not result in a significant risk to public health and safety and the environment.

A person affected by the actions published in this notice may request a hearing within 30 days of the publication date. A "person affected" is defined as a person who demonstrates that the person has suffered or will suffer actual injury or economic damage and, if the person is not a local government, is (a) a resident of a county, or a county adjacent to the county, in which radioactive material is or will be located, or (b) doing business or has a legal interest in land in the county or adjacent county. 25 TAC §289.205(b)(15); Health and Safety Code §401.003(15). Requests must be made in writing and should contain the words "hearing request," the name and address of the person affected by the agency action, the name and license number of the entity that is the subject of the hearing request, a brief statement of how the person is affected by the action what the requestor seeks as the outcome of the hearing, and the name and address of the attorney if the requestor is represented by an attorney. Send hearing requests by mail to: Hearing Request, Radiation Material Licensing, MC 2835, PO Box 149347, Austin, Texas 78714-9347, or by fax to: 512-834-6690, or by e-mail to: RAMlicensing@dshs.texas.gov.

**NEW LICENSES ISSUED:**

Location of Use/Possession of Material	Name of Licensed Entity	License Number	City of Licensed Entity	Amendment Number	Date of Action
FORT WORTH	TEXAS HEALTH HOSPITAL MANSFIELD	L07076	FORT WORTH	00	09/09/20



## NEW LICENSES ISSUED: (Continued)

THROUGHOUT TX	TCC SANDBLASTING & COATING LLC	L07079	MIDLAND	00	09/10/20
---------------	--------------------------------	--------	---------	----	----------

## AMENDMENTS TO EXISTING LICENSES ISSUED:

Location of Use/Possession of Material	Name of Licensed Entity	License Number	City of Licensed Entity	Amendment Number	Date of Action
AUSTIN	NORTHWEST SURGERY CENTER	L06236	AUSTIN	03	09/08/20
CYPRESS	KPH CONSOLIDATION INC DBA HCA HOUSTON HEALTHCARE NORTH CYPRESS	L06988	CYPRESS	04	09/10/20
FORT WORTH	TEXAS ONCOLOGY PA	L05545	FORT WORTH	70	09/11/20
FREEPORT	SOLVAY USA INC	L02807	FREEPORT	45	09/11/20
HARLINGEN	TEXAS ONCOLOGY PA DBA SOUTH TEXAS CANCER CENTER HARLINGEN	L00154	HARLINGEN	52	09/08/20
HOUSTON	WOODLANDS SPECIALTY HOSPITAL PLLC	L06656	HOUSTON	04	09/11/20
HOUSTON	MEMORIAL HERMANN HEALTH SYSTEM	L06832	HOUSTON	24	09/15/20
HOUSTON	MEMORIAL HERMANN HEALTH SYSTEM	L03052	HOUSTON	102	09/15/20
HOUSTON	MEMORIAL HERMANN HEALTH SYSTEM	L02412	HOUSTON	138	09/15/20
HOUSTON	MEMORIAL HERMANN HEALTH SYSTEM	L03772	HOUSTON	162	09/15/20
HOUSTON	MEMORIAL HERMANN HEALTH SYSTEM	L00439	HOUSTON	250	09/15/20
LA PORTE	BAYPORT POLYMERS LLC DBA BAY-POL LLC	L06922	LA PORTE	06	09/10/20
SHENANDOAH	WOODLANDS ELITE CARDIOLOGY PLLC	L07022	SHENANDOAH	03	09/11/20
THROUGHOUT TX	THE UNIVERSITY OF TEXAS AT AUSTIN	L00485	AUSTIN	97	09/15/20

AMENDMENTS TO EXISTING LICENSES ISSUED: (Continued)

THROUGHOUT TX	ECS SOUTHWEST LLP	L05384	CARROLLTON	20	09/11/20
THROUGHOUT TX	PIONEER WIRELINE SERVICES LLC	L06220	CONVERSE	42	09/10/20
THROUGHOUT TX	DESERT NDT LLC DBA SHAWCOR	L06462	FORT WORTH	46	09/14/20
THROUGHOUT TX	PHOENIX MECHANICAL INTEGRITY SERVICES LLC	L06787	HOUSTON	10	09/09/20
THROUGHOUT TX	HVJ ASSOCIATES INC	L03813	HOUSTON	66	09/08/20
THROUGHOUT TX	XCEL NDT LLC	L07039	LONGVIEW	01	09/10/20
THROUGHOUT TX	ROCK ENGINEERING AND TESTING LABORATORY INC	L05168	SAN ANTONIO	20	09/08/20
THROUGHOUT TX	EPIC PIPING LLC	L06819	SAN MARCOS	02	09/10/20

RENEWAL OF LICENSES ISSUED:

Location of Use/Possession of Material	Name of Licensed Entity	License Number	City of Licensed Entity	Amendment Number	Date of Action
THROUGHOUT TX	CATCH A FAULT	L02725	PONDER	26	09/08/20

TERMINATIONS OF LICENSES ISSUED:

Location of Use/Possession of Material	Name of Licensed Entity	License Number	City of Licensed Entity	Amendment Number	Date of Action
CLEBURNE	CANDOR NDT CONSULTING LLC	L06969	CLEBURNE	01	09/10/20
FRITCH	SACHIYE MCKENNA & ASSOCIATES LLC	L07004	FRITCH	01	09/09/20

TERMINATIONS OF LICENSES ISSUED: (Continued)

HOUSTON	HOUSTON ASSOCIATES OF CARDIOVASCULAR MEDICINE DBA HOUSTON CARDIAC ASSOCIATION	L06761	HOUSTON	02	09/11/20
POINT COMFORT	ALCOA WORLD ALUMINA LLC	L05186	POINT COMFORT	19	09/11/20

TRD-202004347  
 Barbara L. Klein  
 General Counsel  
 Department of State Health Services  
 Filed: October 19, 2020

◆        ◆        ◆  
 Licensing Actions for Radioactive Materials

During the second half of September 2020, the Department of State Health Services (Department) has taken actions regarding Licenses for the possession and use of radioactive materials as listed in the tables (in alphabetical order by location). The subheading "Location" indicates the city in which the radioactive material may be possessed and/or used. The location listing "Throughout TX [Texas]" indicates that the radioactive material may be used on a temporary basis at locations throughout the state.

In issuing new licenses and amending and renewing existing licenses, the Department's Business Filing and Verification Section has determined that the applicant has complied with the licensing requirements in Title 25 Texas Administrative Code (TAC), Chapter 289, for the noted action. In granting termination of licenses, the Department has determined that the licensee has complied with the applicable decommissioning requirements of 25 TAC, Chapter 289. In granting exemptions to the licensing requirements of Chapter 289, the Department has determined that the exemption is not prohibited by law and will not result in a significant risk to public health and safety and the environment.

A person affected by the actions published in this notice may request a hearing within 30 days of the publication date. A "person affected" is defined as a person who demonstrates that the person has suffered or will suffer actual injury or economic damage and, if the person is not a local government, is (a) a resident of a county, or a county adjacent to the county, in which radioactive material is or will be located, or (b) doing business or has a legal interest in land in the county or adjacent county. 25 TAC §289.205(b)(15); Health and Safety Code §401.003(15). Requests must be made in writing and should contain the words "hearing request," the name and address of the person affected by the agency action, the name and license number of the entity that is the subject of the hearing request, a brief statement of how the person is affected by the action what the requestor seeks as the outcome of the hearing, and the name and address of the attorney if the requestor is represented by an attorney. Send hearing requests by mail to: Hearing Request, Radiation Material Licensing, MC 2835, PO Box 149347, Austin, Texas 78714-9347, or by fax to: 512-834-6690, or by e-mail to: RAMlicensing@dshs.texas.gov.

**NEW LICENSES ISSUED:**

Location of Use/Possession of Material	Name of Licensed Entity	License Number	City of Licensed Entity	Amendment Number	Date of Action
CHANNELVIEW	EQUISTAR CHEMICALS LP	L07080	CHANNELVIEW	00	09/29/20

AMENDMENTS TO EXISTING LICENSES ISSUED:

Location of Use/Possession of Material	Name of Licensed Entity	License Number	City of Licensed Entity	Amendment Number	Date of Action
ANGLETON	SALIM F DABAGHI MD PA	L05353	ANGLETON	09	09/25/20
ANGLETON	ISOTHERAPEUTICS GROUP LLC	L05969	ANGLETON	44	09/21/20
ARLINGTON	HEARTPLACE PA	L06336	ARLINGTON	14	09/30/20
BISHOP	BASF CORPORATION	L06855	BISHOP	09	09/25/20
BRENHAM	SCOTT & WHITE HOSPITAL BRENHAM DBA BAYLOR SCOTT & WHITE MEDICAL CENTER - BRENHAM	L03419	BRENHAM	37	09/18/20
COLLEGE STATION	TEXAS A&M UNIVERSITY	L00448	COLLEGE STATION	156	09/18/20
CYPRESS	CARDIOVASCULAR & HEART RHYTHM ASSOCIATES CORPORATION PA	L07056	CYPRESS	01	09/29/20
DALLAS	TEXAS HEALTH PHYSICIANS GROUP	L06578	DALLAS	07	09/23/20
DALLAS	GENESISCARE USA LANDMARK LLC DBA NORTHPOINT CANCER CENTER	L06645	DALLAS	09	09/16/20
FORT WORTH	TEXAS HEALTH HUGULEY INC	L06514	FORT WORTH	06	09/23/20
FORT WORTH	TEXAS CHRISTIAN UNIVERSITY	L01096	FORT WORTH	52	09/29/20
FORT WORTH	TEXAS ONCOLOGY PA	L05545	FORT WORTH	71	09/23/20
GATESVILLE	CORYELL COUNTY MEMORIAL HOSPITAL AUTHORITY DBA CORYELL MEMORIAL HEALTHCARE SYSTEM	L02391	GATESVILLE	40	09/25/20
HOUSTON	THE METHODIST HOSPITALRESEARCH INSTITUTE	L06331	HOUSTON	19	09/16/20

	DBA HOUSTON METHODISTRESEARCH INSTITUTE				
HOUSTON	MEMORIAL HERMANN MEDICAL GROUP	L06430	HOUSTON	41	09/21/20
HOUSTON	HARRIS COUNTY HOSPITAL DISTRICT DBA HARRIS HEALTH SYSTEM	L01303	HOUSTON	103	09/29/20
HOUSTON	BAYLOR COLLEGE OF MEDICINE	L00680	HOUSTON	128	09/23/20
HOUSTON	AMERICAN DIAGNOSTIC TECH LLC	L05514	HOUSTON	147	09/18/20
HOUSTON	MEMORIAL HERMANN HEALTH SYSTEM DBA MEMORIAL HERMANN MEMORIAL	L01168	HOUSTON	185	09/21/20
LA PORTE	BRASKEM AMERICA INC	L06292	LA PORTE	14	09/16/20
LAREDO	LAREDO REGIONAL MEDICAL CENTER LP DBA DOCTORS HOSPITAL OF LAREDO	L02192	LAREDO	47	09/23/20
LONGVIEW	EASTMAN CHEMICALS COMPANY TEXAS OPERATIONS	L00301	LONGVIEW	125	09/24/20
LUBBOCK	METHODIST DIAGNOSTIC IMAGING DBA COVENANT DIAGNOSTIC IMAGING	L03948	LUBBOCK	57	09/22/20
MIDLAND	TEXAS ONCOLOGY PA DBA ALLISON CANCER CENTER	L04905	MIDLAND	29	09/16/20
PORT ARTHUR	MOTIVA ENTERPRISES LLC	L05211	PORT ARTHUR	27	09/24/20
SAN ANTONIO	VHS SAN ANTONIO IMAGING PARTNERS LP DBA BAPTIST M&S IMAGING CENTER	L04506	SAN ANTONIO	100	09/30/20
SAN ANTONIO	THE UNIVERSITY OF TEXAS HEALTH SCIENCECENTER AT SAN ANTONIO	L01279	SAN ANTONIO	172	09/29/20
SAN ANTONIO	SOUTH TEXAS RADIOLOGY IMAGING CENTERS	L00325	SAN ANTONIO	250	09/29/20

SAN ANTONIO	VHS SAN ANTONIO PARTNERS LLC DBA BAPTIST HEALTH SYSTEM	L00455	SAN ANTONIO	267	09/30/20
SAN ANTONIO	METHODIST HEALTHCARE SYSTEM OF SAN ANTONIO LTD LLP	L00594	SAN ANTONIO	378	09/25/20
STAFFORD	ALOKI ENTERPRISE INC	L06257	STAFFORD	55	09/29/20
THROUGHOUT TX	IIA FIELD SERVICES LLC	L06933	ABILENE	04	09/24/20
THROUGHOUT TX	ANDERSON PERFORATING SERVICES LLC	L06587	ALBANY	10	09/29/20
THROUGHOUT TX	HVJ SOUTH CENTRAL TEXAS - M&J INC	L06858	AUSTIN	04	09/16/20
THROUGHOUT TX	THERMO PROCESS INSTRUMENTS LP	L06804	AUSTIN	08	09/18/20
THROUGHOUT TX	ECS SOUTHWEST LLP	L05384	CARROLLTON	21	09/24/20
THROUGHOUT TX	TAS ENVIRONMENTAL SERVICES LP	L06646	FORT WORTH	02	09/18/20
THROUGHOUT TX	DESERT NDT LLC DBA SHAWCOR	L06462	FORT WORTH	46	09/16/20
THROUGHOUT TX	EUSTIS ENGINEERING LLC	L07051	HOUSTON	01	09/21/20
THROUGHOUT TX	TOLUNAY ENGINEERING GROUP INC DBA TEG	L06840	HOUSTON	03	09/30/20
THROUGHOUT TX	HAIMO AMERICA INC	L06936	HOUSTON	08	09/25/20
THROUGHOUT TX	ECS SOUTHWEST LLP	L06693	HOUSTON	09	09/16/20
THROUGHOUT TX	ALLIED WIRELINE SERVICES LLC	L06374	HOUSTON	20	09/29/20
THROUGHOUT TX	TOLUNAY WONG ENGINEERS INC	L04848	HOUSTON	26	09/16/20
THROUGHOUT TX	NUCLEAR SOURCES & SERVICES INC DBA NSSI/SOURCES & SERVICES INC NSSI	L02991	HOUSTON	49	09/29/20
THROUGHOUT TX	TERRACON CONSULTANTS INC	L05268	HOUSTON	65	09/21/20
THROUGHOUT TX	OCEANEERING INTERNATIONAL INC	L04463	HOUSTON	92	09/18/20

THROUGHOUT TX	NIS HOLDINGS INC DBA NUCLEAR IMAGING SERVICES	L05775	HOUSTON	112	09/16/20
THROUGHOUT TX	NIS HOLDINGS INC DBA NUCLEAR IMAGING SERVICES	L05775	HOUSTON	113	09/29/20
THROUGHOUT TX	HALLIBURTON ENERGY SERVICES INC	L02113	HOUSTON	142	09/22/20
THROUGHOUT TX	AMERICAN PIPING INSPECTION INC	L06835	KILGORE	09	09/24/20
THROUGHOUT TX	QSA GLOBAL INC	L06566	LA PORTE	11	09/29/20
THROUGHOUT TX	PAVETEX ENGINEERING LLC DBA PAVETEX	L06407	LUBBOCK	19	09/29/20
THROUGHOUT TX	WELD SPEC INC	L05426	LUMBERTON	118	09/29/20
THROUGHOUT TX	PRECISION NDT LLC	L07054	MIDLAND	01	09/18/20
THROUGHOUT TX	TCC SANDBLASTING & COATING LLC	L07079	MIDLAND	01	09/23/20
THROUGHOUT TX	CDK PERFORATING LLC DBA NINE ENERGY SERVICE	L06616	MIDLAND	10	09/16/20
THROUGHOUT TX	SQS NDT LP	L06896	ODESSA	06	09/21/20
THROUGHOUT TX	PRO INSPECTION INC	L06666	ODESSA	12	09/28/20
THROUGHOUT TX	O'CONNOR & KEZAR LLC	L06318	SAN ANTONIO	08	09/21/20
THROUGHOUT TX	OILPATCH NDT LLC	L06718	SEABROOK	18	09/18/20
THROUGHOUT TX	LUDLUM MEASUREMENTS INC	L01963	SWEETWATER	112	09/21/20
WACO	ASCENSION PROVIDENCE	L01638	WACO	76	09/21/20

RENEWAL OF LICENSES ISSUED:

Location of Use/Possession of Material	Name of Licensed Entity	License Number	City of Licensed Entity	Amendment Number	Date of Action
CEDAR CREEK	AGILENT TECHNOLOGIES INC	L05214	CEDAR CREEK	11	09/28/20



FORT WORTH	FORT WORTH SURGICARE PARTNERS LTD	L05668	FORT WORTH	19	09/22/20
HOUSTON	STEWART & STEVENSON SERVICE LLC	L05267	HOUSTON	06	09/30/20
HOUSTON	MONITORINGSERVICE	L04501	HOUSTON	014	09/21/20
SAN ANTONIO	UNIVERSITY OF TEXAS AT SAN ANTONIO	L01962	SAN ANTONIO	72	09/29/20
THROUGHOUT TX	FUGRO USA LAND INC	L03875	AUSTIN	30	09/16/20

TERMINATIONS OF LICENSES ISSUED:

Location of Use/Possession of Material	Name of Licensed Entity	License Number	City of Licensed Entity	Amendment Number	Date of Action
BRECKENRIDGE	STEPHENS MEMORIAL HOSPITAL DISTRIC	L06956	BRECKENRIDGE	01	09/23/20
CARROLLTON	BAYLOR MEDICAL CENTER AT CARROLLTON	L06741	CARROLLTON	08	09/30/20
HOUSTON	NORTHWEST HOUSTON CARDIOLOGY PA	L05823	HOUSTON	12	09/23/20
KOUNTZE	TRI-POINT OIL AND GAS PRODUCTIONS SYSTEMS LLC	L06897	KOUNTZE	04	09/25/20
PASADENA	UNIVERSITY CANCER CENTER OF HUNTSVILLE/BRENHAM INC	L06070	PASADENA	11	09/23/20
PLANO	VISTA PEM PROVIDERS LLC	L06341	PLANO	06	09/16/20

IMPOUND ORDERS ISSUED:

Name	Type of Order	License #	Address	Action	Date of Issuance
Allen Inspection Service	Impound Order	L03003	1800 East Taylor Midland	Impound mobile spinning pipe gauge	09/21/2020
Fort Worth Hope Center	Impound Order	Revoked Registration (R36472)	3625 East Loop 820 South Fort Worth	Impound Dental/Intraoral Radiographic Unit	09/23/2020

TRD-202004348  
Barbara L. Klein  
General Counsel  
Department of State Health Services  
Filed: October 19, 2020

◆ ◆ ◆  
**Texas Department of Housing and Community Affairs**

Announcement of the Public Comment Period for the Draft 2020 State of Texas Consolidated Plan Annual Performance Report - Reporting on Program Year 2019

The Texas Department of Housing and Community Affairs (TDHCA) announces the opening of a 15-day public comment period for the *State of Texas Draft 2020 Consolidated Plan Annual Performance Report - Reporting on Program Year 2019 (the Report)* as required by the U.S. Department of Housing and Urban Development (HUD). The Report is required as part of the overall requirements governing the State's consolidated planning process. The Report is submitted in compliance with 24 CFR §91.520, Consolidated Plan Submissions for Community Planning and Development Programs. The 15-day public comment period begins Monday, November 2, 2020, and continues until 5:00 p.m. Austin Local Time on Monday, November 16.

The Report gives the public an opportunity to evaluate the performance of the past program year for five HUD programs: the Community Development Block Grant Program administered by the Texas Department of Agriculture, the Housing Opportunities for Persons with AIDS Program administered by the Texas Department of State Health Services, and the Emergency Solutions Grants, HOME Investment Partnerships, and National Housing Trust Fund programs, administered by TDHCA. The following information is provided for each of the programs covered in the Report: a summary of program resources and programmatic accomplishments; a series of narrative statements on program performance over the past year; a qualitative analysis of program actions and experiences; and a discussion of program successes in meeting program goals and objectives.

Beginning November 2, 2020, the Report will be available on the Department's website at <http://www.tdhca.state.tx.us/public-comment.htm>. A hard copy can be requested by contacting the Housing Resource Center at P.O. Box 13941, Austin, Texas 78711-3941 or by calling (512) 475-3976.

Written comments should be sent by mail to the Texas Department of Housing and Community Affairs, Housing Resource Center, P.O. Box

13941, Austin, Texas 78711-3941, by email to [info@tdhca.state.tx.us](mailto:info@tdhca.state.tx.us), or by fax to (512) 475-0070.

TRD-202004435  
Bobby Wilkinson  
Executive Director  
Texas Department of Housing and Community Affairs  
Filed: October 21, 2020

◆ ◆ ◆  
**Texas Lottery Commission**

Scratch Ticket Game Number 2247 "BONUS BREAK THE BANK"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 2247 is "BONUS BREAK THE BANK". The play style is "key number match".

1.1 Price of Scratch Ticket Game.

A. The price for Scratch Ticket Game No. 2247 shall be \$5.00 per Scratch Ticket.

1.2 Definitions in Scratch Ticket Game No. 2247.

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, STACK OF CASH SYMBOL, MONEY BAG SYMBOL, \$5.00, \$10.00, \$15.00, \$20.00, \$25.00, \$50.00, \$100, \$500, \$5,000 and \$100,000.

D. Play Symbol Caption - The printed material appearing below each Play Symbol which explains the Play Symbol. One caption appears under each Play Symbol and is printed in caption font in black ink in positive. The Play Symbol Caption which corresponds with and verifies each Play Symbol is as follows:

Figure 1: GAME NO. 2247 - 1.2D

<b>PLAY SYMBOL</b>	<b>CAPTION</b>
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
STACK OF CASH SYMBOL	WIN\$50
MONEY BAG SYMBOL	WIN\$50
\$5.00	FIV\$
\$10.00	TEN\$
\$15.00	FFN\$
\$20.00	TWY\$
\$25.00	TWV\$
\$50.00	FFTY\$
\$100	ONHN
\$500	FVHN
\$5,000	FVTH
\$100,000	100TH

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 (2247), 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: 2247-0000001-001.

H. Pack - A Pack of the "BONUS BREAK THE BANK" 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 "BONUS BREAK THE BANK" Scratch Ticket Game No. 2247.

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 "BONUS BREAK THE BANK" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose thirty-six (36) Play Symbols. GAME 1: If the

player matches any of the YOUR NUMBERS Play Symbols to either of the LOCK NUMBERS Play Symbols, the player wins the prize for that number. If the player reveals a "STACK OF CASH" Play Symbol, the player wins \$50 instantly! GAME 2: If the player matches any of the YOUR NUMBERS Play Symbols to either of the LOCK NUMBERS Play Symbols, the player wins the prize for that number. If a player reveals a "MONEY BAG" Play Symbol, the player wins \$50 instantly! No portion of the Display Printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Scratch Ticket.

#### 2.1 Scratch Ticket Validation Requirements.

A. To be a valid Scratch Ticket, all of the following requirements must be met:

1. Exactly thirty-six (36) 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 thirty-six (36) 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 thirty-six (36) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;
17. Each of the thirty-six (36) 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. A Ticket can win up to sixteen (16) times in accordance with the approved prize structure.

B. Consecutive Non-Winning Tickets within a Pack will not have matching patterns, in the same order, of either Play Symbols or Prize Symbols.

C. The top Prize Symbol will appear on every Ticket, unless restricted by other parameters, play action or prize structure.

D. Non-winning Prize Symbol(s) will never be the same as the winning Prize Symbol(s).

E. No prize amount in a non-winning spot will correspond with the YOUR NUMBERS Play Symbol (i.e., 20 and \$20).

F. The LOCK NUMBERS Play Symbols from GAME 1 will never match the YOUR NUMBERS Play Symbols from GAME 2 on the same Ticket, and the LOCK NUMBERS Play Symbols from GAME 2 will never match the YOUR NUMBERS Play Symbols from GAME 1 on the same Ticket.

G. The LOCK NUMBERS Play Symbols from GAME 1 and GAME 2 will all be different.

H. GAME 1: Each Ticket will have two (2) different LOCK NUMBERS Play Symbols.

I. GAME 1: Non-winning YOUR NUMBERS Play Symbols will all be different.

J. GAME 1: Non-winning Prize Symbols will never appear more than three (3) times.

K. GAME 1: The "STACK OF CASH" (WIN\$50) Play Symbol will never appear in the LOCK NUMBERS Play Symbol spots.

L. GAME 1: The "STACK OF CASH" (WIN\$50) Play Symbol will only appear on winning Tickets as dictated by the prize structure.

M. GAME 1: When the "STACK OF CASH" (WIN\$50) Play Symbol appears, only the \$50 Prize Symbol will appear beneath it.

N. GAME 2: Each Ticket will have two (2) different LOCK NUMBERS Play Symbols.

O. GAME 2: Non-winning YOUR NUMBERS Play Symbols will all be different.

P. GAME 2: Non-winning Prize Symbols will never appear more than three (3) times.

Q. GAME 2: The "MONEY BAG" (WIN\$50) Play Symbol will never appear in the LOCK NUMBERS Play Symbol spots.

R. GAME 2: The "MONEY BAG" (WIN\$50) Play Symbol will only appear on winning Tickets as dictated by the prize structure.

S. GAME 2: When the "MONEY BAG" (WIN\$50) Play Symbol appears, only the \$50 Prize Symbol will appear beneath it.

### 2.3 Procedure for Claiming Prizes.

A. To claim a "BONUS BREAK THE BANK" Scratch Ticket Game prize of \$5.00, \$10.00, \$15.00, \$20.00, \$50.00, \$100 or \$500, a claimant shall sign the back of the Scratch Ticket in the space designated on the Scratch Ticket and 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, \$100 or \$500 Scratch Ticket Game. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and Section 2.3.C of these Game Procedures.

B. To claim a "BONUS BREAK THE BANK" Scratch Ticket Game prize of \$5,000 or \$100,000, 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 "BONUS BREAK THE BANK" 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 "BONUS BREAK THE BANK" 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 "BONUS BREAK THE BANK" 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 18,000,000 Scratch Tickets in Scratch Ticket Game No. 2247. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 2247 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$5.00	1,560,000	11.54
\$10.00	1,200,000	15.00
\$15.00	720,000	25.00
\$20.00	360,000	50.00
\$50.00	300,000	60.00
\$100	57,750	311.69
\$500	2,250	8,000.00
\$5,000	100	180,000.00
\$100,000	10	1,800,000.00

\*The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed.

\*\*The overall odds of winning a prize are 1 in 4.29. 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. 2247 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. 2247, 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-202004360  
 Bob Biard  
 General Counsel  
 Texas Lottery Commission  
 Filed: October 20, 2020



Scratch Ticket Game Number 2272 "MAD MONEY"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 2272 is "MAD MONEY". The play style is "key number match".

1.1 Price of Scratch Ticket Game.

A. The price for Scratch Ticket Game No. 2272 shall be \$1.00 per Scratch Ticket.

1.2 Definitions in Scratch Ticket Game No. 2272.

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, MONEY BAG SYMBOL, \$1.00, \$2.00, \$3.00, \$5.00, \$10.00, \$25.00, \$100 and \$1,000.

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. 2272 - 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
MONEY BAG SYMBOL	DBL
\$1.00	ONE\$
\$2.00	TWO\$
\$3.00	THR\$



\$5.00	FIV\$
\$10.00	TEN\$
\$25.00	TW\$V\$
\$100	ONHN
\$1,000	ONTH

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 (2272), 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: 2272-0000001-001.

H. Pack - A Pack of the "MAD MONEY" Scratch Ticket Game contains 150 Tickets, packed in plastic shrink-wrapping and fanfolded in pages of five (5). Tickets 001 to 005 will be on the top page; Tickets 006 to 010 on the next page; etc.; and Tickets 146 to 150 will be on the last page with backs exposed. Ticket 001 will be folded over so the front of Ticket 001 and 010 will be exposed.

I. Non-Winning Scratch Ticket - A Scratch Ticket which is not programmed to be a winning Scratch Ticket or a Scratch Ticket that does not meet all of the requirements of these Game Procedures, the State Lottery Act (Texas Government Code, Chapter 466), and applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401.

J. Scratch Ticket Game, Scratch Ticket or Ticket - Texas Lottery "MAD MONEY" Scratch Ticket Game No. 2272.

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 "MAD MONEY" 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 "MONEY BAG" 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 eleven (11) Play Symbols must appear under the Latex Overprint on the front portion of the Scratch Ticket;
2. Each of the Play Symbols must have a Play Symbol Caption underneath, unless specified, and each Play Symbol must agree with its Play Symbol Caption;
3. Each of the Play Symbols must be present in its entirety and be fully legible;
4. Each of the Play Symbols must be printed in black ink except for dual image games;
5. The Scratch Ticket shall be intact;
6. The Serial Number and Game-Pack-Ticket Number must be present in their entirety and be fully legible;
7. The Serial Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the Scratch Ticket;
8. The Scratch Ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted or tampered with in any manner;
9. The Scratch Ticket must not be counterfeit in whole or in part;
10. The Scratch Ticket must have been issued by the Texas Lottery in an authorized manner;
11. The Scratch Ticket must not have been stolen, nor appear on any list of omitted Scratch Tickets or non-activated Scratch Tickets on file at the Texas Lottery;
12. The Play Symbols, Serial Number and Game-Pack-Ticket Number must be right side up and not reversed in any manner;
13. The Scratch Ticket must be complete and not miscut, and have exactly eleven (11) Play Symbols under the Latex Overprint on the front portion of the Scratch Ticket, exactly one Serial Number and exactly one Game-Pack-Ticket Number on the Scratch Ticket;
14. The Serial Number of an apparent winning Scratch Ticket shall correspond with the Texas Lottery's Serial Numbers for winning Scratch Tickets, and a Scratch Ticket with that Serial Number shall not have been paid previously;
15. The Scratch Ticket must not be blank or partially blank, misregistered, defective or printed or produced in error;
16. Each of the eleven (11) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;
17. Each of the eleven (11) Play Symbols on the Scratch Ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the Scratch Ticket Serial Numbers must be

printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Game-Pack-Ticket Number must be printed in the Game-Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;

18. The Display Printing on the Scratch Ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and

19. The Scratch Ticket must have been received by the Texas Lottery by applicable deadlines.

B. The Scratch Ticket must pass all additional validation tests provided for in these Game Procedures, the Texas Lottery's Rules governing the award of prizes of the amount to be validated, and any confidential validation and security tests of the Texas Lottery.

C. Any Scratch Ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Executive Director may, solely at the Executive Director's discretion, refund the retail sales price of the Scratch Ticket. In the event a defective Scratch Ticket is purchased, the only responsibility or liability of the Texas Lottery shall be to replace the defective Scratch Ticket with another unplayed Scratch Ticket in that Scratch Ticket Game (or a Scratch Ticket of equivalent sales price from any other current Texas Lottery Scratch Ticket Game) or refund the retail sales price of the Scratch Ticket, solely at the Executive Director's discretion.

## 2.2 Programmed Game Parameters.

A. GENERAL: The top Prize Symbol will appear on every Ticket, unless restricted by other parameters, play action or prize structure.

B. GENERAL: Consecutive Non-Winning Tickets within a Pack will not have matching patterns, in the same order, of either Play Symbols or Prize Symbols.

C. KEY NUMBER MATCH: No prize amount in a non-winning spot will correspond with the YOUR NUMBERS Play Symbol (i.e., 01 and \$1.00).

D. KEY NUMBER MATCH: A non-winning Prize Symbol will never match a winning Prize Symbol.

E. KEY NUMBER MATCH: A Ticket may have up to two (2) matching non-winning Prize Symbols, unless restricted by other parameters, play action or prize structure.

F. KEY NUMBER MATCH: The "MONEY BAG" (DBL) Play Symbol will only appear on intended winning Tickets as dictated by the prize structure.

G. KEY NUMBER MATCH: No matching non-winning YOUR NUMBERS Play Symbols on a Ticket.

## 2.3 Procedure for Claiming Prizes.

A. To claim a "MAD MONEY" 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 "MAD MONEY" Scratch Ticket Game prize of \$1,000, 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 "MAD MONEY" 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 "MAD MONEY" 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 "MAD MONEY" 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 10,080,000 Scratch Tickets in Scratch Ticket Game No. 2272. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 2272 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$1.00	907,200	11.11
\$2.00	470,400	21.43
\$3.00	268,800	37.50
\$5.00	134,400	75.00
\$10.00	235,200	42.86
\$25.00	6,720	1,500.00
\$100	2,000	5,040.00
\$1,000	10	1,008,000.00

\*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. 2272 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. 2272, the State Lottery Act (Texas Government Code, Chap-

ter 466), applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401, and all final decisions of the Executive Director.

TRD-202004384

Bob Biard

General Counsel

Texas Lottery Commission

Filed: October 20, 2020



## Permian Basin Metropolitan Planning Organization

### Request for Proposals - Outer Loop Corridor Study

The Permian Basin Metropolitan Planning Organization (MPO) for the Midland-Odessa metropolitan area, is seeking proposals from qualified individuals or firms for consultant services to assist with specific tasks in the development of a Permian Basin Interregional Planning and Environmental Linkage Study.

Respondents will need to submit five (5) WRITTEN SEALED PROPOSALS, for the following, not later than 4:30 p.m., November 5, 2020, to the Permian Basin Metropolitan Planning Organization, Wright Office Complex, Suite I, 960I Wright Drive, Midland, Texas 79706; USPS Mailing Address: P.O. Box 60916, Midland, Texas 79711.

To view the full RFP document, visit our website at [www.permianbasinmpo.com](http://www.permianbasinmpo.com).

For more information, contact Cameron Walker at Permian Basin MPO, P.O. Box 60916, Midland, Texas 79711, (432) 617-0129.

TRD-202004277

Alyssa Chavez Sommer

Office Manager

Permian Basin Metropolitan Planning Organization

Filed: October 15, 2020



## Department of Savings and Mortgage Lending

### Notice of Application for Change of Control of a Savings Bank

Notice is hereby given that on October 15, 2020, an application was filed with the Savings and Mortgage Lending Commissioner of Texas for change of control of Spirit of Texas Bancshares, Inc., Conroe, and therefore, Spirit of Texas Bank, SSB, College Station, Texas by Steven Gregory Kidd, Plano, Texas, Individually, and Steven Gregory Kidd, Plano, Texas, as a member of a group acting in concert with Ashley Nicole Kidd Conley, Prosper, Texas, The Greg Kidd 2010 SOTB Trust, Plano, Texas, The Greg Kidd SOTB Inheritance Trust - A, Plano, Texas and The Greg and Shelly Kidd 2011 SOTB Trust, Plano, Texas for permission collectively to acquire 10 percent or more of the shares and thereby control of Spirit of Texas Bancshares, Inc., Conroe, Texas. Spirit of Texas Bancshares, Inc. wholly owns Spirit of Texas Bank, SSB, College Station, Texas. The shares to be acquired by the application are currently held by Kidd Partners, Ltd., a partnership in which each of the applicants is a partner and for which ownership over 10 percent has been permitted in Spirit of Texas Bancshares, Inc. As of the date of this application, Kidd Partners, Ltd. Owns approximately 12% of the shares of Spirit of Texas Bancshares, Inc.

This application is filed pursuant to 7 TAC §§75.121-78.127 of the Rules and Regulations Applicable to Texas Savings Banks. These Rules are on file with the Secretary of State, Texas Register Division,

or may be seen at the Department's offices in the Finance Commission Building, 2601 North Lamar, Suite 201, Austin, Texas 78705.

ISSUED this 16th day of October, 2020, at Austin, Travis County, Texas.

TRD-202004302

Caroline C. Jones

Commissioner

Department of Savings and Mortgage Lending

Filed: October 16, 2020



## State Securities Board

### Revised Rule Review Plan

In accordance with Section 2001.039 of the Government Code, the State Securities Board submits the following plan for the ongoing review of its rules. This plan replaces the plan filed on November 18, 2009, and published in the November 27, 2009, issue of the *Texas Register* (34 TexReg 8545).

Beginning in September 2022, the Agency will review 7 TAC, Chapters 101 - General Administration, 103 - Rulemaking Procedure, and 104 - Procedure for Review of Applications.

Beginning in December 2022, the Agency will review 7 TAC, Chapters 113 - Registration of Securities, 114 - Federal Covered Securities, 123 - Administrative Guidelines for Registration of Open-End Investment Companies, 125 - Minimum Disclosures in Church and Nonprofit Institution Bond Issues, 135 - Industrial Development Corporations and Authorities, and 137 - Administrative Guidelines for Regulation of Offers.

Beginning in March 2023, the Agency will review 7 TAC, Chapters 105 - Rules of Practice in Contested Cases, and 106 - Guidelines for the Assessment of Administrative Fines.

Beginning in June 2023, the Agency will review 7 TAC, Chapters 102 - Complaint Process, 107 - Terminology, 127 - Miscellaneous, and 131 - Guidelines for Confidentiality of Information.

Beginning in September 2023, the Agency will review 7 TAC, Chapters 109 - Transactions Exempt from Registration, 111 - Securities Exempt from Registration, and 139 - Exemptions by Rule or Order.

Beginning in December 2023, the Agency will review 7 TAC, Chapter 133 - Forms.

Beginning in March 2024, the Agency will review 7 TAC, Chapters 115 - Securities Dealers and Agents, and 116 - Investment Advisers and Investment Adviser Representatives.

Thereafter, each chapter will be reviewed no later than the fourth anniversary of the date the chapter took effect or was readopted pursuant to the preceding rule review cycle, whichever is later. As a result of its review, the Agency will readopt, readopt with amendments, or repeal rules, based upon an assessment of whether the reasons for initially adopting the rules continue to exist.

TRD-202004349

Travis J. Iles

Securities Commissioner

State Securities Board

Filed: October 19, 2020



## Supreme Court of Texas

IN THE SUPREME COURT OF TEXAS

=====  
Misc. Docket No. 20-9118  
=====

=====  
**ORDER APPROVING PROTECTIVE ORDER REGISTRY FORM**  
=====

**ORDERED** that:

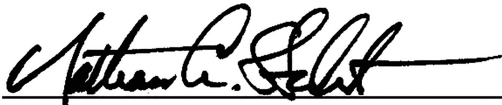
1. Senate Bill 325, enacted by the 86th Legislature, requires the Office of Court Administration (“OCA”) to create an online registry for family violence protective orders and applications. Court clerks are to enter the documents and information into the registry, and specified officials have full access to the registry’s contents. Upon a protected person’s request and OCA approval, the public has access to more limited information. The bill requires the Court to prescribe a form for use by a protected person to request or remove public access to that more limited information. Act of May 1, 2019, 86th Leg., R.S., ch. 16 (SB 325).

2. The following form is approved for use by a protected person, and the use of the approved form is required.

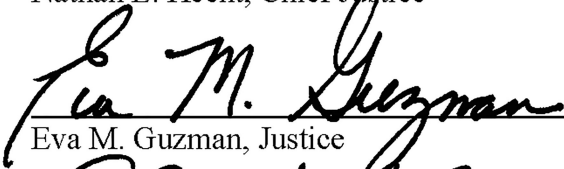
3. The Clerk of the Supreme Court is directed to:

- a. file a copy of this Order with the Secretary of State;
- b. cause a copy of this Order to be mailed to each registered member of the State Bar of Texas by publication in the *Texas Bar Journal*; and
- c. send a copy of this Order to each elected member of the Legislature; and
- d. submit a copy of the Order for publication in the *Texas Register*.

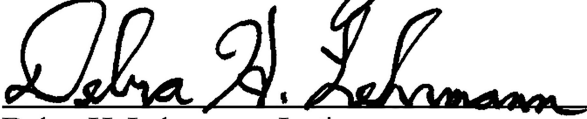
Dated: October 13, 2020



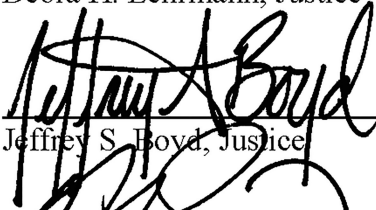
Nathan L. Hecht, Chief Justice



Eva M. Guzman, Justice



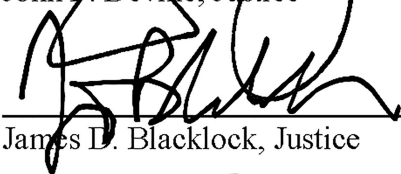
Debra H. Lehrmann, Justice



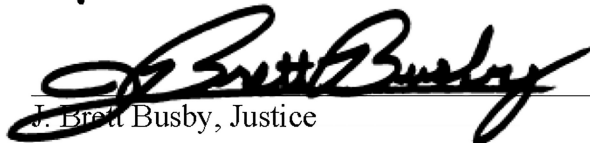
Jeffrey S. Boyd, Justice



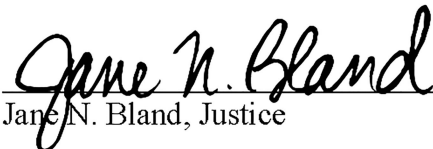
John P. Devine, Justice



James D. Blacklock, Justice



J. Brett Busby, Justice



Jane N. Bland, Justice

Cause Number: \_\_\_\_\_

Applicant/Petitioner: \_\_\_\_\_

In the \_\_\_\_\_ Court

v.

of

Respondent: \_\_\_\_\_

\_\_\_\_\_ County, Texas

*(Fill in the above blanks. Look at the Protective Order or contact the court for the above information.)*

**CONSENT TO PUBLISH OR REMOVE INFORMATION FROM  
PROTECTIVE ORDER REGISTRY PUBLIC VIEW**

A "Protected Person" is a person who is protected from family violence by a final protective order issued by the court under Chapter 85 of the Texas Family Code.

As a Protected Person, you have the right under Chapter 72 of the Texas Government Code to request public access to certain information about your order on the Office of Court Administration's Protective Order Registry website.

**If you request it, only the following information will be viewable by the public on the Registry website:**

- the name of the court that issued the protective order;
- the case number (sometimes called the "cause number");
- the full name, county of residence, birth year, and race or ethnicity of the person you are protected from by the protective order (sometimes called the "Respondent"); and
- the dates the protective order was issued, served, expired (or will expire), and vacated, if applicable.

**If you have previously requested that the public see the above information on the Registry website, you may later request removal of that information from the Registry website's public view.** (NOTE: If more than one Protected Person has requested that the information be publicly viewable, then all those Protected Persons need to request removal for the information to be removed).

*If you would like to request that the public see the above information on the Registry website, or if you have previously requested that the public see the above information and would now like to remove it from the Registry website, you need to: (1) fill in the blanks on this form; (2) sign and date this form; AND (3) file (turn in) this form with the court.*

**NOTE: You may file this form in person, by mail, or by using the eFile system. If using eFile, and you do NOT want other parties to be notified of this request, you MUST uncheck the other party on the Service Contacts screen.**

\_\_\_\_\_ (Write the Protected Person's full name) is a Protected Person who is protected from family violence by a final protective order issued on \_\_\_\_\_ (Write the date of the Protective Order) in the cause number listed above. Respondent's full name is \_\_\_\_\_.

As a Protected Person or the parent/guardian of a Protected Person\*, I \_\_\_\_\_ (Write your full name) request the information listed above be: (Check one of the following boxes)

Made available for viewing by the public on the Protective Order Registry website.

**OR**

Removed from public view on the Protective Order Registry website.

I declare, **under penalty of perjury**, that I am a Protected Person or the parent/guardian\* of a Protected Person in the cause number listed above. (Before signing this form, make sure all the statements are true. Declaring under penalty of perjury means you can be prosecuted, go to jail, or pay a fine if any of the statements are not true.)

\_\_\_\_\_  
Protected Party/Guardian\* Signature

\_\_\_\_\_  
Date

\*Must not be Respondent listed in the case

TRD-202004303  
Jaclyn Daumerie  
Rules Attorney  
Supreme Court of Texas  
Filed: October 16, 2020

◆ ◆ ◆  
**Workforce Solutions for the Heart of Texas**

**Request for Quotes (RFQ #13210401) Short-Term Technical Skills Training Services**

The Heart of Texas Workforce Development Board, Inc. (Board) dba Workforce Solutions for the Heart of Texas is seeking quotes for short-term technical skills training services. The Board's purpose is to assist eligible individuals overcome unemployment setbacks created by the COVID-19 pandemic by offering training services that aid an individual in earning industry-recognized post-secondary credentials to help to begin, continue, or restart their careers. Workforce Solutions for the Heart of Texas is the administrative entity for programs funded by the Texas Workforce Commission and Department of Labor. The Workforce Solutions for the Heart of Texas serves McLennan, Falls, Bosque, Freestone, Limestone and Hill Counties.

The Board seeks to procure and compile a listing of approved training providers that shall provide allowable short-term technical skills training that is either offered through in-person training, online training or a hybrid combination. The initial contract period will begin on December 15, 2020.

The Request for Quotes (RFQ) may be obtained by contacting Margie Cintron at (254) 855-6543 or via email at [jcintron@grandecom.net](mailto:jcintron@grandecom.net).

The RFQ is also available on the Workforce Solutions for the Heart of Texas website. A virtual Bidders Conference will be held via Zoom on October 27, 2020, at 10:00 a.m. (CST). To receive the access code and password, please e-mail Margie Cintron at [jcintron@grandecom.net](mailto:jcintron@grandecom.net). Attendance is not mandatory, but strongly recommended.

**Proposals are due no later than 4:00 p.m. (CST) Tuesday, December 8, 2020 to:**

Workforce Solutions for the Heart of Texas  
801 Washington Avenue, Suite 700  
Waco, Texas 76701  
(254) 296-5300  
<http://www.hotworkforce.com>

The Heart of Texas Workforce Board, Inc. is an equal opportunity employer/programs and auxiliary aids and services are available upon request to include individuals with disabilities. TTY/TDD via RELAY Texas service at 711 or (TDD) (800) 735-2989 / (800) 735-2988 (voice).

TRD-202004408  
Anthony Billings  
Executive Director  
Workforce Solutions for the Heart of Texas  
Filed: October 20, 2020



## 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)

## SALES AND CUSTOMER SUPPORT

Sales - To purchase subscriptions or back issues, you may contact LexisNexis Sales at 1-800-223-1940 from 7 a.m. to 7 p.m., Central Time, Monday through Friday. Subscription cost is \$502 annually for first-class mail delivery and \$340 annually for second-class mail delivery.

Customer Support - For questions concerning your subscription or account information, you may contact LexisNexis Matthew Bender Customer Support from 7 a.m. to 7 p.m., Central Time, Monday through Friday.

Phone: (800) 833-9844

Fax: (518) 487-3584

E-mail: [customer.support@lexisnexis.com](mailto:customer.support@lexisnexis.com)

Website: [www.lexisnexis.com/printedsc](http://www.lexisnexis.com/printedsc)



**LexisNexis**