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IN THIS ISSUE

GOVERNOR

Appointments.....	407
Appointments.....	407
Appointments.....	407
Proclamation 41-3799.....	407
Proclamation 41-3800.....	408

ATTORNEY GENERAL

Requests for Opinions.....	409
----------------------------	-----

EMERGENCY RULES

TEXAS HEALTH AND HUMAN SERVICES COMMISSION

FAMILY VIOLENCE PROGRAM

1 TAC §379.206.....	411
1 TAC §§379.614, 379.615, 379.626, 379.628.....	412
1 TAC §§379.701, 379.709, 379.711, 379.713.....	412
1 TAC §379.902.....	413
1 TAC §379.1605.....	414
1 TAC §§379.2012, 379.2013, 379.2024, 379.2026, 379.2027.....	414
1 TAC §§379.2106, 379.2108, 379.2110.....	415

TEXAS BOARD OF NURSING

LICENSURE, PEER ASSISTANCE AND PRACTICE

22 TAC §217.24.....	416
---------------------	-----

HEALTH AND HUMAN SERVICES COMMISSION

LICENSING

26 TAC §§745.10201, 745.10203, 745.10205, 745.10207.....	417
----------------------------------------------------------	-----

PROPOSED RULES

TEXAS ALCOHOLIC BEVERAGE COMMISSION

LICENSING

16 TAC §33.5.....	421
-------------------	-----

TEXAS HIGHER EDUCATION COORDINATING BOARD

AGENCY ADMINISTRATION

19 TAC §§1.237 - 1.243.....	423
-----------------------------	-----

RULES APPLYING TO ALL PUBLIC INSTITUTIONS OF HIGHER EDUCATION IN TEXAS

19 TAC §§4.21 - 4.36.....	426
19 TAC §§4.21 - 4.38.....	427

FIELDS OF STUDY

19 TAC §§27.121 - 27.127.....	438
19 TAC §§27.141 - 27.147.....	438

19 TAC §§27.161 - 27.167.....	439
19 TAC §§27.181 - 27.187.....	439
19 TAC §§27.201 - 27.207.....	439
19 TAC §§27.221 - 27.227.....	439
19 TAC §§27.241 - 27.247.....	440
19 TAC §§27.261 - 27.267.....	440
19 TAC §§27.281 - 27.287.....	440
19 TAC §§27.301 - 27.307.....	441
19 TAC §§27.321 - 27.327.....	441
19 TAC §§27.341 - 27.347.....	441
19 TAC §§27.361 - 27.367.....	441
19 TAC §§27.381 - 27.387.....	442
19 TAC §§27.401 - 27.407.....	442
19 TAC §§27.421 - 27.427.....	442
19 TAC §§27.441 - 27.447.....	443
19 TAC §§27.461 - 27.467.....	443
19 TAC §§27.481 - 27.487.....	443
19 TAC §§27.501 - 27.507.....	444
19 TAC §§27.521 - 27.527.....	444
19 TAC §§27.541 - 27.547.....	444
19 TAC §§27.561 - 27.567.....	445
19 TAC §§27.581 - 27.587.....	445
19 TAC §§27.601 - 27.607.....	445
19 TAC §§27.621 - 27.627.....	445
19 TAC §§27.641 - 27.647.....	446
19 TAC §§27.661 - 27.667.....	446
19 TAC §§27.681 - 27.687.....	446
19 TAC §§27.701 - 27.707.....	447
19 TAC §§27.721 - 27.727.....	447
19 TAC §§27.741 - 27.747.....	447
19 TAC §§27.761 - 27.767.....	447
19 TAC §§27.781 - 27.787.....	448
19 TAC §§27.801 - 27.807.....	448
19 TAC §§27.821 - 27.827.....	448
19 TAC §§27.841 - 27.847.....	449
19 TAC §§27.861 - 27.867.....	449
19 TAC §§27.881 - 27.887.....	449
19 TAC §§27.901 - 27.907.....	450
COMMISSIONER'S RULES CONCERNING EDUCATOR APPRAISAL	
19 TAC §150.1012.....	450

ADOPTED RULES

TEXAS HEALTH AND HUMAN SERVICES COMMISSION

INTERSTATE COMPACT ON MENTAL HEALTH AND MENTAL RETARDATION
1 TAC §§383.101, 383.103, 383.105, 383.107, 383.109, 383.111, 383.113, 383.115, 383.117, 383.119, 383.121, 383.123455

TEXAS EDUCATION AGENCY

COMMISSIONER'S RULES CONCERNING PASSING STANDARDS FOR EDUCATOR CERTIFICATION EXAMINATIONS
19 TAC §151.1001455

DEPARTMENT OF STATE HEALTH SERVICES

MISCELLANEOUS PROVISIONS
25 TAC §1.462456

HEALTH AND HUMAN SERVICES COMMISSION

BEHAVIORAL HEALTH DELIVERY SYSTEM
26 TAC §306.204457

INTERSTATE COMPACT ON MENTAL HEALTH AND INTELLECTUAL AND DEVELOPMENTAL DISABILITIES
26 TAC §§903.1 - 903.8459

COMPTROLLER OF PUBLIC ACCOUNTS

TAX ADMINISTRATION
34 TAC §3.591460

TEACHER RETIREMENT SYSTEM OF TEXAS

QUALIFIED DOMESTIC RELATIONS ORDERS
34 TAC §47.17472

RULE REVIEW

Proposed Rule Reviews

Texas Department of Insurance, Division of Workers' Compensation475

IN ADDITION

Office of the Attorney General

Notice of Settlement of a Texas Water Code Enforcement Action..477

Office of Consumer Credit Commissioner

Notice of Rate Ceilings.....477

East Texas Regional Water Planning Group (Region I)

Request for Qualifications (RFQ) Professional Engineering Services477

Texas Commission on Environmental Quality

Agreed Orders479
Notice of Application and Public Hearing for an Air Quality Standard Permit for a Concrete Batch Plant with Enhanced Controls: Proposed Air Quality Registration Number 162943.....482
Notice of Correction to Agreed Order Number 18482
Notice of District Petition483
Notice of District Petition483
Notice of District Petition484
Notice of District Petition485
Notice of Opportunity to Comment on Agreed Orders of Administrative Enforcement Actions485
Notice of Water Quality Application486

Office of the Governor

Notice of Available Funding Opportunities487

Texas Health and Human Services Commission

Notice of Public Hearing on Proposed Medicaid Payment Rates for the 2021 Annual Healthcare Common Procedure Coding System (HCPCS) Updates487

Department of State Health Services

Correction of Error488
Licensing Actions for Radioactive Materials488

Texas Lottery Commission

Scratch Ticket Game Number 2289 "50X SPEEDWAY RICHES" 492

Public Utility Commission of Texas

Notice of Application for Designation as an Eligible Telecommunications Carrier498

Department of Savings and Mortgage Lending

Notice of Application for Rebuttal of Control of a Savings Bank...498

Texas Department of Transportation

Notice of Call for Projects - Transportation Alternatives Set-Aside 498

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 December 21, 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, 2025, Richard "Jack" Cagle of Spring, Texas.

Designated as presiding officer of the Texas State Board of Examiners of Psychologists, for a term to expire at the pleasure of the Governor, John K. Bielamowicz of Waxahachie (Mr. Bielamowicz is replacing Tim F. Branaman, Ph.D. of Dallas as presiding officer).

Appointed to the Texas State Board of Examiners of Psychologists, for a term to expire October 31, 2025, Jamie A. Becker, Ph.D. of Austin, Texas (replacing Lou Ann Todd Mock, Ph.D. of Bellaire, whose term expired).

Appointed to the Texas State Board of Examiners of Psychologists, for a term to expire October 31, 2025, Jeanette Deas Calhoun, Ph.D. of Tyler, Texas (replacing Angela A. Downes of Irving, whose term expired).

Appointed to the Texas State Board of Examiners of Psychologists, for a term to expire October 31, 2025, Sangeeta S. Singg, Ph.D. of San Angelo, Texas (replacing Tim F. Branaman, Ph.D. of Dallas, whose term expired).

Appointments for December 22, 2020

Appointed to the Texas State Board of Public Accountancy, for a term to expire January 31, 2025, Jill A. Holup of Austin, Texas (replacing Joyce A. Yannuzzi of New Braunfels, who resigned).

Appointed to the Texas State Board of Social Worker Examiners, for a term to expire February 1, 2025, Asia Rodgers of Fort Worth, Texas (replacing Mark Talbot of McAllen, whose term expired).

Appointed to the Texas State Board of Social Worker Examiners, for a term to expire February 1, 2025, Dolores Saenz-Davila of Mission, Texas (replacing Timothy Martel Brown of Dallas, whose term expired).

Designated as presiding officer of the Texas State Board of Social Worker Examiners, for a term to expire at the pleasure of the Governor, Brian C. Brumley of Sumner (Mr. Brumley is replacing Timothy Martel Brown of Dallas).

Appointments for December 29, 2020

Appointed to the Texas Department of Housing and Community Affairs, for a term to expire January 31, 2021, Brandon A. Batch of Midland, Texas (replacing James B. "J.B." Goodwin, Jr. of Austin, who resigned).

Greg Abbott, Governor

TRD-202005750



Appointments

Appointments for January 4

Appointed to the San Jacinto River Authority Board of Directors, for a term to expire October 16, 2025, Kaaren Cambio of Kingwood, Texas (Ms. Cambio is being reappointed).

Appointed to the San Jacinto River Authority Board of Directors, for a term to expire October 16, 2025, William P. "Wil" Faubel of Montgomery, Texas (replacing Lloyd B. Tisdale of Conroe, whose term expired).

Appointed to the San Jacinto River Authority Board of Directors, for a term to expire October 16, 2025, Ricardo R. "Rick" Mora, M.D. of The Woodlands, Texas (replacing James C. "Jim" Alexander of Livingston, whose term expired).

Greg Abbott, Governor

TRD-202100059



Appointments

Appointments for January 5, 2021

Appointed as the Deputy Adjutant General for Air, for a term to expire at the pleasure of the Governor, Thomas M. "Tom" Suelzer of Keller, Texas (replacing Dawn M. Ferrell, Ph.D. of Wichita Falls, who resigned).

Appointed to the Pediatric Acute-Onset Neuropsychiatric Syndrome Advisory Council, for a term to expire August 31, 2021, Nathan A. Pullen of Austin, Texas (replacing Carol H. Trautman, Ph.D. of Austin, who resigned).

Appointed as the State Administrator for the Interstate Agreement on Detainers, for a term to expire at the pleasure of the Governor, Kimberly S. "Kim" Massey of Gatesville, Texas (replacing Debra L. "Debbie" Gibbs of Huntsville, who retired).

Appointed to the Veterans' Land Board, for a term to expire December 29, 2024, Grant A. Moody of San Antonio, Texas (Mr. Moody is being reappointed).

Greg Abbott, Governor

TRD-202100062



Proclamation 41-3799

TO ALL TO WHOM THESE PRESENTS SHALL COME:

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

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

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

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

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

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

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

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

IN TESTIMONY WHEREOF, I have hereunto signed my name and have officially caused the Seal of State to be affixed at my office in the City of Austin, Texas, this the 5th day of January, 2021.

Greg Abbott, Governor
TRD-202100084



Proclamation 41-3800

TO ALL TO WHOM THESE PRESENTS SHALL COME:

WHEREAS, I, Greg Abbott, Governor of Texas, issued a disaster proclamation on March 13, 2020, certifying under Section 418.014 of

the Texas Government Code that the novel coronavirus (COVID-19) poses an imminent threat of disaster for all counties in the State of Texas; and

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

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

WHEREAS, I have issued executive orders and suspensions of Texas laws in response to COVID-19, aimed at protecting the health and safety of Texans and ensuring an effective response to this disaster; and

WHEREAS, a state of disaster continues to exist in all counties due to COVID-19;

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

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

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

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

IN TESTIMONY WHEREOF, I have hereunto signed my name and have officially caused the Seal of State to be affixed at my office in the City of Austin, Texas, this the 5th day of January, 2021.

Greg Abbott, Governor
TRD-202100085



THE ATTORNEY GENERAL

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

An index to the full text of these documents is available on the Attorney General's website at <https://www.texas.attorneygeneral.gov/attorney-general-opinions>. For information about pending requests for opinions, telephone (512) 463-2110.

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

Requests for Opinions

RQ-0393-KP

Requestor:

Mr. Carlos A. Pereda
Dimmit County Auditor
301 North 5th Street
Carrizo Springs, Texas 78834

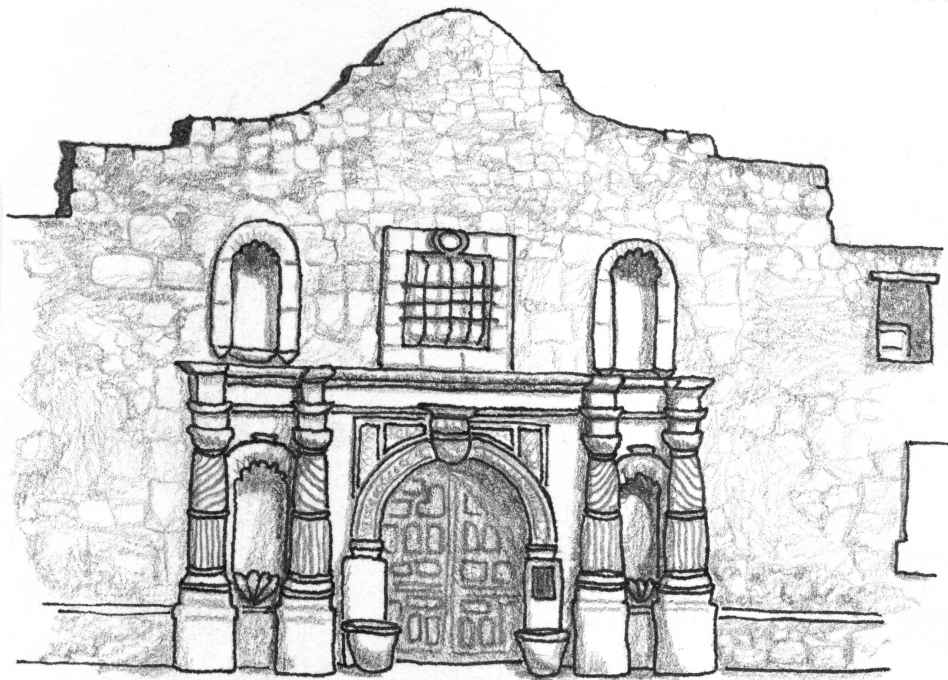
Re: Whether a constable working as a deputy sheriff may be paid for work under the Justice Assistance Grant (RQ-0393-KP)

Briefs requested by January 21, 2021

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

TRD-202100070
Austin Kinghorn
General Counsel
Office of the Attorney General
Filed: January 5, 2021





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 1. ADMINISTRATION

PART 15. TEXAS HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 379. FAMILY VIOLENCE PROGRAM

The Executive Commissioner of the Texas Health and Human Services Commission (HHSC) adopts on an emergency basis in Title 1 Texas Administrative Code (TAC), Chapter 379 Family Violence Program, amended §§379.206, 379.614, 379.615, 379.626, 379.628, 379.701, 379.709, 379.711, 379.713, 379.902, 379.1605, 379.2012, 379.2013, 379.2024, 379.2026, 379.2027, 379.2106, 379.2108, and 379.2110, which contain amendments aimed at protecting the Family Violence Program's staff and clients from exposure to COVID-19. 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 this 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 COVID-19 poses an imminent peril to the public health, safety, and welfare of the state, requiring immediate adoption of these Family Violence Program COVID-19 Emergency Rules.

Current rules in 1 TAC Chapter 379 require HHSC Family Violence Program (FVP) contractors to provide in-person group services, convene board meetings, and have signed confidentiality agreements, which may put contractors' staff and clients' health and safety at risk at this time. Continuing to require the same levels of services and in-person participation during the time of an emergency is untenable and, without certain flexibilities, could deter survivors from accessing critical supportive services. To protect contractor staff, FVP clients, and the public health, safety, and welfare of the state during the COVID-19 pandemic, HHSC is adopting emergency rule amendments to allow flexibilities in FVP service provision.

SUBCHAPTER B. SHELTER CENTERS

DIVISION 2. CONTRACT STANDARDS

1 TAC §379.206

STATUTORY AUTHORITY

This emergency rulemaking is adopted under Texas Government Code §§2001.034 and 531.0055 and Texas Human Resources Code, Title 2, Chapter 51, Subtitle E, §51.010. 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 Human Resources Code, Title 2, Chapter 51, Subtitle E, §51.010, authorizes the Executive Commissioner of HHSC to adopt rules governing the HHSC Family Violence Program.

The amended section implements Texas Government Code §531.0055 and Texas Human Resources Code §51.010.

§379.206. *Requesting a Variance or Waiver:*

(a) To request a waiver from the maximum prescribed funding percentage, a center [center's board] must submit:

(1) a completed Family Violence Program Waiver Request Form prescribed by the Health and Human Services Commission (HHSC);

(2) supporting documentation demonstrating the center's efforts to raise funds compared to its budget; and

(3) a written agreement to receive technical assistance as designated by HHSC.

(b) To request a variance or waiver from any other requirement in this subchapter, the center [center's board] must submit a completed Family Violence Program Waiver Request Form prescribed by HHSC demonstrating the need for the variance or waiver.

(c) In the event of a natural disaster, emergency, pandemic, or other public health, safety, or welfare concern, a variance or waiver from any other requirement in this subchapter may be submitted by email to the center's assigned HHSC Family Violence Program contract manager.

(d) [(e)] A center [center's board] may submit a request for a variance or waiver up to 45 calendar days after the Annual Funding Report is due.

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 December 31, 2020.

TRD-202005751

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Effective date: January 4, 2021

Expiration date: May 3, 2021

For further information, please call: (512) 460-0992



DIVISION 6. PROGRAM ADMINISTRATION

1 TAC §§379.614, 379.615, 379.626, 379.628

STATUTORY AUTHORITY

This emergency rulemaking is adopted under Texas Government Code §§2001.034 and 531.0055 and Texas Human Resources Code, Title 2, Chapter 51, Subtitle E, §51.010. 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 Human Resources Code, Title 2, Chapter 51, Subtitle E, §51.010, authorizes the Executive Commissioner of HHSC to adopt rules governing the HHSC Family Violence Program.

The amended sections implement Texas Government Code §531.0055 and Texas Human Resources Code §51.010.

§379.614. Confidentiality Information for Adult Residents and Non-residents.

A center must provide to adult residents and nonresidents, in writing or verbally, at least the following:

- (1) the right to see their records;
- (2) the kind of information recorded, why, and the methods of collection;
- (3) who within the center has access to the resident's or nonresident's case files and records;
- (4) an overview of the center's policy and practices on confidentiality;
- (5) current state and federal laws regarding the limits of confidentiality under the law, including mandatory reporting for abuse or suspected abuse of:
 - (A) children;
 - (B) the elderly; and
 - (C) people with disabilities;
- (6) an overview of the center's policy for responding to court orders;
- (7) an overview of the center's policy for requests for information under the Public Information Act;
- (8) an overview of the center's policy for release of information;
- (9) when the records will be decoded or destroyed; and
- (10) an overview of what kind of information will remain in the file once a resident or nonresident terminates services.

§379.615. Confidentiality Agreements.

(a) A center must have all employees, volunteers, board members, student interns, and adult residents [~~and adult nonresidents~~] sign a confidentiality agreement. The agreement must have a provision that states that confidentiality must be maintained after an employee, volunteer, board member, student intern, or resident [~~or nonresident~~] leaves the center. The signed agreements must be placed:

- (1) in the personnel files of the employees;
- (2) in the corporate records of the board members; and
- (3) in the individual files of volunteers, student interns, and residents [~~and nonresidents~~].

(b) A center must, at a minimum, verbally inform adult nonresidents of the confidentiality policy. A center also must obtain verbal acknowledgement of the policy from each adult nonresident, confirming that the adult nonresident understands the policy and agrees to comply with it. When possible, adult nonresidents must sign a confidentiality agreement.

§379.626. Disruption in Providing Services.

(a) A center must develop, maintain, and comply with written policies and procedures for any disruption in the ability to provide services.

(b) Any disruption in the ability to provide services must be [~~verbally~~] reported immediately to the Health and Human Services Commission (HHSC).

(c) The report to HHSC must include a detailed description of the disruption and how services will be, or were, maintained.

~~[(e) After the initial verbal notification, the center must submit to HHSC, within two weeks, a written description of the disruption and how services will be or were maintained.]~~

§379.628. Resident and Nonresident Rights.

A center must:

- (1) provide [~~written~~] rights to all residents and nonresidents either in writing or verbally;
- (2) make reasonable accommodations to provide [~~written~~] rights for residents and nonresidents with limited English proficiency in writing or verbally; and
- (3) post resident and nonresident rights in a visible area within all center facilities.

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 December 31, 2020.

TRD-202005752

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Effective date: January 4, 2021

Expiration date: May 3, 2021

For further information, please call: (512) 460-0992



DIVISION 7. SERVICE DELIVERY

1 TAC §§379.701, 379.709, 379.711, 379.713

STATUTORY AUTHORITY

This emergency rulemaking is adopted under Texas Government Code §§2001.034 and 531.0055 and Texas Human Resources Code, Title 2, Chapter 51, Subtitle E, §51.010. 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 Human Resources Code, Title 2, Chapter 51, Subtitle E, §51.010, authorizes the Executive Commissioner of HHSC to adopt rules governing the HHSC Family Violence Program.

The amended sections implement Texas Government Code §531.0055 and Texas Human Resources Code §51.010.

§379.701. *Shelter Center Services.*

(a) When safe for the resident, nonresident, and staff, the [The] center must provide [; at a minimum,] access in-person or remotely to the following services, directly, by referral, or through formal arrangements with other agencies, and have written procedures regarding these services as described in this subchapter:

- (1) 24-hour-a-day shelter;
- (2) a crisis call hotline available 24 hours a day;
- (3) emergency medical care;
- (4) intervention services, including safety planning, understanding and support, information, education, referrals, resource assistance, and individual service plans;
- (5) emergency transportation;
- (6) legal assistance in the civil and criminal justice systems, including identifying individual needs, legal rights and legal options and providing support and accompaniment in pursuing those options;
- (7) information about educational arrangements for children;
- (8) information about training for and seeking employment; and
- (9) a referral system to existing community services.

(b) If a center is unable to directly, or through a formal arrangement, provide a service or services requested by a resident or nonresident, due to safety concerns, the center must refer the client to another organization capable of providing the requested service or services. Prior to referring the client, a center must ensure the other organization has the capacity to offer the requested services.

§379.709. *Nonresident's Orientation.*

A center must ensure orientation is provided verbally [~~orally~~] and in writing when possible, is documented, and includes, but is not limited to:

- (1) explanation of services available;
- (2) termination policy;
- (3) nonresidents' rights;
- (4) nondiscrimination statement;
- (5) grievance procedures;
- (6) safety and security procedures;

(7) confidentiality and limits of confidentiality;

(8) waivers of liability; and

(9) a wellness check for all family members that addresses their immediate needs.

§379.711. *Group Intervention.*

A center must:

(1) provide at least one in-person or remote weekly support group for adult residents and adult nonresidents; and

(2) not mandate adult resident or adult nonresident attendance at weekly support groups.

§379.713. *Delivery of Children's Direct Services.*

The center must:

(1) have services available that are specific to meet the needs of children;

(2) provide transportation or make transportation arrangements for child residents who attend school;

(3) provide or arrange for school supplies and clothing for child residents;

(4) provide an in-person or remote [a] support group for child residents at least weekly, when age appropriate; and

~~[(5) provide a recreational or social group for child residents at least weekly; and]~~

(5) ~~[(6)]~~ offer information and referral services for nonresident children if nonresident services are offered to the child's parent.

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 December 31, 2020.

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Karen Ray

Chief Counsel

Texas Health and Human Services Commission

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For further information, please call: (512) 460-0992



SUBCHAPTER C. SPECIAL NONRESIDENTIAL PROJECTS

DIVISION 2. CONTRACT STANDARDS

1 TAC §379.902

STATUTORY AUTHORITY

This emergency rulemaking is adopted under Texas Government Code §§2001.034 and 531.0055 and Texas Human Resources Code, Title 2, Chapter 51, Subtitle E, §51.010. 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 Human Resources Code, Title 2, Chapter 51, Subtitle E, §51.010, authorizes the Executive Commissioner of HHSC to adopt rules governing the HHSC Family Violence Program.

The amended section implements Texas Government Code §531.0055 and Texas Human Resources Code §51.010.

§379.902. *Requesting a Variance or Waiver.*

(a) To request a variance or waiver from a specific requirement in this subchapter, the center [~~contractor's board~~] must submit a completed Family Violence Program Waiver Request Form prescribed by the Health and Human Services Commission demonstrating the need for the variance or waiver.

(b) In the event of a natural disaster, emergency, pandemic, or other public health, safety, or welfare concern, a variance or waiver from any other requirement in this subchapter may be submitted by email to the center's assigned HHSC Family Violence Program contract manager.

(c) [(b)] A center [~~contractor's board~~] may submit a request for a variance or waiver up to 90 calendar days after the end of the contract year for which the variance or waiver is requested.

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.

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Karen Ray

Chief Counsel

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SUBCHAPTER D. NONRESIDENTIAL

CENTERS

DIVISION 2. CONTRACT STANDARDS

1 TAC §379.1605

STATUTORY AUTHORITY

This emergency rulemaking is adopted under Texas Government Code §§2001.034 and 531.0055 and Texas Human Resources Code, Title 2, Chapter 51, Subtitle E, §51.010. 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 Human Resources Code, Title 2, Chapter 51, Subtitle E, §51.010, authorizes the Executive Commissioner of HHSC to adopt rules governing the HHSC Family Violence Program.

The amended section implements Texas Government Code §531.0055 and Texas Human Resources Code §51.010.

§379.1605. *Requesting a Variance or Waiver.*

(a) To request a waiver from the maximum prescribed funding percentage, the center [~~center's board~~] must submit:

(1) a completed Family Violence Program Waiver Request Form prescribed by the Health and Human Services Commission (HHSC);

(2) supporting documentation demonstrating the center's efforts to raise funds compared to its budget; and

(3) a written agreement to receive technical assistance as designated by HHSC.

(b) To request a variance or waiver from any other requirement in this subchapter, the center [~~center's board~~] must submit a completed Family Violence Program Waiver Request Form prescribed by HHSC demonstrating the need for the variance or waiver.

(c) In the event of a natural disaster, emergency, pandemic, or other public health, safety, or welfare concern, a variance or waiver from any other requirement in this subchapter may be submitted by email to the center's assigned HHSC Family Violence Program contract manager.

(d) [(e)] A center [~~center's board~~] may submit a request for a variance or waiver up to 45 calendar days after the Annual Funding Report is due.

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.

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DIVISION 6. PROGRAM ADMINISTRATION

1 TAC §§379.2012, 379.2013, 379.2024, 379.2026, 379.2027

STATUTORY AUTHORITY

This emergency rulemaking is adopted under Texas Government Code §§2001.034 and 531.0055 and Texas Human Resources Code, Title 2, Chapter 51, Subtitle E, §51.010. 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 Human Resources Code, Title 2, Chapter 51, Subtitle E, §51.010, authorizes the Executive Commissioner of HHSC to adopt rules governing the HHSC Family Violence Program.

The amended sections implement Texas Government Code §531.0055 and Texas Human Resources Code §51.010.

§379.2012. *Confidentiality Information for Adult Program Participants.*

A center must provide to adult program participants, verbally and in writing when possible, at least the following:

- (1) the right to see their records;
- (2) the kind of information recorded, why, and the methods of collection;
- (3) who within the center has access to the program participants' case files and records;
- (4) an overview of the center's policy and practices on confidentiality;
- (5) current state and federal laws regarding the limits of confidentiality under the law, including mandatory reporting for abuse or suspected abuse of:
 - (A) children;
 - (B) the elderly; and
 - (C) people with disabilities;
- (6) an overview of the center's policy for responding to court orders;
- (7) an overview of the center's policy for requests for information under the Public Information Act;
- (8) an overview of the center's policy for release of information;
- (9) when the records will be decoded or destroyed; and
- (10) an overview of what kind of information will remain in the file once a program participant terminates services.

§379.2013. *Confidentiality Agreements.*

(a) A center must have all employees, volunteers, board members, and student interns [~~and adult program participants~~] sign a confidentiality agreement. The agreement must have a provision that states that confidentiality must be maintained after an employee, volunteer, board member, or student intern [~~or program participant~~] leaves the center. The signed agreements must be placed:

- (1) in the personnel files of the employees;
- (2) in the corporate records of the board members; and
- (3) in the individual files of volunteers[~~;~~] and student interns[~~;~~ and program participants].

(b) A center must verbally inform adult program participants of the confidentiality policy. A center also must obtain verbal acknowledgement of the policy from each adult program participant, confirming that the participant understands the policy and agrees to comply with it. When possible, adult program participants must sign a confidentiality agreement.

§379.2024. *Minimum Hours for a Nonresidential Center.*

When safe for the resident, nonresident, and staff, a [A] center must provide in-person or remote services to victims of family violence [a minimum of 40 hours per week] with a consistent schedule of service hours that may be regular business hours or other hours as approved by the Health and Human Services Commission.

§379.2026. *Disruption in Providing Services.*

(a) A center must develop, maintain, and comply with written policies and procedures for any disruption in the ability to provide services.

(b) Any disruption in the ability to provide services must be verbally reported immediately to the Health and Human Services Commission (HHSC).

(c) The report to HHSC must include a detailed description of the disruption and how services will be, or were, maintained.

~~[(e) After the initial verbal notification, the center must submit to HHSC, within two weeks, a written description of the disruption and how services will be or were maintained.]~~

§379.2027. *Program Participant Rights.*

A center must:

- (1) provide [~~written~~] rights to all program participants verbally and when possible in writing;
- (2) make reasonable accommodations to provide [~~written~~] rights for program participants with limited English proficiency verbally and when possible in writing; and
- (3) post program participant rights in a visible area within all center facilities.

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.

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Karen Ray

Chief Counsel

Texas Health and Human Services Commission

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DIVISION 7. SERVICE DELIVERY

1 TAC §§379.2106, 379.2108, 379.2110

STATUTORY AUTHORITY

This emergency rulemaking is adopted under Texas Government Code §§2001.034 and 531.0055 and Texas Human Resources Code, Title 2, Chapter 51, Subtitle E, §51.010. 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 Human Resources Code, Title 2, Chapter 51, Subtitle E, §51.010, authorizes the Executive Commissioner of HHSC to adopt rules governing the HHSC Family Violence Program.

The amended sections implement Texas Government Code §531.0055 and Texas Human Resources Code §51.010.

§379.2106. *Program Participant's Orientation.*

A center must ensure that an orientation is provided to a program participant verbally [orally] and when possible in writing, is documented, and includes, but is not limited to:

- (1) explanation of services available;

- (2) termination policy;
- (3) program participants' rights;
- (4) nondiscrimination statement;
- (5) grievance procedures;
- (6) safety and security procedures;
- (7) confidentiality and limits of confidentiality;
- (8) waivers of liability; and
- (9) a wellness check for all family members that addresses their immediate needs.

§379.2108. *Group Intervention.*

A center must:

- (1) provide at least one in-person or remote weekly support group for adult program participants; and
- (2) not mandate adult program participant attendance at weekly support groups.

§379.2110. *Delivery of Children's Direct Services.*

A center must:

- (1) have services available that are specific to meet the needs of children, including information and referral services; and
- (2) when providing services in-person, make reasonable accommodations to provide recreational or social activities for children during the time in which the adult parent is receiving services.

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.

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Karen Ray

Chief Counsel

Texas Health and Human Services Commission

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TITLE 22. EXAMINING BOARDS

PART 11. TEXAS BOARD OF NURSING

CHAPTER 217. LICENSURE, PEER ASSISTANCE AND PRACTICE

22 TAC §217.24

The Texas Board of Nursing (Board) adopts emergency amendments to §217.24, relating to *Telemedicine Medical Service Prescriptions*, pursuant to a finding of imminent peril to the public health, safety, and welfare, which requires adoption in fewer than thirty (30) days' notice, as authorized by Tex. Gov't. Code §2001.034.

Background

On March 13, 2020, the Governor of the State of Texas certified COVID-19 as posing an imminent threat of disaster to the public

health and safety and declared a state of disaster in all counties of Texas. On March 23, 2020, the Office of the Governor granted a waiver of 22 Texas Administrative Code §217.24(e)(1), which prohibits an advanced practice registered nurse (APRN) from treating chronic pain with scheduled drugs through the use of telemedicine medical services, unless otherwise permitted under federal and state law. The waiver, however, expired on June 6, 2020.

The Board held a public meeting on June 8, 2020, to consider the adoption of an emergency rule to permit advanced practice registered nurses to treat chronic pain with scheduled drugs through the use of telemedicine medical services under certain conditions during the COVID-19 pandemic. At the conclusion of the meeting, the Board voted to adopt the emergency amendments to 22 TAC §217.24(e)(1). The emergency amendments took effect June 8, 2020; were published in the *Texas Register* on June 19, 2020; and expired on July 7, 2020.

Because the continuation of the effects of the COVID-19 pandemic necessitated the continuation of the emergency rule beyond the July 7, 2020 expiration date, the Board held a public meeting on July 6, 2020, and again adopted emergency amendments to §217.24(e)(1). The emergency amendments took effect July 7, 2020; were published in the *Texas Register* on July 17, 2020; and expired on September 4, 2020. The Board again considered the need for the adoption of emergency amendments to §217.24(e)(1) in public meeting on September 4, 2020 and voted to adopt emergency amendments to §217.24(e)(1) at the conclusion of that meeting. The emergency amendments took effect September 5, 2020; were published in the *Texas Register* on September 18, 2020; and expired on November 3, 2020. The Board again considered the need for the adoption of emergency amendments to §217.24(e)(1) in public meeting on November 4, 2020, and voted to adopt emergency amendments to §217.24(e)(1) at the conclusion of that meeting. The emergency amendments took effect November 4, 2020; were published in the *Texas Register* on November 20, 2020; and will expire on January 3, 2021. The Board has determined that the continuation of the effects of the COVID-19 pandemic necessitates the continuation of an emergency rule beyond the rule's last effective day.

The adoption of emergency amendments to §217.24(e)(1) is immediately necessary to allow APRNs to continue to provide necessary treatment to established patients with chronic pain while mitigating the risk of exposure to COVID-19. Under the emergency amendments, an APRN may treat chronic pain with scheduled drugs through use of telemedicine medical services if a patient is an established chronic pain patient of the APRN, is seeking a telephone refill of an existing prescription, and the APRN determines that the telemedicine treatment is needed due to the COVID-19 pandemic. Further, the medical records must document the exception and the reason that a telemedicine visit was conducted instead of an in-person visit. The APRN must exercise appropriate professional judgment in determining whether to utilize telemedicine medical services for the treatment of chronic pain with controlled substances. The emergency amendments will only apply to those APRNs whose delegating physicians agree to permit them to issue re-fills for these patients, and the services provided are limited to refills of controlled substances in Schedules III through V. Finally, these emergency amendments will only be in effect for a period of 60 days or the duration of the time period that the Governor's disaster declaration of March 13, 2020 in response to the COVID-19 pandemic is in effect, whichever is shorter.

Statutory Authority. The emergency amendments are adopted under the authority of the Tex. Occ. Code §301.151, which authorizes the Board to adopt and enforce rules consistent with Chapter 301 and necessary to: (i) perform its duties and conduct proceedings before the Board; (ii) regulate the practice of professional nursing and vocational nursing; (iii) establish standards of professional conduct for license holders Chapter 301; and (iv) determine whether an act constitutes the practice of professional nursing or vocational nursing. The emergency amendments are also adopted pursuant to Tex. Gov't. Code §2001.034 and §2001.036(a)(2) on an emergency basis and with an expedited effective date because an imminent peril to the public health, safety, or welfare requires adoption on fewer than 30 days' notice.

This emergency adoption also affects Texas Occupations Code Chapter 111.

§217.24. *Telemedicine Medical Service Prescriptions.*

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

(e) (No change.)

(1) Treatment of chronic pain with scheduled drugs through use of telemedicine medical services is prohibited, unless otherwise allowed under federal and state law. For purposes of this section, "chronic pain" means a state in which pain persists beyond the usual course of an acute disease or healing of an injury. Chronic pain may be associated with a chronic pathological process that causes continuous or intermittent pain over months or years.

(A) Notwithstanding paragraph (e)(1), treatment of chronic pain with scheduled drugs through use of telemedicine medical services is not prohibited by this rule if the patient is an established chronic pain patient of the APRN and is seeking telephone refill of an existing prescription, and the APRN determines that such telemedicine treatment is needed due to the COVID-19 pandemic.

(B) If a patient is treated for chronic pain with scheduled drugs through the use of telemedicine medical services as permitted by (e)(1)(A), the medical records must document the exception and the reason that a telemedicine visit was conducted instead of an in-person visit.

(C) An APRN, when determining whether to utilize telemedicine medical services for the treatment of chronic pain with controlled substances as permitted by (e)(1)(A), shall give due consideration to factors that include, at a minimum, date of the patient's last in-person visit, patient co-morbidities, and occupational related COVID risks. These are not the sole, exclusive, or exhaustive factors an APRN should consider under this rule.

(D) The emergency amendment of this rule effective January 4, 2021, shall be in effect for only 60 days or the duration of the time period that the Governor's disaster declaration of March 13, 2020 in response to the COVID-19 pandemic is in effect, whichever is shorter.

(2) (No change.)

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

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Jena Abel

Deputy General Counsel

Texas Board of Nursing

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For further information, please call: (512) 305-6822

◆ ◆ ◆
TITLE 26. HEALTH AND HUMAN SERVICES

PART 1. HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 745. LICENSING
SUBCHAPTER X. EMERGENCY RULES
DIVISION 3. PREVIOUS COMPLIANCE HISTORY, HEIGHTENED MONITORING, AND THE DECISION TO ISSUE OR DENY A RESIDENTIAL CHILD-CARE OPERATION LICENSE

26 TAC §§745.10201, 745.10203, 745.10205, 745.10207

The Executive Commissioner of the Texas Health and Human Services Commission (HHSC) adopts on an emergency basis in Title 26 Texas Administrative Code, Chapter 745 Licensing, new emergency rules §745.10201, concerning the terms used in the emergency rules; §745.10203, concerning to whom the new emergency rules apply; §745.10205, concerning Child Care Regulation's (CCR) consideration of an applicant's previous compliance history when evaluating an application for a new license to operate a residential child-care operation; and §745.10207, concerning the issuance of a new license to a residential child-care operation that was previously on heightened monitoring. As authorized by Texas Government Code §2001.034, the Commission may adopt emergency rules without prior notice upon finding that an imminent peril to the public health, safety, or welfare, or a requirement of state or federal law, 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

HHSC adopts the emergency rules to require CCR to consider the previous five-year compliance history of related operations when evaluating an application for a new residential child-care operation license. The rules require the review when an applicant has been operating in a different location, has previously closed an operation, or has significant ties to another operation. The new emergency rules also require the continuation of heightened monitoring as a condition of a new license if a previous or related operation is on heightened monitoring, met the criteria for heightened monitoring in the previous five years, but was not placed on heightened monitoring, or was placed on heightened monitoring in the previous five years and did not successfully complete it.

In a December 18, 2020, order in the *MD v. Abbott* litigation, the court identified the need for CCR to evaluate compliance histories and continuity of heightened monitoring in evaluation of

license applications to ensure children in the conservatorship of the Department of Family and Protective Services (DFPS) who are placed in residential child-care operations licensed by HHSC are not placed at an unreasonable risk of serious harm in violation of their Fourteenth Amendment substantive due process rights.

The new emergency rules comply with this order and other orders by the same federal court finding that federal law requires, and unreasonable risk of serious harm exists in the absence of, certain actions by HHSC to protect the health, safety, and welfare of certain children. Accordingly, HHSC finds that immediate adoption of the emergency rules is necessary to prevent imminent peril to the public health, safety or welfare and comply with federal law, as found and ordered by the federal court.

STATUTORY AUTHORITY

The emergency rules are adopted under Texas Government Code §2001.034 and §531.0055 and Texas Human Resources Code §42.001 and §42.042. 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 the rules 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 Human Resources Code §42.001 states that it is the policy of the state to ensure the protection of all children under care in child-care facilities. In addition, Texas Human Resources Code §42.042 authorizes the Executive Commissioner of HHSC to adopt rules governing the regulation of child-care facilities in Chapter 42 of the Texas Human Resources Code.

The new sections implement Texas Government Code §531.0055, §531.0055 and Texas Human Resources Code §42.001 and §42.042.

§745.10201. What do the following terms mean when used in this division?

The following terms have the following meanings when used in this division:

(1) Change in ownership--As stated in §745.437 of this chapter (relating to What is a change in ownership of an operation?).

(2) Child Care Regulation (CCR)--A department of the Texas Health and Human Services Commission that regulates residential child-care operations.

(3) Controlling person--As stated in §745.901 of this chapter (relating to Who is a controlling person at a child-care operation?).

(4) Heightened monitoring--An increase in oversight of a residential child-care operation that has a pattern of deficiencies relating to minimum standard deficiencies weighted medium or higher, confirmed abuse or neglect findings, or Texas Department of Family and Protective Services (DFPS) contract violations. Heightened monitoring is mandated by a court order in the *MD vs Abbott* litigation dated March 18, 2020.

(5) Single source continuum contractor--A child-placing agency that contracts with DFPS to provide community-based care, including contractual supervision over other child-placing agencies and their child-placing activities.

§745.10203. Who does this division apply to?

This division applies to an applicant for a general residential operation or child-placing agency license that demonstrates an intent to obtain a contract with the Texas Department of Family and Protective Services (DFPS) or a single source continuum contractor to provide care to children in the conservatorship of DFPS.

§745.10205. What previous compliance history of a residential child-care operation must CCR consider when evaluating an application for a license to operate a residential child-care operation?

(a) When evaluating an application for a residential child-care license, CCR must consider the previous five-year compliance history of a residential child-care operation that:

(1) Is applying for a new license in a different location;
(2) Is re-applying for a new license after voluntarily closing; or

(3) Had a change in ownership; and

(A) Any controlling person from the previous operation serves or intends to serve as a controlling person in the new operation; or

(B) A new owner, including a sole proprietor, either partner of a partnership, or any member of the governing body of a corporation, is related to a controlling person of the previous operation by a third degree of consanguinity or second degree of affinity as defined in §745.21 of this chapter (relating to What do the following words and terms mean when used in this chapter?).

(b) The five-year compliance history consideration required by this section must include and document information concerning a related residential child-care operation, including:

(1) The number of abuse, neglect, or exploitation intakes in the previous five years;

(2) The number of confirmed abuse, neglect, or exploitation findings in the previous five years;

(3) The number of citations issued for corporal punishment in the previous five years; and

(4) A narrative description of how this data and information was or will be considered.

(c) The five-year compliance history consideration required by this section is a component of the application evaluation and must be completed prior to the on-site inspection related to the application for a new license.

(d) The five-year compliance history collected under subsection (b) of this section may be considered in future extended compliance history reviews of a license granted pursuant to an application subject to subsection (a) of this section.

§745.10207. May CCR issue a new license to a residential child-care operation that was previously on heightened monitoring?

(a) When issuing an initial license to a residential child-care operation that is on or otherwise meets the criteria for heightened monitoring and is applying for a new license in a different location, CCR must include a condition on the license that the operation is on heightened monitoring.

(b) When issuing an initial license to a residential child-care operation that was on heightened monitoring at the time of voluntary closure or otherwise met the criteria for heightened monitoring in the five years before voluntarily closing and reapplying for a new license at the same or a different location, CCR must include a condition on the license that the operation is on heightened monitoring.

(c) When issuing an initial license to a residential child-care operation that had a change in ownership while on heightened monitoring or otherwise met the criteria for heightened monitoring in the five years before the change in ownership, CCR must include a condition on the license that the operation is on heightened monitoring if:

(1) Any controlling person from the previous operation serves or intends to serve as a controlling person in the new operation; or

(2) A new owner, including a sole proprietor, either partner of a partnership, or any member of the governing body of a corporation, is related to a controlling person of the previous operation by a third degree of consanguinity or second degree of affinity as defined in §745.21 of this chapter (relating to What do the following words and terms mean when used in this chapter?).

(d) If an operation successfully completed heightened monitoring in the five years prior to the relocation, voluntary closure, or change of ownership, CCR will not include a condition on the license that the operation is on heightened monitoring, unless the operation again met the criteria for heightened monitoring after successfully completing it.

(e) When issuing an initial license to a residential child-care operation, if CCR determines that the applicant has employed or intends to employ a substantial number of employees from a previous

operation, CCR as a condition of the license may include employee screening requirements or training requirements that must be met before employees may have contact with children.

(f) The timeframes for an initial license in §745.347 of this chapter (relating to How long is an initial license valid?) may be extended for an initial license issued with conditions as described by this section.

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.

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Karen Ray

Chief Counsel

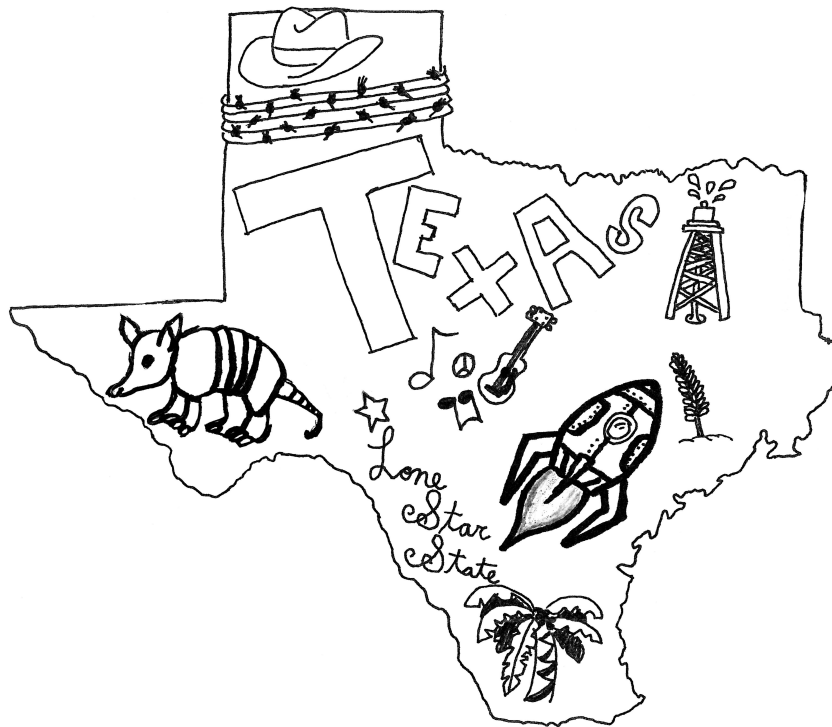
Health and Human Services Commission

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For further information, please call: (512) 438-3269





PROPOSED RULES

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

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

TITLE 16. ECONOMIC REGULATION

PART 3. TEXAS ALCOHOLIC BEVERAGE COMMISSION

CHAPTER 33. LICENSING

SUBCHAPTER A. APPLICATIONS

16 TAC §33.5

The Texas Alcoholic Beverage Commission (TABC) proposes amended Rule §33.5, Food and Beverage Certificates. These amendments were originally adopted on an emergency basis and are set to expire on February 23, 2021. At this time, the TABC proposes to make the rule amendments permanent through the regular rulemaking process under the Administrative Procedure Act (Tex. Gov't Code Ch. 2001).

Background and Purpose

Amendments to Rule §33.5 were adopted on an emergency basis in September 2020 to facilitate the issuance of food and beverage certificates to licensees adding food service to their business model in response to COVID-19. After implementing the amended rule on an emergency basis, the TABC has determined that the qualifications for a food and beverage certificate, as modified, are sufficient to ensure regulatory compliance and protect public safety, while also providing the regulated community greater flexibility and reducing regulatory barriers.

Fiscal Note: Costs to State and Local Government

Shana Horton, Rules Attorney, has determined that for each year of the first five years that the proposed amendments will be in effect, they are not expected to have a significant fiscal impact upon the agency. There are no foreseeable economic implications anticipated for other units of state or local government due to the proposed amendments.

Rural Communities Impact Assessment

The proposed amendments will not have any material adverse fiscal or regulatory impacts on rural communities. The amendments will apply statewide and have the same effect in rural communities as in urban communities. Likewise, the proposed amendments will not adversely affect a local economy in a material way.

Small Business and Micro-Business Assessment/Flexibility Analysis

The proposed amendments will benefit small and micro-businesses by removing regulatory barriers to obtaining TABC approval to serve alcoholic beverages with a food and beverage certificate. Due to the proposed amendments, businesses are no longer required to have sophisticated, often expensive

kitchen equipment installed on-site to qualify, making the certificate more attainable for businesses with limited space and budgets.

Takings Impact Assessment

The proposed amendments do not affect a taking of private real property, as described by Attorney General Paxton's Private Real Property Rights Preservation Act Guidelines. The rulemaking would impose no burdens on private real property because it neither relates to, nor has any impact on, the use or enjoyment of private real property and there is no reduction in value of property as a result of this rulemaking.

Public Benefits and Costs

Ms. Horton has determined that for each year of the first five years that the proposed amendments would be in effect, the public would benefit from additional food service options at licensed businesses, such as bars. Increased consumption of food with alcoholic beverages may also result in public safety benefits. There is no increase in costs to the public.

Government Growth Impact Statement

This paragraph constitutes the commission's government growth impact statement for the proposed amendments. The analysis addresses the first five years the proposed amendments would be in effect. The proposed amendments neither create nor eliminate a government program. The proposed amendments do not require the creation of new employee positions or the elimination of existing employee positions. Implementation of the proposed amendments requires neither an increase nor a decrease in future legislative appropriations to the commission. The proposed amendments are not expected to result in a significant change in fees paid to the agency. The proposed amendments do not create new regulations. The proposed amendments do not expand the applicability of any rules or increase the number of individuals subject to existing rules' applicability beyond current rule requirements.

The proposed amendments are not anticipated to have any material impact on the state's overall economy.

Comments on the proposed amendments may be submitted in writing to Shana Horton, Rules Attorney, Texas Alcoholic Beverage Commission, attention Shana Horton, at P.O. Box 13127, Austin, Texas 78711-3127, by facsimile transmission to (512) 206-3498, or by email to rules@tabc.texas.gov. Written comments will be accepted for 30 days following publication in the *Texas Register*.

Statutory Authority

The proposed amendments are authorized by Alcoholic Beverage Code §5.31, which authorizes the TABC to prescribe and publish rules necessary to carry out the provisions of the Code.

The proposed amendments do not impact any other statutes or rules.

§33.5. *Food and Beverage Certificate.*

(a) This rule relates to §§25.13, 28.18, 32.23 and 69.16 of the Texas Alcoholic Beverage Code.

(b) Each applicant for an original or renewal food and beverage certificate shall include all information required by the commission to ensure compliance with all applicable statutes and rules. Further, each applicant for an original or renewal food and beverage certificate shall comply with all applicable executive orders of the Governor and all minimum standard health protocols in the Governor's Open Texas Checklist for restaurants.

(c) Application for the certificate shall be upon forms prescribed by the commission.

(d) The biennial certificate fee for each location is \$200.00 and must be submitted in the form of a cashier's check, U.S. postal money order, or company check made payable to the Texas Alcoholic Beverage Commission. A certificate expires upon expiration or cancellation of the primary permit or license. No prorated certificate fees will be given and no refunds made for issuance of the food and beverage certificate for less than two years.

(e) The following words and terms, when used in this section, shall have the following meaning unless the context clearly indicates otherwise:

(1) Food service--~~the cooking, preparing, serving, or assembling of food on the location [primarily for consumption at the location].~~ Commercially pre-packaged items purchased off of the location [~~which require no cooking or assembly~~] do [~~not~~] constitute food service under this section.

(2) Entree--main dish or course of a meal.

(3) Food service facilities--a designated permanent portion of the licensed location [~~; including commercial cooking equipment,~~] where food is stored and/or prepared [~~primarily~~] for consumption at the location.

(4) Premises--the designated area at a location that is licensed by the commission for the sale, service or delivery of alcoholic beverages.

(5) Location--the designated physical address of a premises, but also including all areas at that address where the permit or license holder may sell, serve or deliver alcoholic beverages for immediate consumption at the address, regardless of whether some of those areas are occupied by other businesses, as long as those businesses are contiguous.

(f) An applicant is qualified for a food and beverage certificate if the following conditions, in addition to other requirements, are satisfied:

(1) multiple entrees are available to customers; and

(2) permanent food service facilities are maintained at the location.

(g) The hours of operation for sale and service of food and of alcoholic beverages are the same except that food may be sold or served before or after the legal hours for sale of alcoholic beverages.

(h) If the applicant is a hotel that maintains separate area restaurants, lounges or bars, food service facilities must exist for each of the designated licensed premises.

(i) An applicant for an original food and beverage certificate shall furnish the following, as well as any other information requested by the commission to ensure compliance:

(1) the menu or, if no menu is available, a listing of the food and beverage items;

(2) hours of operation of food service and hours of operation for sale or service of alcoholic beverages;

(3) sales data (including complimentary drinks, as recorded pursuant to subsection (n)(3) of this section) or, if not available, a projection of sales. The sales data or projection of sales should include sufficient breakdown of revenues of food, alcoholic beverages and all other [~~major~~] sales categories (e.g. tickets, merchandise, retail goods, etc.) at the location; and

~~[(4) listing of commercial cooking equipment used in the preparation and service of food; and]~~

(4) [~~(5)~~] copies of floor plans of the location indicating the licensed premises and permanent areas devoted [~~primarily~~] to food service [~~the preparation and service of food~~].

(j) Applicants for renewal of food and beverage certificates shall submit sales data described in subsection (n) of this section. The commission may request additional information or documentation to indicate that the licensed location has permanent food service facilities for the preparation and service of multiple entrees.

(k) The commission may review the operation at the location to determine that food service with food service facilities for the preparation and service of multiple entrees is maintained. In doing so the commission may review such items as required in the original or renewal application as well as advertising, promotional items, changes in operations or hours, changes in floor plans, [~~prominence of food items on the menu as compared to alcoholic beverages,~~] name of the business at the location, [~~number of transactions with food components,~~] copies of city or county permits or certificates relating to the type of business operation, and any other item deemed necessary or applicable.

(l) Failure to provide documentation requested or accurately maintain required records is prima facie evidence of non-compliance.

(m) In verifying that food service is being maintained at the location, the commission may examine all books, papers, records, documents, supplies and equipment of the certificate holder.

(n) The following recordkeeping requirements apply to certificate holders:

(1) records must be maintained to reflect separate totals for alcoholic beverage sales or service, food sales, and all other [~~major~~] sales categories at the location;

(2) purchase invoices must be maintained to reflect the total purchases of alcoholic beverages, food and other major purchase categories at the location;

(3) complimentary alcoholic beverages must be recorded and included in the total alcoholic beverage sales as if they were sold and clearly marked as being complimentary; and

(4) all records must be maintained for four years and made available to authorized representatives of the commission upon reasonable request.

(o) In considering alcoholic beverage sales, the dollar value of complimentary drinks shall be added to total sales or service of alcoholic beverages in determining the percentage of alcoholic beverage sales or service on the licensed premises.

(p) In determining the permanent food service facilities requirement under subsection (f)(2), the gross receipts of all business entities sharing the location [(as identified in the original or a supplemental application)] will be considered. For audit purposes, it shall be the responsibility of the food and beverage certificate holder to provide financial and accounting records related to food, alcohol, and other [major] sales categories of all business entities sharing the location. For audit purposes, if such information that is provided is deemed insufficient to determine if a permit or license holder qualifies for issuance of a food and beverage certificate at the location, the computation and determination of the percentage of alcohol sales or service fees to total gross receipts at the licensed location may be based upon any available records of information.

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

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Shana Horton

Rules Attorney

Texas Alcoholic Beverage Commission

Earliest possible date of adoption: February 14, 2021

For further information, please call: (512) 487-9905



TITLE 19. EDUCATION

PART 1. TEXAS HIGHER EDUCATION COORDINATING BOARD

CHAPTER 1. AGENCY ADMINISTRATION SUBCHAPTER V. TEXAS TRANSFER ADVISORY COMMITTEE AND DISCIPLINE-SPECIFIC SUBCOMMITTEES

19 TAC §§1.237 - 1.243

The Texas Higher Education Coordinating Board (Coordinating Board) proposes new rules in Texas Administrative Code, Title 19, Chapter 1, Subchapter V, §§1.237-1.243. Specifically, the new rules create the Texas Transfer Advisory Committee and Discipline-Specific Subcommittees as part of the implementation of Texas Education Code §61.823.

In conjunction with this rulemaking, the Coordinating Board is repealing Chapter 27 of the Board Rules that previously implemented the advisory committee requirements of §61.823. These proposed rules replace the existing advisory committee structure.

Agency staff conducted more than twenty-four meetings, over a span of six months, using an informal stakeholder workgroup to develop a conceptual framework for both the substantive revisions of the transfer rules and to develop an advisory committee structure to implement Texas Education Code §61.823. The stakeholder workgroup was composed of an equal number of representatives from public junior colleges and general academic teaching institutions. The proposed rules in this subchapter and the Texas Transfer Advisory Committee rules in Title 19, Chapter 4, Subchapter B, address longstanding challenges in the transfer system to enable students to earn and reliably

transfer credits among institutions of higher education. These rules create additional certainty for students and institutions toward the goal of reducing the cost of higher education for Texas families.

Rule 1.237 defines the purpose and authority for the rules.

Rule 1.238 defines terms used in this subchapter. The terms are defined with reference to the rules proposed in the repeal and re-adoption of Chapter 4, Subchapter B. Using cross-references to Chapter 4, Subchapter B, will ensure that the definitions are consistent between the two chapters and that people and institutions affected by the rules will understand the relationship between the two chapters.

Rule 1.239 sets out the duties of the new advisory committee, Texas Transfer Advisory Committee (TTAC), that will advise the Commissioner of Higher Education (Commissioner) on the development of the courses in the Field of Study Curricula and transfer efficiency. The stakeholder workgroup recommended the creation of a central advisory committee to oversee the development of Field of Study Curricula through the use of Discipline-Specific Subcommittees that will report back to the TTAC. The TTAC will then make recommendations to the Commissioner who may approve or deny Field of Study Curricula as defined in new the Chapter 4, Subchapter B rules. The TTAC's composition of an equal number of members from public junior colleges and general academic teaching institutions is anticipated to create more confidence in the feasibility and efficiency of transfer of Field of Study Curricula.

The agency developed the proposed duties through the six months of informal stakeholder meetings addressing the areas that public junior colleges and general academic teaching institutions felt were in need of greater input and guidance to resolve on-going challenges in transfer credits, such as preparing students to meet the academic demands of all institutions while creating predictability and consistency for two-year institutions and their students. Allowing one advisory committee, TTAC, to have oversight of the Discipline-Specific Subcommittees that will advise on the specific courses that should be included in each Field of Study Curriculum, will allow for greater consensus and consistency in the development of Field of Study Curricula. The stakeholder workgroup set out various activities that the TTAC should review, assess, and advise the Commissioner on in conjunction with the development of the Field of Study Curricula.

Rule 1.240 sets out the composition, terms, and officers of the TTAC to meet the requirements of Texas Education Code §61.823.

Rule 1.241 provides that TTAC shall meet at least annually. The rule also defines a quorum of the advisory committee as a majority of the representatives of each the public junior colleges and general academic teaching institutions. This rule is intended to ensure equal representation and voting power between the sending and receiving institutions affected by the development and implementation of the Field of Study Curricula.

Rule 1.242 sets out the duties of the subcommittees, which include recommending to the TTAC specific courses for inclusion in each Field of Study Curriculum. Their meetings and processes are set out more fully in the Texas Transfer Framework Rules in Chapter 4, Subchapter B.

Rule 1.243 sets out the composition, terms, and officers of the subcommittees. While the subcommittees are not independent

advisory committees they will be composed of an equitable and representative combination of subject matter experts from public junior colleges and academic teaching institutions.

Dr. Stacey Silverman, Assistant Commissioner, Academic Quality and Workforce, has determined that for each of the first five years the rules are in effect there would be no fiscal implications for state or local governments as a result of adopting these the rules. There are no estimated reductions in costs to the state or to local governments as a result of replacing Chapter 27 with these rules. There is no estimated loss or increase in revenue to the state or to local governments as a result of adopting Chapter 27 with these rules.

There is no impact on small businesses, micro businesses, or rural communities. There is no anticipated impact on local employment.

Dr. Silverman has also determined that for each year of the first five years the rules are in effect, the public benefit anticipated as a result of administering these sections will be greater clarity in the transfer process and long-term reduced cost of education for students who enter higher education at a two-year institution. There are no anticipated economic costs to persons who are required to comply with the rules as proposed.

Government Growth Impact Statement

- (1) the rules will not create or eliminate a government program;
- (2) implementation of the rules will not require the creation or elimination of employee positions;
- (3) implementation of the rules will not require an increase or decrease in future legislative appropriations to the agency;
- (4) the rules will not require an increase or decrease in fees paid to the agency;
- (5) the rules will create rules 1.237-1.243;
- (6) the rules will replace current rules in chapter 27;
- (7) the rules will not change the number of individuals subject to the rules; and
- (8) the rules will not affect this state's economy.

Comments on the proposal may be submitted to Stacey Silverman, Ph.D., Assistant Commissioner, Academic Quality and Workforce, P.O. Box 12788, Austin, Texas 78711, or via email at AQW@highered.texas.gov. Comments will be accepted for thirty days following publication of the proposal in the *Texas Register*.

The rules are proposed under the Texas Education Code, §§61.821 and 61.823, which provide for Field of Study Curricula and authorize the Board to utilize advisory committees to assist the Board. Texas Education Code §61.028(a) authorizes the Board to delegate duties to the Commissioner of Higher Education.

The proposed rules affect Texas Education Code, §§61.059, 61.0593, 61.821-61.823, and 61.824-61.827. The rules are not subject to Government Code §2001.0045 because they do not have a fiscal impact.

§1.237. Authority and Purpose.

(a) The authority for the Texas Transfer Advisory Committee is Texas Education Code §61.823.

(b) The purpose of the Texas Transfer Advisory Committee is to advise the Commissioner on development of the Field of Study Curricula.

§1.238. Definitions.

The following words and terms, when used in this subchapter, shall have the following meanings:

(1) Board--The Texas Higher Education Coordinating Board.

(2) Commissioner--The Commissioner of Higher Education.

(3) Core Curriculum or Texas Core Curriculum (TCC)--a required curriculum for an undergraduate degree, as defined in Title 19, Chapter 4, Subchapter B, §4.23(3) (relating to Definitions).

(4) Directed Electives--a component of the Field of Study Curriculum, as defined in Title 19, Chapter 4, Subchapter B, §4.23(4).

(5) Discipline Foundation Courses (DFC)--a component of the Field of Study Curriculum, as defined in Title 19, Chapter 4, Subchapter B, §4.23(5).

(6) Discipline-Specific Subcommittee--a subcommittee comprised of faculty from general academic teaching institutions and public junior colleges in a single discipline. The Chief Academic Officer of each university system or institution of higher education which offers a degree program for which a Field of Study Curriculum is proposed may submit a recommended nominee. A Discipline-Specific Subcommittee is formed at the request of the Texas Transfer Advisory Committee to aid and advise the development of a Field of Study Curriculum in a specific discipline. A Discipline Specific Subcommittee is not an advisory committee.

(7) Faculty Member--a person who is employed full-time by an institution of higher education as a member of the faculty whose primary duties include teaching, research, academic service, or administration. However, the term does not include a person holding faculty rank who spends a majority of the person's time for the institution engaged in managerial or supervisory activities, including a chancellor, vice chancellor, president, vice president, provost, associate or assistant provost, or dean.

(8) Field of Study Curriculum--a set of courses that satisfy baccalaureate degree requirements in a specific academic area, as defined in Title 19, Chapter 4, Subchapter B, §4.23(7).

(9) General academic teaching institution--an institution of higher education as defined in Texas Education Code, §61.003(3).

(10) Institution of Higher Education or Institution--any public technical institute, public junior college, public senior college or university, medical or dental unit, other agency of higher education as defined in Texas Education Code, §61.003(8).

(11) Public junior college--an institution of higher education as defined in Texas Education Code, §61.003(2).

(12) Texas Transfer Advisory Committee (TTAC)--the advisory committee with responsibility for advising the Commissioner and Board on Field of Study Curricula, including their establishment and revision. The TTAC may request to form a Discipline-Specific Subcommittee to assist in the development of a Field of Study Curriculum.

§1.239. Duties of the Texas Transfer Advisory Committee.

(a) The Texas Transfer Advisory Committee (TTAC) shall advise the Commissioner and Board on the following:

(1) Oversight of the Field of Study Curricula, review of relevant data, coordination of the schedule of discipline-specific reviews, and recommending discipline-specific curricula;

(2) Recommendations for Field of Study Curricula to be approved by the Commissioner, including recommendations of Texas Core Curriculum courses relevant to specific disciplines and courses for the Discipline Foundation Courses and the Directed Electives components;

(3) Reviewing and making recommendations to the Commissioner to optimize the transferability and applicability of credits and increase transfer students' success within majors;

(4) Development and coordination of a Field of Study Curricula review schedule for the Discipline-Specific Subcommittees based on reasonable factors, including prioritizing development of frameworks in high-enrollment and high-need disciplines;

(5) Convening and reviewing the work of Discipline-Specific Subcommittees, in accordance with the established Field of Study Curricula review schedule;

(6) Monitoring curricular changes at general academic teaching institutions and student course enrollment patterns within and across public junior colleges and general academic teaching institutions;

(7) Developing the Discipline Foundation Courses component of the Field of Study Curriculum, with consideration for the most frequently used transfer pathways; and

(8) Recommendations regarding the timing and structure of transfer policy-related agency surveys and data collection from institutions of higher education, and the timely and appropriate dissemination of information to help inform institutional decisions about curriculum and program design.

(b) The agency shall provide a 30-day informal notice and comment period to all impacted institutions prior to the Commissioner's approval or denial of a set of Discipline Foundation Courses.

(c) At least annually, the TTAC will report on the recommendations of the Discipline-Specific Subcommittees, the status of these subcommittees, and other recommendations as appropriate to improve student transfer and success across the state.

§1.240. Texas Transfer Advisory Committee Composition, Officers, and Terms.

(a) The Texas Transfer Advisory Committee (TTAC) shall be composed of no more than twenty-four (24) members. The committee will be equally composed of representatives of public junior colleges and general academic teaching institutions.

(1) At least a majority of the members of the TTAC shall be faculty members of an institution of higher education. The Chief Academic Officer of an institution shall consult with the faculty of the institution before nominating or recommending a person to the Board as the institution's representative on the TTAC.

(2) The TTAC shall also include student and academic advisor representatives as ex-officio members who are not included among the 24 committee members.

(3) The Commissioner will consider the appropriate representation of higher education sectors, including representation from the Board Accountability Peer Groups, in selecting members of TTAC.

(4) The Commissioner has final authority to appoint TTAC membership.

(b) Members shall serve staggered terms of up to three years.

(c) The TTAC will have co-chairs appointed by the Commissioner: one from a public junior college and one from a general academic teaching institution. The Commissioner may appoint a chair to serve not more than three terms.

§1.241. Meetings of the Texas Transfer Advisory Committee.

(a) The Texas Transfer Advisory Committee will meet at least twice a year and may do so more frequently as needed if both co-chairs agree.

(b) All meetings will be open to the public and broadcast on the web.

(c) A quorum of the TTAC requires presence of a majority of the twelve members representing the public junior colleges and a majority of the twelve members representing the general academic teaching institutions.

§1.242. Duties of the Discipline-Specific Subcommittees.

The Discipline-Specific Subcommittees shall advise the Texas Transfer Advisory Committee (TTAC) as requested by TTAC on course curricular issues, including the following:

(1) Current structures of and recent changes in degree program requirements, student course enrollment patterns, and student success within and across public junior colleges and general academic teaching institutions for a given discipline, at the direction of the TTAC.

(2) Recommendations for the list of courses to be included in a Field of Study Curriculum for a discipline, including identifying discipline-related courses within the Texas Core Curriculum and a recommended set of Discipline Foundation Courses.

§1.243. Discipline-Specific Subcommittees Composition, Officers, and Terms.

(a) The Discipline-Specific Subcommittees shall be composed of an equal representation of public junior college faculty and general academic teaching institution faculty from nominees recommended by the Chief Academic Officer of every college or university that chooses to participate on that discipline-specific workgroup. The Commissioner has final authority to select members of the Discipline-Specific Subcommittees.

(b) Members shall serve staggered terms of up to three years but may be replaced upon nomination of a new representative by their institution's Chief Academic Officer.

(c) Each subcommittee shall select two co-chairs from its membership to preside over the subcommittee. The co-chairs must include one co-chair from the public junior college members and one co-chair from the general academic teaching institution members.

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 January 4, 2021.

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Nichole Bunker-Henderson

General Counsel

Texas Higher Education Coordinating Board

Earliest possible date of adoption: February 14, 2021

For further information, please call: (512) 427-6206



CHAPTER 4. RULES APPLYING TO
ALL PUBLIC INSTITUTIONS OF HIGHER
EDUCATION IN TEXAS
SUBCHAPTER B. TRANSFER OF CREDIT,
CORE CURRICULUM AND FIELD OF STUDY
CURRICULA

19 TAC §§4.21 - 4.36

The Texas Higher Education Coordinating Board (Coordinating Board) proposes the repeal of Texas Administrative Code, Title 19, Part 1, Chapter 4, Subchapter B, §4.21-4.36 concerning Transfer of Credit, Core Curriculum and Field of Study Curricula. Specifically, the repeal of Subchapter B is in anticipation of establishing a new Subchapter B rules in Title 19, Chapter 4.

In conjunction with this rulemaking, the Coordinating Board is repealing Chapter 27 of the Board Rules that previously implemented the advisory committee requirements of §61.823, and replacing that chapter with new Chapter 1, Subchapter V. The Board proposes to repeal existing Chapter 4, Subchapter B, and, via separate rulemaking, proposes to re-adopt Chapter 4, Subchapter B.

Agency staff conducted more than twenty-four meetings, over a span of six months, using an informal stakeholder workgroup to develop a conceptual framework for both the substantive revisions of rules governing Field of Study Curriculum and transfer of credit between institutions. The stakeholder workgroup was composed of an equal number of representatives from public junior colleges and general academic teaching institutions. The Coordinating Board proposes the repeal of existing Chapter 4, Subchapter B, to implement the proposed new Chapter 4, Subchapter B rules, along with the Texas Transfer Advisory Committee rules in Title 19, Chapter 1, Subchapter V. These rulemakings will address longstanding challenges in the transfer system to enable students to earn and reliably transfer credits among institutions of higher education. These rules create additional certainty for students and institutions toward the ultimate goal of reducing the cost of higher education for Texas families.

Dr. Stacey Silverman, Assistant Commissioner, Academic Quality and Workforce, has determined that for the first five years the repeal is in effect there would be no fiscal implications for state or local governments as a result of repealing the rules.

There is no fiscal impact on small businesses, micro businesses, or rural communities. There is no anticipated impact on local employment.

Dr. Silverman has also determined that for each year of the first five years after the repeal of the rules the public benefit anticipated as a result of administering the sections will be greater clarity in the transfer process and movement toward the long-term goal of reduced cost of education for students who enter higher education at a two-year institution. There are no anticipated economic costs to persons who are required to comply with the rules.

Government Growth Impact Statement

(1) the rules will not create or eliminate a government program;

(2) implementation of the rules will not require the creation or elimination of employee positions;

(3) implementation of the rules will not require an increase or decrease in future legislative appropriations to the agency;

(4) the rules will not require an increase or decrease in fees paid to the agency;

(5) the rules will not create a new rule but will be replaced by proposed new Subchapter B rules in Title 19, Chapter 4;

(6) the rules will not limit existing rules;

(7) the rules will not change the number of individuals subject to the rules; and

(8) the rules have no affect on the state's economy.

Comments on the proposed repeal may be submitted to Stacey Silverman, Ph.D., Assistant Commissioner, Academic Quality and Workforce, Texas Higher Education Coordinating Board, P.O. Box 12788, Austin, Texas 78711 or via email at AQW@highered.texas.gov. Comments will be accepted for thirty days following publication of the proposal in the *Texas Register*.

The repeal is proposed under Texas Education Code §61.027, which provides the Coordinating Board with general rulemaking authority; Texas Education Code §61.002, which establishes the Coordinating Board as the agency charged to provide leadership and coordination for the Texas higher education system; Texas Education Code §61.051, which provides the Coordinating Board with authority to coordinate institutions of public higher education in promoting quality education; and Texas Education Code §§61.821, 61.8221, 61.823-61.828, 61.830, 61.059(l), 61.059(p), and 61.0593, which provide for the development and implementation of field of study curricula, authorize the Board to form advisory committees to assist the Board, and authorize the Board to adopt rules as necessary. Texas Education Code §61.028(a) authorizes the Board to delegate duties to the Commissioner of Higher Education.

The proposed repeal affects Texas Education Code §61.822.

§4.21. *Purpose.*

§4.22. *Authority.*

§4.23. *Definitions.*

§4.24. *General Provisions.*

§4.25. *Requirements and Limitations.*

§4.26. *Penalty for Noncompliance with Transfer Rules.*

§4.27. *Resolution of Transfer Disputes for Lower-Division Courses.*

§4.28. *Core Curriculum.*

§4.29. *Core Curricula Larger than 42 Semester Credit Hours.*

§4.30. *Institutional Assessment and Reporting.*

§4.31. *Implementation and Revision of Core Curricula.*

§4.32. *Field of Study Curricula.*

§4.33. *Criteria for Evaluation of Field of Study Curricula.*

§4.34. *Revision of Existing Approved Field of Study Curricula.*

§4.35. *Texas Common Course Numbering System.*

§4.36. *Undergraduate Academic Certificate.*

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 January 4, 2021.

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Nichole Bunker-Henderson
General Counsel
Texas Higher Education Coordinating Board
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For further information, please call: (512) 427-6206



19 TAC §§4.21 - 4.38

The Texas Higher Education Coordinating Board (Coordinating Board) proposes the repeal of Texas Administrative Code, Title 19, Chapter 4, Subchapter B, §§4.21 - 4.36 and new rules in Chapter 4, Subchapter B, §§4.21 - 4.38. Specifically, the repeal and new rules are part of the implementation of Texas Education Code §§61.821 and 61.823.

In conjunction with this rulemaking, the Coordinating Board is repealing Chapter 27 of the Board Rules that previously implemented the advisory committee requirements of §61.823, and replacing that chapter with new Chapter 1, Subchapter V. The Board is repealing existing Chapter 4, Subchapter B, and proposes new rules as detailed below. The Coordinating Board proposes Chapter 4, Subchapter B, rules 4.21, 4.24, 4.26, 4.28 - 4.31 without changes to current rules which are being proposed for repeal. Rule 4.37 as proposed is renumbered without changes from current rule 4.35 which is being proposed for repeal. Rule 4.38 as proposed is renumbered with only typographical corrections from current rule 4.36 which is being proposed for repeal.

Agency staff conducted more than twenty-four meetings, over a span of six months, using an informal stakeholder workgroup to develop a conceptual framework for both the substantive revisions of rules governing Field of Study Curriculum and transfer of credit between institutions. The stakeholder workgroup was composed of an equal number of representatives from public junior colleges and general academic teaching institutions. The proposed rules in this subchapter and the Texas Transfer Advisory Committee rules in Title 19, Chapter 1, Subchapter V, address longstanding challenges in the transfer system to enable students to earn and reliably transfer credits among institutions of higher education. These rules create additional certainty for students and institutions toward the ultimate goal of reducing the cost of higher education for Texas families.

The Coordinating Board proposes a new advisory committee structure to implement Texas Education Code §61.823 that utilizes one advisory committee (the new Texas Transfer Advisory Committee or "TTAC") that works with the assistance of subcommittees to lend expertise and make recommendations to the Texas Transfer Advisory Committee on courses that should be included in Discipline Foundation Courses, selected discipline-relevant Texas Core Curriculum courses, and the development of the Field of Study Curricula.

The Texas Transfer Advisory Committee is composed of an equal number of representatives from groups representing public junior colleges and general academic teaching institutions, not to exceed a total of 24 members. A quorum of the Texas Transfer Advisory Committee is defined as a majority of members from each group. The Texas Transfer Advisory Committee will convene Discipline-Specific Subcommittees to recommend Discipline Foundation Courses in each Field of Study Curriculum that the Texas Transfer Advisory Committee proposes to develop and recommend to the Commissioner of

Higher Education. The Texas Transfer Advisory Committee must have a super-majority of the representatives of each of the public junior colleges and general academic teaching institutions in order to recommend a Field of Study Curriculum to the Commissioner for approval. The TTAC may vote by simple majority to send a proposed Field of Study Curriculum back to the subcommittee for revision if they do not vote to approve it as proposed.

The Field of Study Curriculum is composed of three components that together will fulfill the requirement of Education Code §61.823: discipline-relevant courses selected from the existing Texas Core Curriculum, the Discipline Foundation Courses, and Directed Electives. With the assistance of the Discipline-Specific Subcommittees, the TTAC will develop and recommend the set of recommended discipline-relevant Texas Core Curriculum courses and the Discipline Foundation Courses to the Commissioner.

The Discipline Foundation Courses are a set of courses within a major course of study, consisting of up to twelve (12) semester credit hours, selected for inclusion in a Field of Study Curriculum for that discipline. These courses will apply toward undergraduate degrees within the Field of Study Curriculum at all Texas public institutions that offer a corresponding major or track, except for those institutions approved to require alternative Discipline Foundation Courses under Title 19, Chapter 4, Subchapter B, §4.35.

Directed Electives are a set of courses that apply toward a major course of study within a Field of Study Curriculum at a specific general academic teaching institution. The Directed Electives for each Field of Study Curriculum must consist of at least six (6) semester credit hours. The Directed Electives and Discipline Foundation Courses components combined may not exceed eighteen (18) semester credit hours in total. Each institution will submit its Directed Electives to the Board in addition to posting them on the institution's website. This established list and its publication will allow students to ensure that they can enroll in courses that are applicable to a bachelor's degree. The publication requirements allow a general academic teaching institution to assist transfer students in becoming well-prepared to complete the institution's upper-division course work and earn a degree. By creating a definite list of Discipline Foundation Courses, and combining those with the selected discipline-relevant Texas Core Curriculum, and a published set of Directed Electives for each Field of Study Curriculum at a receiving institution, the Board anticipates the reliability of transfer and certainty for students and sending institutions will be greatly improved. The collaborative process, which includes super-majority voting requirements, will create the opportunity for two- and four-year institutions to work together to improve outcomes and ultimately reduce cost for Texas students. The rules also revise the credit transfer dispute resolution process by improving transparency for students about the procedure and allowing students or sending institutions to appeal to the Commissioner as an option of last resort.

Each general academic teaching institution will determine whether a student is Field of Study Curriculum complete. Each general academic teaching institution must transfer the credit and substitute that block of courses for that institution's lower-division courses upon enrollment of a student who is Field of Study Curriculum complete. A student who is Field of Study Curriculum complete can then move on to the upper-division courses required of students native to that institution. The rules

meet the requirement of Texas Education Code §61.823, by requiring a general academic teaching institution to transfer applicable credits for partial completion of a Field of Study Curriculum upon enrollment of a transfer student.

The rules also provide for a data-driven evaluation process by requiring institutions to report certain data to the Coordinating Board so that the institution and the Board can determine whether and how the new processes and Field of Study Curricula improve transfer pathways in Texas over time.

Rule 4.21 is proposed without changes to current rule 4.21 which is being proposed for repeal.

Rule 4.22 states the authorities for the rules in subchapter B to reflect new provisions governing Field of Study Curricula.

Rule 4.23 includes definitions for terms used in Chapter 4, Subchapter B, and cross-referenced to Chapter 1, Subchapter V.

Rule 4.23(4) "Directed Electives" is defined as at least six credit hours that each general academic teaching institution may require as one component of Field of Study Curriculum for completion at that institution. The general academic teaching institution must publish the Directed Electives on its website and cross-list the courses using the Texas Common Course Numbering System course number. These courses are limited to those in the Lower-Division Academic Course Guide Manual.

Rule 4.23(5) defines "Discipline Foundation Courses" as courses within a major course of study that form one component of Field of Study Curriculum. Each institution must apply the credits toward the student's corresponding major or track offered by the institution for that Field of Study.

Rule 4.23(6) defines "Discipline-Specific Subcommittee" as a subcommittee formed by the Texas Transfer Advisory Committee (TTAC). These subcommittees are charged with recommending to the TTAC courses that should be included in a Field of Study Curriculum developed by TTAC.

Rule 4.23(7) implements Field of Study Curriculum set out in Education Code §61.823. The Field of Study Curriculum has three components: (a) selected discipline-relevant Texas Core Curriculum courses, (b) the Discipline Foundation Courses, and (c) the Directed Electives. Each receiving institution must apply the credit for any Field of Study Curriculum courses completed by the student to the required coursework for the degree program to the corresponding degree program offered by the receiving institution.

Rule 4.23(8) and (9) defines types of institutions of higher education to conform to Education Code §61.003.

Rule 4.23(11) defines the new Texas Transfer Advisory Committee (TTAC), which replaces the advisory committees in Chapter 27, being repealed in conjunction with this rulemaking. The TTAC has responsibility for advising the Commissioner on Field of Study Curricula, including their establishment and revision. The TTAC may request to form a Discipline-Specific Committee to assist in the development of a Field of Study Curriculum.

Rule 4.24 is proposed without changes to current rule 4.24 which is being proposed for repeal.

Rule 4.25 relates to general transfer of credit requirements and prohibitions.

Rule 4.26 is proposed without changes to current rule 4.26 which is being proposed for repeal.

Rule 4.27 provides clarity and specificity around the resolution of credit transfer disputes among institutions. The rules require a receiving institution that proposes to deny a student's transfer credits to provide notice to the student and under certain timelines. If the sending and receiving institutions are unable to resolve the dispute, the student or the sending institution may appeal to the Commissioner. The Commissioner or his designee will make the final determination about the transfer of credit. Each institution must publish the transfer credit dispute process in its course catalog. The Board is required to keep and track data on transfer credit dispute resolutions.

Rules 4.28 - 4.31 governing the Texas Core Curriculum are proposed without changes to current rules 4.28 - 4.31 which are being proposed for repeal and will be reviewed in a future negotiated rulemaking.

Rule 4.32 as proposed describes the creation and implementation of Field of Study Curricula in detail. The rule provides that the Commissioner will appoint the TTAC and the TTAC may request the assistance of a Discipline-Specific Subcommittee to assist the Texas Transfer Advisory Committee. The TTAC will recommend a new Field of Study Curriculum to the Commissioner who is authorized to approve or deny the Field of Study Curriculum. Consistent with rule 4.23(7), the rule sets out the three components of a new Field of Study Curriculum and sets out the mandatory provisions of the Discipline Foundation Courses and Directed Electives. Subsection (b)(2)(E) creates a process by which a general academic teaching institution may seek approval from the Commissioner to create an alternative list of Discipline Foundation Courses for the institution in exceptional circumstances, specified in the rule. The rule sets out the process for approval of the alternative Discipline Foundation Courses. This rule sets out the requirements for reporting and publication of the Discipline Foundation Courses.

Subsection (b)(3) describes the process governing an institution's selection, reporting, and publication of its Directed Electives. The rule specifies that each institution must have at least six hours of Directed Electives for each Field of Study Curriculum and that the Directed Electives and Discipline Foundation Courses must total eighteen (18) credit hours for each institution.

Subsection (c), as proposed, provides that a receiving general academic teaching institution shall determine whether a transfer student is Field of Study Curriculum complete upon the transfer student's enrollment. If a student successfully completes an approved Field of Study Curriculum, a general academic teaching institution must substitute that block of courses for the receiving institution's lower-division requirements for the degree program for the corresponding Field of Study Curriculum into which the student transfers.

Subsection (d) describes the acceptance and application of credit when a student has achieved only partial completion of a Field of Study Curriculum prior to enrollment in a receiving general academic teaching institution.

The rule sets out the requirements for publication of the Field of Study Curricula and transcription requirements.

Subsection (g) of the proposed rule establishes transition provisions that govern the expiration of Field of Study Curricula and how institutions should "teach out" students who, on or before August 31, 2022, have earned credit in a Field of Study Curriculum that exists on March 1, 2021.

Rule 4.33 as proposed sets out the process for approval of the Field of Study Curricula, including Texas Transfer Advisory Committee's use of Discipline-Specific Subcommittees, the TTAC's process for voting on approval to recommend a Field of Study Curriculum to the Commissioner and the Commissioner's authority to approve or deny the Field of Study Curriculum.

The rule provides that the Texas Transfer Advisory Committee's approval of a Field of Study Curriculum requires approval by a supermajority vote of two-thirds of the general academic teaching institution representatives who are present and voting and two-thirds of the public junior college representatives who are present and voting.

The rule as proposed also creates a process for the Commissioner to provide informal notice and receive comments from affected institutions prior to approving or denying the Field of Study Curricula recommended by the TTAC. The Commissioner will report to the Board all Field of Study Curricula the Commissioner has approved or denied since the last quarterly Board meeting. The Commissioner will provide an annual report to the TTAC on all Field of Study Curricula that the Commissioner approved during the prior year.

Rule 4.34 specifies the conditions upon which the Commissioner will consider and modify or revise a Field of Study Curriculum.

Rule 4.35 sets out the process by which a general academic teaching institution may petition the Commissioner to create an alternative list of Discipline Foundation Courses for the institution in exceptional circumstances, specified in the rule. The rule sets out the process for approval of the alternative Discipline Foundation Courses. This rule sets out the requirements for reporting and publication of the alternative Discipline Foundation Courses. The Commissioner will consider a petition for alternative Discipline Foundation Courses (DFC) not later than 30 days after receiving the report from TTAC. The Commissioner will inform the Board and maintain on the Board's website a list of approved alternative DFC.

Rule 4.36 proposes the provisions of current rule 4.33 which is being proposed for repeal. This provision requires institutions of higher education to submit evaluations of the transfer policies, including data on the degree programs that have Field of Study Curricula, credit transfer data, and advising practices. The data must include: a chart or table showing the number of total transfer students for each degree program that has a Board-approved Field of Study Curriculum for each of the last five years; the chart should indicate year-by-year the percentage of students who transferred having completed the applicable Field of Study Curriculum; the percentage of students who transferred without having completed the applicable Field of Study Curriculum; and any information about progress toward graduation or graduation rates that can compare transfer student performance with non-transfer student performance during the evaluation period.

Subsection (c) of the rule sets out requirements for the TTAC to create a schedule for review of Field of Study Curricula.

Rule 4.37 as proposed is renumbered without changes from current rule 4.35 which is being proposed for repeal.

Rule 4.38 as proposed is renumbered with only typographical corrections from current rule 4.36 which is being proposed for repeal.

Dr. Stacey Silverman, Assistant Commissioner, Academic Quality and Workforce, has determined that for each of the first five years the rules are in effect there would be no fiscal implications

for state or local governments as a result of repealing and replacing Chapter 4, Subchapter B, with these rules. There are no estimated reductions in costs to the state or to local governments as a result of repealing and replacing Chapter 4, Subchapter B, with these rules. There is no estimated loss or increase in revenue to the state or to local governments as a result of repealing and proposing new Chapter 4, Subchapter B, with these rules.

There is no fiscal impact on small businesses, micro businesses, or rural communities. There is no anticipated impact on local employment.

Dr. Silverman has also determined that for each year of the first five years the rules are in effect, the public benefit anticipated as a result of administering these sections will be greater clarity in the transfer process and long-term reduced cost of education for students who enter higher education at a two-year institution. There are no anticipated economic costs to persons who are required to comply with the rules as proposed.

Government Growth Impact Statement

- (1) the rules will not create or eliminate a government program;
- (2) implementation of the rules will not require the creation or elimination of employee positions;
- (3) implementation of the rules will not require an increase or decrease in future legislative appropriations to the agency;
- (4) the rules will not require an increase or decrease in fees paid to the agency;
- (5) the rules will create new rules;
- (6) the rules will replace current rules in Chapter 4, Subchapter B;
- (7) the rules will not change the number of individuals subject to the rules; and
- (8) the rules will not affect this state's economy.

Comments on the proposal may be submitted to Stacey Silverman, Ph.D., Assistant Commissioner, Academic Quality and Workforce, P.O. Box 12788, Austin, Texas 78711, or via email at AQW@highered.texas.gov. Comments will be accepted for thirty days following publication of the proposal in the *Texas Register*.

The new rules are proposed under Texas Education Code §61.027, which provides the Coordinating Board with general rulemaking authority; Texas Education Code §61.002, which establishes the Coordinating Board as the agency charged to provide leadership and coordination for the Texas higher education system; Texas Education Code §61.051, which provides the Coordinating Board with authority to coordinate institutions of public higher education in promoting quality education; and Texas Education Code §§61.821, 61.8221, 61.823-61.828, 61.830, 61.059(l), 61.059(p), and 61.0593, which provide for the development and implementation of Field of Study Curricula, authorize the Board to form advisory committees to assist the Board, and authorize the Board to adopt rules as necessary. Texas Education Code §61.028(a) authorizes the Board to delegate duties to the Commissioner of Higher Education.

The proposed new rules affect Texas Education Code §61.822.

§4.21. Purpose.

The purpose of this subchapter is to provide for the development and implementation of policies that encourage the free and appropriate transferability of lower division course credit among institutions of

higher education, and especially to provide for the smooth transfer of lower division credit through core curricula, field of study curricula, and a procedure for the resolution of transfer disputes.

§4.22. Authority.

The Board is authorized to adopt rules and establish policies and procedures for the development, adoption, implementation, funding, and evaluation of Core Curricula, Field of Study Curricula, and a transfer dispute resolution process under Texas Education Code §§61.059, 61.0593, 61.821, 61.823 - 61.828.

§4.23. Definitions.

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

(1) Board--The Texas Higher Education Coordinating Board.

(2) Commissioner--The Commissioner of Higher Education.

(3) Core Curriculum or Texas Core Curriculum--the curriculum in the liberal arts, humanities, sciences, and political, social, and cultural history that all undergraduates of an institution of higher education are required to complete before receiving an academic undergraduate degree. Core curriculum provisions apply to all institutions of higher education that offer academic undergraduate degree programs.

(4) Directed Electives--a set of courses within a major course of study, consisting of at least six semester credit hours, specific to each general academic teaching institution and prescribed by the faculty of each general academic teaching institution. Directed Electives form part of the Field of Study Curriculum.

(5) Discipline Foundation Courses (DFC)--a set of courses within a major course of study, consisting of up to twelve (12) semester credit hours. The Discipline Foundation Courses form part of the Field of Study Curriculum.

(6) Discipline-Specific Subcommittee--a subcommittee established under Title 19, Chapter 1, Subchapter V, §1.242 and §1.243. Each subcommittee is comprised of faculty from general academic teaching institutions and public junior colleges in a single discipline.

(7) Field of Study Curriculum--a set of courses that will satisfy the lower-division requirements for a baccalaureate degree in a specific academic area at a general academic teaching institution. The Field of Study Curriculum has three components: (a) selected discipline-relevant Texas Core Curriculum courses, (b) the Discipline Foundation Courses, and (c) the Directed Electives.

(8) General academic teaching institution--an institution of higher education defined in Texas Education Code, §61.003(3).

(9) Public junior college--an institution of higher education defined in Texas Education Code, §61.003(2).

(10) Texas Common Course Numbering System (TCCNS)--a Board-approved course numbering system for lower-division academic courses that assigns common course numbers in order to facilitate the transfer of lower-division academic courses among institutions of higher education by promoting consistency in course designation and identification.

(11) Texas Transfer Advisory Committee--the advisory committee established under Title 19, Chapter 1, Subchapter V. The Texas Transfer Advisory Committee has responsibility for advising the Commissioner and Board on Field of Study Curricula, including their establishment and revision. The Texas Transfer Advisory Committee

may request to form a Discipline-Specific Committee to assist in the development of a Field of Study Curriculum.

(12) Institution of Higher Education or Institution--any public technical institute, public junior college, public senior college or university, medical or dental unit, other agency of higher education as defined in Texas Education Code, §61.003.

(13) Lower-Division Academic Course Guide Manual (ACGM)--a Board-approved publication listing academic courses that public two-year colleges may teach and report for contact hour reimbursement from state appropriations without special approval from the Board. Courses (except for developmental courses) listed in the ACGM are freely transferable among all public institutions of higher education in Texas in accordance with the Texas Education Code, §61.822.

(14) Faculty Member--a person employed full-time by an institution of higher education as a member of the faculty whose primary duties include teaching, research, academic service, or administration. However, the term does not include a person holding faculty rank who spends a majority of the person's time for the institution engaged in managerial or supervisory activities, including a chancellor, vice chancellor, president, vice president, provost, associate of assistant provost, or dean.

§4.24. General Provisions.

(a) All successfully completed lower-division academic courses that are identified by the Texas Common Course Numbering System (TCCNS) and published in the Lower-Division Academic Course Guide Manual (ACGM) shall be fully transferable among public institutions and shall be substituted for the equivalent course at the receiving institution. Except in the case of courses belonging to a Board-approved Field of Study Curriculum (FOSC), applicability of transferred courses to requirements for specific degree programs is determined by the receiving institution.

(b) Nothing in this subchapter restricts the authority of an institution of higher education to adopt its own admission standards in compliance with this subchapter or its own grading policies so long as it treats transfer students and native students in the same manner.

(c) Institutional policies regarding acceptance of credit for correspondence courses, credit-by-examination, and other credit-earning instruments must be consistent with Southern Association of Colleges and Schools' guidelines and must treat transfer students and native students in the same manner.

(d) This subchapter applies specifically to academic courses and degree programs and does not apply to technical courses or technical degree programs.

§4.25. Requirements and Limitations.

(a) Each institution of higher education shall identify in its undergraduate catalog each lower-division course that is substantially equivalent to an academic course listed in the current edition of the Lower Division Academic Course Guide Manual.

(b) Each institution of higher education that offers lower-division courses must offer at least 45 semester credit hours of academic courses that are substantially equivalent to courses listed in the Lower Division Academic Course Guide Manual including those that fulfill the lower-division portion of the institution's core curriculum.

(c) All institutions of higher education must accept transfer of credit for successfully completed courses identified in subsections (a) and (b) of this section as applicable to an associate or baccalaureate degree in the same manner as credit awarded to non-transfer students in that degree program.

(d) Each institution must accept the same number of lower-division semester credit hours from transfer students as required for non-transfer students in the same baccalaureate program; however,

(1) An institution is not required to accept in transfer more semester credit hours in the major area of a degree program than the number set out in any applicable Board-approved Field of Study Curriculum for that program.

(2) In any degree program for which there is no Board-approved Field of Study Curriculum, an institution is not required to accept in transfer more lower-division course credit in the major applicable to a baccalaureate degree than the institution allows their non-transfer students in that major.

(3) An institution of higher education is not required to transfer credit in courses in which the student earned a "D" in the student's Field of Study Curriculum courses, Core Curriculum courses, or major.

(e) Each institution of higher education that admits undergraduate transfer students shall provide support services appropriate to meet the needs of transfer students. These support services should be comparable to those provided to non-transfer students regularly enrolled at the institution, including an orientation program similar to that provided for entering freshman enrollees.

(f) An institution of higher education is not required to accept in transfer, or apply toward a degree program, more than sixty-six (66) semester credit hours of lower-division academic credit. Institutions of higher education, however, may choose to accept additional semester credit hours.

(g) Each institution of higher education shall permit a student who transfers from another Texas public institution of higher education to choose a catalog for the purpose of specifying graduation requirements, based upon the dates of attendance at the receiving institution and at the transferring institution, in the same manner that a non-transfer student may choose a catalog. Each Texas public institution of higher education shall include information about graduation requirements under a particular catalog in its official publications, including print and electronic catalogs.

§4.26 Penalty for Noncompliance with Transfer Rules.

If it is determined by the Board that an institution inappropriately or unnecessarily required a student to retake a course that is substantially equivalent to a course already taken at another institution, in violation of the provisions of §4.25 of this title (relating to Requirements and Limitations), formula funding for credit hours in the repeated course will be deducted from the institution's appropriation.

§4.27. Resolution of Transfer Disputes for Lower-Division Courses.

(a) Institutions of higher education shall apply the following procedures in the resolution of credit transfer disputes involving lower-division courses:

(1) If an institution of higher education does not accept course credit earned by a student at another institution of higher education, the receiving institution shall give written notice to the student and to the sending institution that it intends to deny the transfer of the course credit and shall include in that notice the reasons for the denial. The receiving institution must attach the procedures for resolution of transfer disputes for lower-division courses as outlined in this section to notice. The notice and procedure must include:

(A) clear instructions for appealing the decision to the Commissioner; and

(B) the name and contact information for the designated official at the receiving institution who is authorized to resolve the credit transfer dispute.

(2) A student who receives notice as specified in paragraph (1) of this subsection may dispute the denial of credit by contacting a designated official at either the sending or the receiving institution.

(3) The two institutions and the student shall attempt to resolve the transfer of the course credit in accordance with this section.

(4) If the student or the sending institution is not satisfied with the resolution of the credit transfer dispute, the student or the sending institution may notify the Commissioner in writing of the request for transfer dispute resolution. A receiving institution that denies course credit for transfer shall notify the Commissioner in writing of its denial and the reasons for the denial not later than the 45th day after the date the receiving institution provided the required notice of the transfer credit denial under subsection (a)(1) of this section.

(b) The Commissioner or the Commissioner's designee shall make the final determination about a credit transfer dispute and give written notice of the determination to the student and institutions. The decision is not a contested case. The Commissioner's decision is final and may not be appealed.

(c) Each institution of higher education shall publish in its course catalogs the procedures specified in this section.

(d) The Board shall collect data on the types of transfer disputes that are reported and the disposition of each case that is considered by the Commissioner or the Commissioner's designee.

(e) If a receiving institution has cause to believe that a course being presented by a student for transfer from another institution is not of an acceptable level of quality, it should first contact the sending institution and attempt to resolve the problem. In the event that the two institutions are unable to come to a satisfactory resolution, the receiving institution may notify the Commissioner who may investigate the course. If its quality is found to be unacceptable, the Board may discontinue funding for the course.

§4.28. Core Curriculum.

(a) General.

(1) In accordance with Texas Education Code, §§61.821 - 61.832, each institution of higher education that offers an undergraduate academic degree program shall design and implement a core curriculum, including specific courses composing the curriculum, of no less than 42 lower-division semester credit hours.

(2) No upper-division course shall be approved to fulfill a foundational component area requirement in the core curriculum if it is substantially comparable in content or depth of study to a lower-division course listed in the Lower-Division Academic Course Guide Manual.

(3) Medical or dental units that admit undergraduate transfer students should encourage those students to complete their core curriculum requirement at a general academic teaching institution or public junior college.

(b) Texas Core Curriculum. Each institution of higher education that offers an undergraduate academic degree program shall develop its core curriculum by using the Board-approved purpose, core objectives, and foundational component areas of the Texas Core Curriculum.

(1) Statement of Purpose. Through the Texas Core Curriculum, students will gain a foundation of knowledge of human cultures and the physical and natural world, develop principles of personal

and social responsibility for living in a diverse world, and advance intellectual and practical skills that are essential for all learning.

(2) Core Objectives. Through the Texas Core Curriculum, students will prepare for contemporary challenges by developing and demonstrating the following core objectives:

(A) Critical Thinking Skills: to include creative thinking, innovation, inquiry, and analysis, evaluation and synthesis of information;

(B) Communication Skills: to include effective development, interpretation and expression of ideas through written, oral and visual communication;

(C) Empirical and Quantitative Skills: to include the manipulation and analysis of numerical data or observable facts resulting in informed conclusions;

(D) Teamwork: to include the ability to consider different points of view and to work effectively with others to support a shared purpose or goal;

(E) Personal Responsibility: to include the ability to connect choices, actions and consequences to ethical decision-making; and

(F) Social Responsibility: to include intercultural competence, knowledge of civic responsibility, and the ability to engage effectively in regional, national, and global communities.

(3) Foundational Component Areas with Content Descriptions, Core Objectives and Semester Credit Hour (SCH) Requirements. Each institution's core curriculum will be composed of courses that adhere to the content description, core objectives, and semester credit hour requirements for a specific component area. The foundational component areas are:

(A) Communication (6 SCH).

(i) Courses in this category focus on developing ideas and expressing them clearly, considering the effect of the message, fostering understanding, and building the skills needed to communicate persuasively.

(ii) Courses involve the command of oral, aural, written, and visual literacy skills that enable people to exchange messages appropriate to the subject, occasion, and audience.

(iii) The following four Core Objectives must be addressed in each course approved to fulfill this category requirement: Critical Thinking Skills, Communication Skills, Teamwork, and Personal Responsibility.

(B) Mathematics (3 SCH).

(i) Courses in this category focus on quantitative literacy in logic, patterns, and relationships.

(ii) Courses involve the understanding of key mathematical concepts and the application of appropriate quantitative tools to everyday experience.

(iii) The following three Core Objectives must be addressed in each course approved to fulfill this category requirement: Critical Thinking Skills, Communication Skills, and Empirical and Quantitative Skills.

(C) Life and Physical Sciences (6 SCH).

(i) Courses in this category focus on describing, explaining, and predicting natural phenomena using the scientific method.

(ii) Courses involve the understanding of interactions among natural phenomena and the implications of scientific principles on the physical world and on human experiences.

(iii) The following four Core Objectives must be addressed in each course approved to fulfill this category requirement: Critical Thinking Skills, Communication Skills, Empirical and Quantitative Skills, and Teamwork.

(D) Language, Philosophy, and Culture (3 SCH).

(i) Courses in this category focus on how ideas, values, beliefs, and other aspects of culture express and affect human experience.

(ii) Courses involve the exploration of ideas that foster aesthetic and intellectual creation in order to understand the human condition across cultures.

(iii) The following four Core Objectives must be addressed in each course approved to fulfill this category requirement: Critical Thinking Skills, Communication Skills, Personal Responsibility, and Social Responsibility.

(E) Creative Arts (3 SCH).

(i) Courses in this category focus on the appreciation and analysis of creative artifacts and works of the human imagination.

(ii) Courses involve the synthesis and interpretation of artistic expression and enable critical, creative, and innovative communication about works of art.

(iii) The following four Core Objectives must be addressed in each course approved to fulfill this category requirement: Critical Thinking Skills, Communication Skills, Teamwork, and Social Responsibility.

(F) American History (6 SCH).

(i) Courses in this category focus on the consideration of past events and ideas relative to the United States, with the option of including Texas History for a portion of this component area.

(ii) Courses involve the interaction among individuals, communities, states, the nation, and the world, considering how these interactions have contributed to the development of the United States and its global role.

(iii) The following four Core Objectives must be addressed in each course approved to fulfill this category requirement: Critical Thinking Skills, Communication Skills, Personal Responsibility, and Social Responsibility.

(G) Government/Political Science (6 SCH).

(i) Courses in this category focus on consideration of the Constitution of the United States and the constitutions of the states, with special emphasis on that of Texas.

(ii) Courses involve the analysis of governmental institutions, political behavior, civic engagement, and their political and philosophical foundations.

(iii) The following four Core Objectives must be addressed in each course approved to fulfill this category requirement: Critical Thinking Skills, Communication Skills, Personal Responsibility, and Social Responsibility.

(H) Social and Behavioral Sciences (3 SCH).

(i) Courses in this category focus on the application of empirical and scientific methods that contribute to the understanding of what makes us human.

(ii) Courses involve the exploration of behavior and interactions among individuals, groups, institutions, and events, examining their impact on the individual, society, and culture.

(iii) The following four Core Objectives must be addressed in each course approved to fulfill this category requirement: Critical Thinking Skills, Communication Skills, Empirical and Quantitative Skills, and Social Responsibility.

(4) Component Area Option (6 SCH).

(A) Except as provided in subparagraph (B) of this paragraph, each course designated to complete the Component Area Option must meet the definition and Core Objectives specified in one of the foundational component areas outlined in paragraph (3)(A) - (H) of this subsection.

(B) As an option for up to three (3) semester credit hours of the Component Area Option, an institution may certify that the course(s):

(i) Meet(s) the definition specified for one or more of the foundational component areas; and

(ii) Include(s) a minimum of three Core Objectives, including Critical Thinking Skills, Communication Skills, and one of the remaining Core Objectives of the institution's choice.

(C) For the purposes of gaining approval for or reporting a Component Area Option course under subparagraph (B) of this paragraph, an institution is not required to notify the Board of the specific foundational component area(s) and Core Objectives associated with the course(s).

(5) Applicability of Texas Core Curriculum.

(A) Any student who first enrolls in an institution of higher education following high school graduation in fall 2014 or later shall be subject to the current Texas Core Curriculum requirements.

(B) Any student who is admitted under the terms of the Academic Fresh Start program and who first enrolls under that admission in fall 2014 or later shall be subject to the current Texas Core Curriculum requirements.

(C) Any student who first enrolled in an institution of higher education prior to fall 2014 shall, after consultation with an academic advisor, have the choice to:

(i) complete the core curriculum requirements in effect in summer 2014; or

(ii) transition to the current core curriculum requirements, in which case, previously completed core curriculum courses shall be applied to the current core curriculum requirements under the same terms as those that apply to a student who transfers from one institution to another. The student shall then complete the remaining requirements under the current core curriculum.

(c) Transfer of Credit--Completed Core Curriculum. If a student successfully completes the 42 semester credit hour core curriculum at a Texas public institution of higher education, that block of courses must be substituted in transfer to any other Texas public institution of higher education for the receiving institution's core curriculum. A student shall receive academic credit for each of the courses transferred and may not be required to take additional core curriculum courses at the receiving institution.

(d) Concurrent Enrollment.

(1) A student concurrently enrolled at more than one institution of higher education shall follow the core curriculum require-

ments in effect for the institution at which the student is classified as a degree-seeking student.

(2) A student who is concurrently enrolled at more than one institution of higher education may be classified as a degree-seeking student at only one institution.

(3) If a student maintains continuous enrollment from a spring semester to the subsequent fall semester at an institution at which the student has declared to be seeking a degree, the student remains a degree-seeking student at that institution regardless of the student's enrollment during the intervening summer session(s) at another institution.

(e) Transfer of Credit--Core Curriculum Not Completed. Except as specified in subsection (f) of this section, a student who transfers from one institution of higher education to another without completing the core curriculum of the sending institution must receive academic credit within the core curriculum of the receiving institution for each of the courses that the student has successfully completed in the core curriculum of the sending institution. Following receipt of credit for these courses, the student may be required to satisfy the remaining course requirements in the core curriculum of the receiving institution.

(f) Satisfaction of Foundational Component Areas. Each student must meet the number of semester credit hours in each foundational component area; however, an institution receiving a student in transfer is not required to apply to the fulfillment of a foundational component area requirement semester credit hours beyond the number of semester credit hours specified in a foundational component area.

(g) A course may only apply to a single foundational component area. If the SCH for a course in a foundational component exceed the number of SCH allotted in that foundational component area, the excess SCH must either be applied to the Component Area Option or as part of the specific degree requirements, such that the additional SCH will not increase the number of required SCH to complete the degree.

(h) Transcripts. All undergraduate student transcripts should indicate whether a student has completed the core curriculum satisfactorily, and which courses satisfied a requirement of the institution's core curriculum. Identifying numbers recommended by the Texas Association of Collegiate Registrars and Admissions Officers (TACRAO) must identify each completed core curriculum course on students' transcripts, in order to indicate courses utilized to satisfy core curriculum foundational component area requirements as follows:

(1) Communication = 010;

(2) Mathematics = 020;

(3) Life and Physical Sciences = 030;

(4) Language, Philosophy and Culture = 040;

(5) Creative Arts = 050;

(6) American History = 060;

(7) Government/Political Science = 070;

(8) Social and Behavioral Sciences = 080; and

(9) Component Area Option = 090.

(i) Notice. Each institution must publish and make readily available to students its core curriculum requirements stated in terms consistent with the Texas Common Course Numbering System.

(j) Substitutions and Waivers. No institution or institutional representative may approve course substitutions or waivers of the institution's core curriculum requirements for any currently enrolled student, except as provided in subsection (k) of this section. For students

who transfer to a public institution from a college or university that is not a Texas public institution of higher education, courses the student completed prior to admission should be evaluated to determine whether they apply to one of the institution's core curriculum component areas. Only those courses the institution has accepted for transfer that can demonstrate fulfillment of the foundational component area content descriptions, core objectives, and semester credit hours required for the appropriate foundational component area or areas should be applied to the institution's core curriculum.

(k) Accommodations.

(1) An institution of higher education may, on a case-by-case basis, approve an accommodation of a specific core curriculum foundational component area requirement as described in paragraph (3) of this subsection for a student with a medically-documented learning disability, including but not limited to dyslexia, dysgraphia, or Asperger's Syndrome.

(2) Accommodation shall not include a waiver or exemption of any core curriculum requirement.

(3) An institution may approve for core curriculum applicability a course the institution offers but that is not approved as a part of the institution's core curriculum, if the institution demonstrates that the course has been approved to fulfill the same specific foundational component area requirement at five or more other Texas public colleges or universities. The Texas Common Course Numbering System course number may be used as evidence of the suitability of the course under this subsection.

§4.29. Core Curricula Larger than 42 Semester Credit Hours.

No institution may adopt a core curriculum of more than 42 semester credit hours.

§4.30. Institutional Assessment and Reporting.

Each public institution of higher education shall evaluate its core curriculum through the assessment of the core objectives on an ongoing basis, reporting the results of the assessment to the Board every ten years on the schedule that accords with the institution's accreditation reaffirmation self-study report to the Southern Association of Colleges and Schools or its successor. The evaluation and report must include:

(1) a description of the assessment process for each of the six core objectives;

(2) an explanation of measures, methodology, frequency and the timeline of assessment activities;

(3) the criteria and/or targets used to benchmark the attainment of the six core objectives;

(4) the results of the assessment, including evidence of the level of attainment targeted and achieved for each of the six core objectives;

(5) an analysis of the results, including an interpretation of assessment information; and

(6) any actions planned, including how the results and analysis of the assessment process will be used to improve student learning and achievement.

§4.31. Implementation and Revision of Core Curricula.

In offering its Board-approved core curriculum, an institution of higher education must list only those courses that have been approved by the Board as compliant with the Texas Core Curriculum.

(1) Implementation and initial approval of core curricula.

(A) Each public institution of higher education must submit its proposed core curriculum to the Board for staff review and approval by November 30, 2013.

(B) An institution shall follow the procedures posted on the Board's website regarding the implementation and approval of the initial core curricula.

(C) The institution will receive a letter from Board staff giving notice of approval of the initial core curriculum and/or indicating any courses that do not meet provisions of the core curriculum.

(D) Upon receiving an approval letter from Board staff, the institution will document the approved core curriculum in institutional publications.

(2) Revision of Existing Approved Core Curricula.

(A) An institution of higher education may request changes to its core curriculum annually. One comprehensive request may be submitted each academic year, on a schedule that suits the institution's needs.

(B) An institution should follow the procedures posted on the Board's website to modify its core curriculum by adding or deleting courses and must provide information to justify the requested changes.

(C) The institution will receive a letter from Board staff giving notice of approval of the proposed changes and/or indicating any changes that do not meet provisions of the current core curriculum, and identifying an effective date for any approved change(s).

(D) Upon receiving an approval letter from Board staff, the institution shall make any required changes to its core curriculum and will document those changes in institutional publications.

§4.32. Field of Study Curricula.

(a) In accordance with Texas Education Code, §61.823, the Board is authorized to approve Field of Study Curricula for certain fields of study/academic disciplines. The Board delegates to the Commissioner development of Field of Study Curricula with the assistance of the Texas Transfer Advisory Committee, as defined by Title 19, Subchapter V, Chapter 1. The Texas Transfer Advisory Committee is responsible for convening Discipline-Specific Subcommittees. Discipline-Specific Subcommittees shall provide subject-matter expertise to the Texas Transfer Advisory Committee in developing Field of Study Curricula in specific disciplines.

(b) A complete Field of Study Curriculum will consist of the following components:

(1) Selected Texas Core Curriculum courses.

(A) Selected Texas Core Curriculum courses relevant to the discipline may be included in the Field of Study Curriculum for that discipline.

(B) Discipline-Specific Subcommittees are responsible for identifying discipline-relevant courses from a list of all Texas Core Curriculum courses provided by the Board that may be used to satisfy core curriculum requirements. Each Discipline-Specific Subcommittee shall recommend identified Texas Core Curriculum courses to the Texas Transfer Advisory Committee.

(C) The Texas Transfer Advisory Committee shall recommend the Texas Core Curriculum courses selected for inclusion in a Field of Study Curriculum to the Commissioner who may approve or deny the inclusion of the recommended Texas Core Curriculum courses in the Field of Study Curriculum.

(D) Each institution of higher education must publish on its public website in manner easily accessed by students the Texas Core Curriculum courses selected for inclusion in a Field of Study Curriculum with the cross-listed TCCNS course number.

(2) Discipline Foundation Courses (DFC).

(A) Discipline Foundation Courses are a set of courses within a major course of study, consisting of up to twelve (12) semester credit hours, selected for inclusion in a Field of Study Curriculum for that discipline. These courses will apply toward undergraduate degrees within the Field of Study Curriculum at all Texas public institutions that offer a corresponding major or track, except for those institutions approved to require alternative Discipline Foundation Courses under Title 19, Chapter 4, Subchapter B, §4.35.

(B) Each receiving institution must apply the semester credit hours a student has completed in a Discipline Foundation Course upon the student's transfer into a corresponding major or track. The sending institution must indicate Discipline Foundation Courses on the transfer student's transcript.

(C) Discipline-Specific Subcommittees are responsible for identifying discipline-relevant courses for inclusion on the Discipline Foundation Courses list. The Discipline-Specific Subcommittees must select from courses listed in the Lower-Division Academic Course Guide Manual. Each Discipline-Specific Subcommittee shall report this course list to the Texas Transfer Advisory Committee.

(D) The Texas Transfer Advisory Committee shall recommend the Discipline Foundation Courses selected by the Discipline Specific Subcommittees for inclusion in a Field of Study Curriculum to the Commissioner. The Commissioner may approve or deny the Discipline Foundation Courses recommended by the Texas Transfer Advisory Committee for inclusion in a Field of Study Curriculum.

(E) General academic teaching institutions may submit a request for an alternative set of Discipline Foundation Courses for a specific program of study according to the process in Title 19, Chapter 4, Subchapter B, §4.35.

(F) Each institution of higher education must report to the Coordinating Board and publish on its public website in manner easily accessed by students the Discipline Foundation Courses with the cross-listed TCCNS course numbers for each course.

(G) The Commissioner must publish the list of Discipline Foundation Courses for each approved Field of Study Curriculum on the agency website with the cross-listed TCCNS course number for each course.

(3) Directed Electives.

(A) Directed Electives are a set of courses that apply toward a major course of study within a Field of Study Curriculum at a specific general academic teaching institution.

(B) The Directed Electives for each Field of Study Curriculum must consist of at least six (6) semester credit hours. The Directed Electives and Discipline Foundation Courses components combined may not exceed eighteen (18) semester credit hours in total.

(C) Faculty from each general academic teaching institution may select a list of Directed Electives for the major course of study corresponding to each Field of Study curriculum. Faculty must select the Directed Electives only from courses listed in the Lower-Division Academic Course Guide Manual.

(D) The Chief Academic Officer of the institution must submit the list of Directed Electives for inclusion in a Field of Study Curriculum with the cross-listed TCCNS course number to the Com-

missioner who shall publish the list of each institution's Directed Electives for each approved Field of Study Curriculum on the agency website with the cross-listed TCCNS course numbers for each course.

(E) Each institution of higher education must publish on its public website in manner easily accessed by students Directed Electives with the cross-listed TCCNS course number.

(c) A receiving general academic teaching institution shall determine whether a transfer student is Field of Study Curriculum complete upon the transfer student's enrollment. If a student successfully completes an approved Field of Study Curriculum, a general academic teaching institution must substitute that block of courses for the receiving institution's lower-division requirements for the degree program for the corresponding Field of Study Curriculum into which the student transfers. Upon enrollment, the general academic teaching institution must grant the student full academic credit toward the degree program for the block of courses transferred.

(d) If a student transfers from one institution of higher education to another without completing the Field of Study Curriculum, the receiving institution must grant academic credit in the Field of Study Curriculum for each of the courses that the student has successfully completed in the Field of Study Curriculum of the sending institution. After granting the student credit for these courses, the institution may require the student to satisfy remaining course requirements in the current Field of Study Curriculum of the receiving general academic teaching institution, or to complete additional requirements in the receiving institution's program, as long as those requirements do not duplicate course content the student previously completed through the Field of Study Curriculum.

(e) Each institution must note the selected Texas Core Curriculum component and Discipline Foundation Courses components of the Field of Study Curriculum courses on student transcripts as recommended by the Texas Association of Collegiate Registrars and Admissions Officers (TACRAO).

(f) The Board shall publish on its website the components of each Field of Study Curriculum, including the selected Texas Core Curriculum courses, the Discipline Foundation Courses, and the Directed Electives of each general academic teaching institution.

(g) Effective Dates.

(1) Unless repealed or replaced, Field of Study Curricula in effect as of March 1, 2021 will remain in effect until August 31, 2025, upon which date those Field of Study Curricula expire by operation of law. For Field of Study Curricula that are repealed, replaced, or expire by operation of law, the following transition or "teach out" provisions apply:

(A) A student who has earned credit on or before August 31, 2022, in one or more courses included in a Field of Study Curriculum that exists on March 1, 2021, is entitled to complete that Field of Study Curriculum on or before August 31, 2025.

(B) A student who has not, on or before August 31, 2022, earned any course credit toward a Field of Study Curriculum in effect on March 1, 2021, is not entitled to transfer credit for that Field of Study Curriculum.

(2) After an institution's Spring 2026 enrollment deadline, a receiving institution is not required to transfer a complete Field of Study Curricula that expired prior to that date. A receiving institution may, at its discretion, choose to accept a complete or partial Field of Study Curricula that has expired.

§4.33. Approval of Field of Study Curricula.

(a) In accordance with Title 19, Chapter 1, Subchapter V, §1.239, the Texas Transfer Advisory Committee shall review relevant data, coordinate a schedule of discipline-specific course reviews, and recommend Field of Study Curricula to the Commissioner and Board. In creating the schedule for development of Field of Study Curricula, the Texas Transfer Advisory Committee shall prioritize the factors set out in Chapter 1, Subchapter V, §1.239(a)(4).

(b) At the direction of the Texas Transfer Advisory Committee and in accordance with Title 19, Subchapter V, Chapter 1 §1.242, a Discipline-Specific Subcommittee shall review institutions' current program requirements and data about transfer students' course-taking and success in that discipline and recommend to the Texas Transfer Advisory Committee courses required in the Field of Study Curriculum for that major.

(c) The Texas Transfer Advisory Committee may consider for recommendation to the Commissioner Field of Study Curricula recommended by Discipline-Specific Subcommittees and any request by an institution for alternative Discipline Foundation Courses as described in §4.34(d) - (k).

(d) The Texas Transfer Advisory Committee's approval of a Field of Study Curriculum requires approval by a supermajority vote of two-thirds of the general academic teaching institution representatives who are present and voting and two-thirds of the public junior college representatives who are present and voting.

(1) If the Texas Transfer Advisory Committee fails to approve a Field of Study Curriculum, the Texas Transfer Advisory Committee may vote by a simple majority of all members present and voting to request that a Discipline Specific Subcommittee reconvene in an attempt to address and concerns identified by the Texas Transfer Advisory Committee.

(2) Upon final recommendation of the Discipline-Specific Subcommittee, the Texas Transfer Advisory Committee may reconsider a vote to recommend to the Commissioner approval of a Field of Study Curriculum.

(e) The Commissioner may approve or deny a Field of Study Curriculum recommended by the Texas Transfer Advisory Committee.

(f) Before making a final determination whether to approve or deny a Field of Study Curriculum recommended by the Texas Transfer Advisory Committee, the Commissioner shall provide for informal notice and comment by publishing each proposed Field of Study Curriculum in the *Texas Register* In Addition section for a minimum of 30 days. The Commissioner shall consider any comments prior to approving or denying the Field of Study Curriculum. The Commissioner's decision is final and may not be appealed.

(g) The Commissioner shall report to the Board at each quarterly meeting on each Field of Study Curriculum the Commissioner approved since the last Board meeting.

(h) The Commissioner shall annually provide a written report to the Texas Transfer Advisory Committee members with information on all approved Field of Study Curricula.

§4.34. Revision of Approved Field of Study Curricula.

(a) The Commissioner may modify or revise a Field of Study Curriculum when a need for such a revision is identified.

(b) Any Chief Academic Officer of an institution that offers a corresponding major or track may request a modification or revision to an approved Field of Study Curriculum. The Texas Transfer Advisory Committee shall evaluate institutions' proposed modifications or revisions to Field of Study Curricula and may refer the proposed revisions

to Discipline-Specific Subcommittees prior to making a final recommendation to the Commissioner.

§4.35. Petition for Alternative Discipline Foundation Courses.

(a) An institution may request the Commissioner to approve alternative Discipline Foundation Courses based upon the following criteria:

(1) The institution demonstrates that approved Discipline Foundation Courses significantly vary from the institution's lower-division curriculum for a given major; or

(2) The institution demonstrates based on evidence that students completing approved Discipline Foundation Courses are not successful in the institution's upper-division curriculum.

(b) The Chief Academic Officer of an institution that requests alternative Discipline Foundation Courses based on the criteria in this rule must submit a petition for alternative Discipline Foundation Courses in writing to the Commissioner, along with a written, evidence-based rationale. The Commissioner shall promptly notify the Texas Transfer Advisory Committee of the request for alternative Discipline Foundation Courses.

(c) Upon notification by the Commissioner, the Texas Transfer Advisory Committee shall evaluate the institution's request for alternative Discipline Foundation Courses based upon the number of students affected, how the alternative Discipline Foundation Courses would impact transfer, and any other criteria as decided by a majority vote of public junior college representative members and general academic teaching institution members present and voting.

(d) After review of the criteria, the Texas Transfer Advisory Committee shall vote on whether to recommend the alternative DFC to the Commissioner. A majority of the public junior college sector representatives and a majority of the general academic teaching institution sector representatives who are present and voting must both vote in favor for the alternative DFC to advance to the Commissioner for approval.

(e) No more than 30 days after its vote on the petition, the Texas Transfer Advisory Committee shall provide a written report to the Commissioner explaining the rationale for the action taken by the Texas Transfer Advisory Committee on the request for alternative Discipline Foundation Courses.

(f) No more than 30 days after receiving the written report from the Texas Transfer Advisory Committee, the Commissioner shall consider the Texas Transfer Advisory Committee report and make a final determination whether to approve the alternative DFC. The Commissioner's decision is final and may not be appealed.

(g) The Commissioner shall inform the Board at the next quarterly meeting of all decisions to approve or deny petitions for alternative DFC.

(h) The Coordinating Board shall maintain a public website that includes a list of all alternative Discipline Foundation Courses approved by the Commissioner.

§4.36. Evaluation of Field of Study Curricula.

(a) Every five years, following the same timetable as the regular accreditation reports sent to the Southern Association of Colleges and Schools Commission on Colleges or its successor, each public institution of higher education shall review and evaluate its policies and practices regarding the acceptance and application of credit earned as part of a Board-approved Field of Study Curriculum, and report the results of that evaluation to the Board. The evaluation should include:

(1) the extent to which the institution's compliance with the acceptance of transfer credit through Field of Study Curricula is being achieved;

(2) the extent to which the institution's application to the appropriate degree program of credit earned as part of a Board-approved Field of Study Curriculum facilitates academic success; and

(3) the effectiveness of Field of Study Curricula in the retention and graduation of transfer students in those degree programs that have Board-approved Field of Study Curricula.

(b) Each institution's evaluation report must contain at least the following:

(1) a listing of the institution's degree programs or tracks that have Board-approved Field of Study Curricula;

(2) a description of the institution's policies and practices regarding applicable Board-approved field of study curricula, including admission-point evaluation of transfer credit, advising practices (including catalogue and website information on existing Field of Study Curricula and advising/counseling practices for enrolled students), and transcribing practices to show Field of Study Curriculum participation and completion; and

(3) a chart or table showing the number of total transfer students for each degree program that has a Board-approved Field of Study Curriculum, for each of the last five years; the chart should indicate year-by-year the percentage of students who transferred having completed the applicable Field of Study Curriculum, the percentage of students who transferred without having completed the applicable Field of Study Curriculum, and any information about progress toward graduation or graduation rates that can compare transfer student performance with non-transfer student performance during the evaluation period.

(c) The Texas Transfer Advisory Committee shall review all Field of Study Curricula approved on or after March 1, 2021, every four years from their date of Board approval. In developing a schedule of review as set out in Chapter 1, Subchapter V, §1.239, the Texas Transfer Advisory Committee shall consider reasonable factors, including prioritizing development of frameworks in high enrollment and high need disciplines. The Texas Transfer Advisory Committee may review a Field of Study Curricula more frequently if the Commissioner or Texas Transfer Advisory Committee identifies a need, including but not limited to, discipline changes of subject matter content, emerging and/or changing technologies or business/industry standards, changes in credentialing and/licensure requirements, or changes in programmatic accreditation.

§4.37. Texas Common Course Numbering System.

(a) Each institution shall include the applicable course numbers from the Texas Common Course Numbering System (TCCNS) in its printed and electronic catalogs, course listings, and any other appropriate informational resources, and in the application of the provisions of this subchapter. Institutions that do not use the TCCNS taxonomy as their sole means of course numbering shall publish the following information in their printed and electronic catalogs, course listings, and any other appropriate informational resources:

(1) The TCCNS prefix and number must be displayed immediately adjacent to the institutional course prefix and number (e.g. ENG 101 (ENGL 1301)) at the beginning of each course description; and

(2) The printed and electronic catalogs shall include a chart, table, or matrix, alphabetized by common course prefix, listing all common courses taught at the institution by both the common and

local course number. For printed catalogs, the chart, table, or matrix should be referenced in a table of contents and/or a subject index.

(b) Each institutional catalog shall include an explanation of the TCCNS and the significance of TCCNS courses for transfer purposes.

(c) Each institution shall comply with the requirements of subsections (a) and (b) of this section no later than September 1, 2005.

(d) For good cause, the Commissioner may approve an exemption from the requirements of this section.

§4.38. Undergraduate Academic Certificate.

(a) Institutions of higher education are encouraged to develop undergraduate academic certificate programs of less than degree length. These rules are intended to provide a streamlined process for approval of these certificates.

(b) Undergraduate academic certificates may be awarded upon the completion of:

(1) the Board-approved approved core curriculum of the institution;

(2) a Board-approved Field of Study Curriculum; or

(3) a Board-approved statewide articulated transfer curriculum of less than degree length.

(c) Undergraduate academic certificates which meet one of the criteria in subsection (b) of this section require Board notification and are automatically approved.

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

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Nichole Bunker-Henderson

General Counsel

Texas Higher Education Coordinating Board

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For further information, please call: (512) 427-6206



CHAPTER 27. FIELDS OF STUDY

The Texas Higher Education Coordinating Board (Coordinating Board) proposes the repeal of Texas Administrative Code, Title 19, Part 1, Chapter 27, Subchapters B-OO, §§27.121 - 27.907, concerning Fields of Study. Specifically, the repeal of Chapter 27 is in anticipation of establishing new Subchapter V rules in Title 19, Chapter 1, creating the Texas Transfer Advisory Committee and discipline specific subcommittees as part of the implementation of Texas Education Code §61.823.

The Board proposes the repeal of all of Chapter 27 as part of a comprehensive revision of the Texas transfer framework that will be adopted in new Chapter 1, Subchapter V, Texas Transfer Advisory Committee and Discipline Specific Subcommittees and amended Chapter 4, Subchapter B, TRANSFER OF CREDIT, CORE CURRICULUM AND FIELD OF STUDY CURRICULA. These adoptions and amendments are proposed concurrently with this proposed repeal. The elimination of the Advisory Committees set out in Subchapters B-OO is necessary to implement the new framework proposed in Chapter 1, Subchapter V. New Chapter 1, Subchapter V will create a structure under which

the Texas Transfer Advisory Committee will advise the Commissioner and Board and will utilize discipline specific subcommittees to meet the requirements of Texas Education Code §61.823.

Dr. Stacey Silverman, Assistant Commissioner for Academic Quality and Workforce, has determined that for the first five years the repeal is in effect there would be no fiscal implications for state or local governments as a result of repealing the rules and replacing them with the proposed new Subchapter V rules in Title 19, Chapter 1.

There is no impact on small businesses, micro businesses, or rural communities. There is no anticipated impact on local employment.

Dr. Silverman has also determined that for each year of the first five years after the repeal of the rules the public benefit anticipated as a result of replacing Chapter 27 with Chapter 1, Subchapter V, will be greater clarity in the transfer process and long-term reduced cost of education for students who enter higher education at a two-year institution. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Government Growth Impact Statement

- (1) the rules will not create or eliminate a government program;
- (2) implementation of the rules will not require the creation or elimination of employee positions;
- (3) implementation of the rules will not require an increase or decrease in future legislative appropriations to the agency;
- (4) the rules will not require an increase or decrease in fees paid to the agency;
- (5) the rules will not create a new rule but will be replaced by proposed new Subchapter V rules in Title 19, Chapter 1;
- (6) the rules will not limit existing rules;
- (7) the rules will not change the number of individuals subject to the rules; and
- (8) the rules have no affect on the state's economy.

Comments on the proposed repeal may be submitted to Stacey Silverman, Ph.D., Assistant Commissioner, Academic Quality and Workforce, Texas Higher Education Coordinating Board, P.O. Box 12788, Austin, Texas, 78711 or via email at AQW@highered.texas.gov. Comments will be accepted for thirty days following publication of the proposal in the *Texas Register*.

SUBCHAPTER B. MUSIC FIELD OF STUDY ADVISORY COMMITTEE

19 TAC §§27.121 - 27.127

The repeal of Chapter 27 is proposed under Texas Education Code §§61.821 and 61.823, which provide for Field of Study Curricula and authorize the Coordinating Board to form advisory committees to develop Field of Study Curricula.

The proposed repeal affects Texas Education Code, §§61.059, 61.0593, 61.0670, 61.821, 61.823, 61.824, and 61.828. The propose repeal also affects Title 19, Chapter 1, Chapter 4, Subchapter B.

§27.121. *Authority and Specific Purposes of the Music Field of Study Advisory Committee.*

§27.122. *Definitions.*

§27.123. *Committee Membership and Officers.*

§27.124. *Duration.*

§27.125. *Meetings.*

§27.126. *Tasks Assigned to the Committee.*

§27.127. *Report to the Board; Evaluation of Committee Costs and Effectiveness.*

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

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SUBCHAPTER C. NURSING FIELD OF STUDY ADVISORY COMMITTEE

19 TAC §§27.141 - 27.147

The repeal of Chapter 27 is proposed under Texas Education Code §§61.821 and 61.823, which provide for Field of Study curricula and authorize the Coordinating Board to form advisory committees to develop Field of Study curricula.

The proposed repeal affects Texas Education Code, §§61.059, 61.0593, 61.0670, 61.821, 61.823, 61.824, and 61.828. The propose repeal also affects Title 19, Chapter 1, Chapter 4, Subchapter B.

§27.141. *Authority and Specific Purposes of the Nursing Field of Study Advisory Committee.*

§27.142. *Definitions.*

§27.143. *Committee Membership and Officers.*

§27.144. *Duration.*

§27.145. *Meetings.*

§27.146. *Tasks Assigned to the Committee.*

§27.147. *Report to the Board; Evaluation of Committee Costs and Effectiveness*

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

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SUBCHAPTER D. BUSINESS FIELD OF STUDY ADVISORY COMMITTEE

19 TAC §§27.161 - 27.167

The repeal of Chapter 27 is proposed under Texas Education Code §§61.821 and 61.823, which provide for Field of Study curricula and authorize the Coordinating Board to form advisory committees to develop Field of Study curricula.

The proposed repeal affects Texas Education Code, §§61.059, 61.0593, 61.0670, 61.821, 61.823, 61.824, and 61.828. The propose repeal also affects Title 19, Chapter 1, Chapter 4, Subchapter B.

§27.161. *Authority and Specific Purposes of the Business Field of Study Advisory Committee.*

§27.162. *Definitions.*

§27.163. *Committee Membership and Officers.*

§27.164. *Duration.*

§27.165. *Meetings.*

§27.166. *Tasks Assigned to the Committee.*

§27.167. *Report to the Board; Evaluation of Committee Costs and Effectiveness.*

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SUBCHAPTER E. COMMUNICATIONS FIELD OF STUDY ADVISORY COMMITTEE

19 TAC §§27.181 - 27.187

The repeal of Chapter 27 is proposed under Texas Education Code §§61.821 and 61.823, which provide for Field of Study curricula and authorize the Coordinating Board to form advisory committees to develop Field of Study curricula.

The proposed repeal affects Texas Education Code, §§61.059, 61.0593, 61.0670, 61.821, 61.823, 61.824, and 61.828. The propose repeal also affects Title 19, Chapter 1, Chapter 4, Subchapter B.

§27.181. *Authority and Specific Purposes of the Communications Field of Study Advisory Committee.*

§27.182. *Definitions.*

§27.183. *Committee Membership and Officers.*

§27.184. *Duration.*

§27.185. *Meetings.*

§27.186. *Tasks Assigned to the Committee.*

§27.187. *Report to the Board; Evaluation of Committee Costs and Effectiveness.*

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SUBCHAPTER F. ENGINEERING TECHNOLOGY FIELD OF STUDY ADVISORY COMMITTEE

19 TAC §§27.201 - 27.207

The repeal of Chapter 27 is proposed under Texas Education Code §§61.821 and 61.823, which provide for Field of Study curricula and authorize the Coordinating Board to form advisory committees to develop Field of Study curricula.

The proposed repeal affects Texas Education Code, §§61.059, 61.0593, 61.0670, 61.821, 61.823, 61.824, and 61.828. The propose repeal also affects Title 19, Chapter 1, Chapter 4, Subchapter B.

§27.201. *Authority and Specific Purposes of the Engineering Technology Field of Study Advisory Committee.*

§27.202. *Definitions.*

§27.203. *Committee Membership and Officers.*

§27.204. *Duration.*

§27.205. *Meetings.*

§27.206. *Tasks Assigned to the Committee.*

§27.207. *Report to the Board; Evaluation of Committee Costs and Effectiveness.*

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SUBCHAPTER G. MEXICAN AMERICAN STUDIES FIELD OF STUDY ADVISORY COMMITTEE

19 TAC §§27.221 - 27.227

The repeal of Chapter 27 is proposed under Texas Education Code §§61.821 and 61.823, which provide for Field of Study curricula and authorize the Coordinating Board to form advisory committees to develop Field of Study curricula.

The proposed repeal affects Texas Education Code, §§61.059, 61.0593, 61.0670, 61.821, 61.823, 61.824, and 61.828. The propose repeal also affects Title 19, Chapter 1, Chapter 4, Subchapter B.

§27.221. *Authority and Specific Purposes of the Mexican American Studies Field of Study Advisory Committee.*

§27.222. *Definitions.*

- §27.223. *Committee Membership and Officers.*
- §27.224. *Duration.*
- §27.225. *Meetings.*
- §27.226. *Tasks Assigned to the Committee.*
- §27.227. *Report to the Board; Evaluation of Committee Costs and Effectiveness.*

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SUBCHAPTER H. ARCHITECTURE FIELD OF STUDY ADVISORY COMMITTEE

19 TAC §§27.241 - 27.247

The repeal of Chapter 27 is proposed under Texas Education Code §§61.821 and 61.823, which provide for Field of Study curricula and authorize the Coordinating Board to form advisory committees to develop Field of Study curricula.

The proposed repeal affects Texas Education Code, §§61.059, 61.0593, 61.0670, 61.821, 61.823, 61.824, and 61.828. The propose repeal also affects Title 19, Chapter 1, Chapter 4, Subchapter B.

- §27.241. *Authority and Specific Purposes of the Architecture Field of Study Advisory Committee.*
- §27.242. *Definitions.*
- §27.243. *Committee Membership and Officers.*
- §27.244. *Duration.*
- §27.245. *Meetings.*
- §27.246. *Tasks Assigned to the Committee.*
- §27.247. *Report to the Board; Evaluation of Committee Costs and Effectiveness.*

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SUBCHAPTER I. COMPUTER SCIENCE/INFORMATION TECHNOLOGY FIELD OF STUDY ADVISORY COMMITTEE

19 TAC §§27.261 - 27.267

The repeal of Chapter 27 is proposed under Texas Education Code §§61.821 and 61.823, which provide for Field of Study curricula and authorize the Coordinating Board to form advisory committees to develop Field of Study curricula.

The proposed repeal affects Texas Education Code, §§61.059, 61.0593, 61.0670, 61.821, 61.823, 61.824, and 61.828. The propose repeal also affects Title 19, Chapter 1, Chapter 4, Subchapter B.

- §27.261. *Authority and Specific Purposes of the Computer Science/information Technology Field of Study Advisory Committee.*
- §27.262. *Definitions.*
- §27.263. *Committee Membership and Officers.*
- §27.264. *Duration.*
- §27.265. *Meetings.*
- §27.266. *Tasks Assigned to the Committee.*
- §27.267. *Report to the Board; Evaluation of Committee Costs and Effectiveness.*

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SUBCHAPTER J. CRIMINAL JUSTICE FIELD OF STUDY ADVISORY COMMITTEE

19 TAC §§27.281 - 27.287

The repeal of Chapter 27 is proposed under Texas Education Code §§61.821 and 61.823, which provide for Field of Study curricula and authorize the Coordinating Board to form advisory committees to develop Field of Study curricula.

The proposed repeal affects Texas Education Code, §§61.059, 61.0593, 61.0670, 61.821, 61.823, 61.824, and 61.828. The propose repeal also affects Title 19, Chapter 1, Chapter 4, Subchapter B.

- §27.281. *Authority and Specific Purposes of the Criminal Justice Field of Study Advisory Committee.*
- §27.282. *Definitions.*
- §27.283. *Committee Membership and Officers.*
- §27.284. *Duration.*
- §27.285. *Meetings.*
- §27.286. *Tasks Assigned to the Committee.*
- §27.287. *Report to the Board; Evaluation of Committee Costs and Effectiveness.*

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SUBCHAPTER K. PERFORMING ARTS/DRAMA FIELD OF STUDY ADVISORY COMMITTEE

19 TAC §§27.301 - 27.307

The repeal of Chapter 27 is proposed under Texas Education Code §§61.821 and 61.823, which provide for Field of Study curricula and authorize the Coordinating Board to form advisory committees to develop Field of Study curricula.

The proposed repeal affects Texas Education Code, §§61.059, 61.0593, 61.0670, 61.821, 61.823, 61.824, and 61.828. The propose repeal also affects Title 19, Chapter 1, Chapter 4, Subchapter B.

§27.301. Authority and Specific Purposes of the Performing Arts/Drama Field of Study Advisory Committee.

§27.302. Definitions.

§27.303. Committee Membership and Officers.

§27.304. Duration.

§27.305. Meetings.

§27.306. Tasks Assigned to the Committee.

§27.307. Report to the Board; Evaluation of Committee Costs and Effectiveness.

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SUBCHAPTER L. MULTI AND INTERDIS- CIPLINARY STUDIES FIELD OF STUDY ADVISORY COMMITTEE

19 TAC §§27.321 - 27.327

The repeal of Chapter 27 is proposed under Texas Education Code §§61.821 and 61.823, which provide for Field of Study curricula and authorize the Coordinating Board to form advisory committees to develop Field of Study curricula.

The proposed repeal affects Texas Education Code, §§61.059, 61.0593, 61.0670, 61.821, 61.823, 61.824, and 61.828. The propose repeal also affects Title 19, Chapter 1, Chapter 4, Subchapter B.

§27.321. Authority and Specific Purposes of the Multi and Interdisciplinary Studies Field of Study Advisory Committee.

§27.322. Definitions.

§27.323. Committee Membership and Officers.

§27.324. Duration.

§27.325. Meetings.

§27.326. Tasks Assigned to the Committee.

§27.327. Report to the Board; Evaluation of Committee Costs and Effectiveness.

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SUBCHAPTER M. GENERAL PSYCHOLOGY FIELD OF STUDY ADVISORY COMMITTEE

19 TAC §§27.341 - 27.347

The repeal of Chapter 27 is proposed under Texas Education Code §§61.821 and 61.823, which provide for Field of Study curricula and authorize the Coordinating Board to form advisory committees to develop Field of Study curricula.

The proposed repeal affects Texas Education Code, §§61.059, 61.0593, 61.0670, 61.821, 61.823, 61.824, and 61.828. The propose repeal also affects Title 19, Chapter 1, Chapter 4, Subchapter B.

§27.341. Authority and Specific Purposes of the General Psychology Field of Study Advisory Committee.

§27.342. Definitions.

§27.343. Committee Membership and Officers.

§27.344. Duration.

§27.345. Meetings.

§27.346. Tasks Assigned to the Committee.

§27.347. Report to the Board; Evaluation of Committee Costs and Effectiveness.

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SUBCHAPTER N. BIOLOGY FIELD OF STUDY ADVISORY COMMITTEE

19 TAC §§27.361 - 27.367

The repeal of Chapter 27 is proposed under Texas Education Code §§61.821 and 61.823, which provide for Field of Study curricula and authorize the Coordinating Board to form advisory committees to develop Field of Study curricula.

The proposed repeal affects Texas Education Code, §§61.059, 61.0593, 61.0670, 61.821, 61.823, 61.824, and 61.828. The propose repeal also affects Title 19, Chapter 1, Chapter 4, Subchapter B.

§27.361. *Authority and Specific Purposes of the Biology Field of Study Advisory Committee.*

§27.362. *Definitions.*

§27.363. *Committee Membership and Officers.*

§27.364. *Duration.*

§27.365. *Meetings.*

§27.366. *Tasks Assigned to the Committee.*

§27.367. *Report to the Board; Evaluation of Committee Costs and Effectiveness.*

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SUBCHAPTER O. ACCOUNTING FIELD OF STUDY ADVISORY COMMITTEE

19 TAC §§27.381 - 27.387

The repeal of Chapter 27 is proposed under Texas Education Code §§61.821 and 61.823, which provide for Field of Study curricula and authorize the Coordinating Board to form advisory committees to develop Field of Study curricula.

The proposed repeal affects Texas Education Code, §§61.059, 61.0593, 61.0670, 61.821, 61.823, 61.824, and 61.828. The propose repeal also affects Title 19, Chapter 1, Chapter 4, Subchapter B.

§27.381. *Authority and Specific Purposes of the Accounting Field of Study Advisory Committee.*

§27.382. *Definitions.*

§27.383. *Committee Membership and Officers.*

§27.384. *Duration.*

§27.385. *Meetings.*

§27.386. *Tasks Assigned to the Committee.*

§27.387. *Report to the Board; Evaluation of Committee Costs and Effectiveness.*

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SUBCHAPTER P. KINESIOLOGY AND EXERCISE SCIENCE FIELD OF STUDY ADVISORY COMMITTEE

19 TAC §§27.401 - 27.407

The repeal of Chapter 27 is proposed under Texas Education Code §§61.821 and 61.823, which provide for Field of Study curricula and authorize the Coordinating Board to form advisory committees to develop Field of Study curricula.

The proposed repeal affects Texas Education Code, §§61.059, 61.0593, 61.0670, 61.821, 61.823, 61.824, and 61.828. The propose repeal also affects Title 19, Chapter 1, Chapter 4, Subchapter B.

§27.401. *Authority and Specific Purposes of the Kinesiology and Exercise Science Field of Study Advisory Committee.*

§27.402. *Definitions.*

§27.403. *Committee Membership and Officers.*

§27.404. *Duration.*

§27.405. *Meetings.*

§27.406. *Tasks Assigned to the Committee.*

§27.407. *Report to the Board; Evaluation of Committee Costs and Effectiveness.*

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SUBCHAPTER Q. DANCE FIELD OF STUDY ADVISORY COMMITTEE

19 TAC §§27.421 - 27.427

The repeal of Chapter 27 is proposed under Texas Education Code §§61.821 and 61.823, which provide for Field of Study curricula and authorize the Coordinating Board to form advisory committees to develop Field of Study curricula.

The proposed repeal affects Texas Education Code, §§61.059, 61.0593, 61.0670, 61.821, 61.823, 61.824, and 61.828. The propose repeal also affects Title 19, Chapter 1, Chapter 4, Subchapter B.

§27.421. *Authority and Specific Purposes of the Dance Field of Study Advisory Committee.*

§27.422. *Definitions.*

§27.423. *Committee Membership and Officers.*

§27.424. *Duration.*

§27.425. *Meetings.*

§27.426. *Tasks Assigned to the Committee.*

§27.427. *Report to the Board; Evaluation of Committee Costs and Effectiveness.*

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SUBCHAPTER R. FINANCE FIELD OF STUDY ADVISORY COMMITTEE

19 TAC §§27.441 - 27.447

The repeal of Chapter 27 is proposed under Texas Education Code §§61.821 and 61.823, which provide for Field of Study curricula and authorize the Coordinating Board to form advisory committees to develop Field of Study curricula.

The proposed repeal affects Texas Education Code, §§61.059, 61.0593, 61.0670, 61.821, 61.823, 61.824, and 61.828. The propose repeal also affects Title 19, Chapter 1, Chapter 4, Subchapter B.

§27.441. *Authority and Specific Purposes of the Finance Field of Study Advisory Committee.*

§27.442. *Definitions.*

§27.443. *Committee Membership and Officers.*

§27.444. *Duration.*

§27.445. *Meetings.*

§27.446. *Tasks Assigned to the Committee.*

§27.447. *Report to the Board; Evaluation of Committee Costs and Effectiveness.*

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SUBCHAPTER S. MARKETING FIELD OF STUDY ADVISORY COMMITTEE

19 TAC §§27.461 - 27.467

The repeal of Chapter 27 is proposed under Texas Education Code §§61.821 and 61.823, which provide for Field of Study curricula and authorize the Coordinating Board to form advisory committees to develop Field of Study curricula.

The proposed repeal affects Texas Education Code, §§61.059, 61.0593, 61.0670, 61.821, 61.823, 61.824, and 61.828. The propose repeal also affects Title 19, Chapter 1, Chapter 4, Subchapter B.

§27.461. *Authority and Specific Purposes of the Marketing Field of Study Advisory Committee.*

§27.462. *Definitions.*

§27.463. *Committee Membership and Officers.*

§27.464. *Duration.*

§27.465. *Meetings.*

§27.466. *Tasks Assigned to the Committee.*

§27.467. *Report to the Board; Evaluation of Committee Costs and Effectiveness.*

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SUBCHAPTER T. ENGLISH LANGUAGE AND LITERATURE FIELD OF STUDY ADVISORY COMMITTEE

19 TAC §§27.481 - 27.487

The repeal of Chapter 27 is proposed under Texas Education Code §§61.821 and 61.823, which provide for Field of Study curricula and authorize the Coordinating Board to form advisory committees to develop Field of Study curricula.

The proposed repeal affects Texas Education Code, §§61.059, 61.0593, 61.0670, 61.821, 61.823, 61.824, and 61.828. The propose repeal also affects Title 19, Chapter 1, Chapter 4, Subchapter B.

§27.481. *Authority and Specific Purposes of the English Language and Literature Field of Study Advisory Committee.*

§27.482. *Definitions.*

§27.483. *Committee Membership and Officers.*

§27.484. *Duration.*

§27.485. *Meetings.*

§27.486. *Tasks Assigned to the Committee.*

§27.487. *Report to the Board; Evaluation of Committee Costs and Effectiveness.*

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SUBCHAPTER U. HISTORY FIELD OF STUDY ADVISORY COMMITTEE

19 TAC §§27.501 - 27.507

The repeal of Chapter 27 is proposed under Texas Education Code §§61.821 and 61.823, which provide for Field of Study curricula and authorize the Coordinating Board to form advisory committees to develop Field of Study curricula.

The proposed repeal affects Texas Education Code, §§61.059, 61.0593, 61.0670, 61.821, 61.823, 61.824, and 61.828. The propose repeal also affects Title 19, Chapter 1, Chapter 4, Subchapter B.

§27.501. *Authority and Specific Purposes of the History Field of Study Advisory Committee.*

§27.502. *Definitions.*

§27.503. *Committee Membership and Officers.*

§27.504. *Duration.*

§27.505. *Meetings.*

§27.506. *Tasks Assigned to the Committee.*

§27.507. *Report to the Board; Evaluation of Committee Costs and Effectiveness.*

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SUBCHAPTER V. POLITICAL SCIENCE AND GOVERNMENT FIELD OF STUDY ADVISORY COMMITTEE

19 TAC §§27.521 - 27.527

The repeal of Chapter 27 is proposed under Texas Education Code §§61.821 and 61.823, which provide for Field of Study curricula and authorize the Coordinating Board to form advisory committees to develop Field of Study curricula.

The proposed repeal affects Texas Education Code, §§61.059, 61.0593, 61.0670, 61.821, 61.823, 61.824, and 61.828. The propose repeal also affects Title 19, Chapter 1, Chapter 4, Subchapter B.

§27.521. *Authority and Specific Purposes of the Political Science and Government Field of Study Advisory Committee.*

§27.522. *Definitions.*

§27.523. *Committee Membership and Officers.*

§27.524. *Duration.*

§27.525. *Meetings.*

§27.526. *Tasks Assigned to the Committee.*

§27.527. *Report to the Board; Evaluation of Committee Costs and Effectiveness.*

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SUBCHAPTER W. SOCIAL WORK FIELD OF STUDY ADVISORY COMMITTEE

19 TAC §§27.541 - 27.547

The repeal of Chapter 27 is proposed under Texas Education Code §§61.821 and 61.823, which provide for Field of Study curricula and authorize the Coordinating Board to form advisory committees to develop Field of Study curricula.

The proposed repeal affects Texas Education Code, §§61.059, 61.0593, 61.0670, 61.821, 61.823, 61.824, and 61.828. The propose repeal also affects Title 19, Chapter 1, Chapter 4, Subchapter B.

§27.541. *Authority and Specific Purposes of the Social Work Field of Study Advisory Committee.*

§27.542. *Definitions.*

§27.543. *Committee Membership and Officers.*

§27.544. *Duration.*

§27.545. *Meetings.*

§27.546. *Tasks Assigned to the Committee.*

§27.547. *Report to the Board; Evaluation of Committee Costs and Effectiveness.*

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SUBCHAPTER X. SOCIOLOGY FIELD OF STUDY ADVISORY COMMITTEE

19 TAC §§27.561 - 27.567

The repeal of Chapter 27 is proposed under Texas Education Code §§61.821 and 61.823, which provide for Field of Study curricula and authorize the Coordinating Board to form advisory committees to develop Field of Study curricula.

The proposed repeal affects Texas Education Code, §§61.059, 61.0593, 61.0670, 61.821, 61.823, 61.824, and 61.828. The propose repeal also affects Title 19, Chapter 1, Chapter 4, Subchapter B.

§27.561. *Authority and Specific Purposes of the Sociology Field of Study Advisory Committee.*

§27.562. *Definitions.*

§27.563. *Committee Membership and Officers.*

§27.564. *Duration.*

§27.565. *Meetings.*

§27.566. *Tasks Assigned to the Committee.*

§27.567. *Report to the Board; Evaluation of Committee Costs and Effectiveness.*

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SUBCHAPTER Y. ECONOMICS FIELD OF STUDY ADVISORY COMMITTEE

19 TAC §§27.581 - 27.587

The repeal of Chapter 27 is proposed under Texas Education Code §§61.821 and 61.823, which provide for Field of Study curricula and authorize the Coordinating Board to form advisory committees to develop Field of Study curricula.

The proposed repeal affects Texas Education Code, §§61.059, 61.0593, 61.0670, 61.821, 61.823, 61.824, and 61.828. The propose repeal also affects Title 19, Chapter 1, Chapter 4, Subchapter B.

§27.581. *Authority and Specific Purposes of the Economics Field of Study Advisory Committee.*

§27.582. *Definitions.*

§27.583. *Committee Membership and Officers.*

§27.584. *Duration.*

§27.585. *Meetings.*

§27.586. *Tasks Assigned to the Committee.*

§27.587. *Report to the Board; Evaluation of Committee Costs and Effectiveness.*

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SUBCHAPTER Z. MATHEMATICS FIELD OF STUDY ADVISORY COMMITTEE

19 TAC §§27.601 - 27.607

The repeal of Chapter 27 is proposed under Texas Education Code §§61.821 and 61.823, which provide for Field of Study curricula and authorize the Coordinating Board to form advisory committees to develop Field of Study curricula.

The proposed repeal affects Texas Education Code, §§61.059, 61.0593, 61.0670, 61.821, 61.823, 61.824, and 61.828. The propose repeal also affects Title 19, Chapter 1, Chapter 4, Subchapter B.

§27.601. *Authority and Specific Purposes of the Mathematics Field of Study Advisory Committee.*

§27.602. *Definitions.*

§27.603. *Committee Membership and Officers.*

§27.604. *Duration.*

§27.605. *Meetings.*

§27.606. *Tasks Assigned to the Committee.*

§27.607. *Report to the Board; Evaluation of Committee Costs and Effectiveness.*

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SUBCHAPTER AA. RADIO AND TV FIELD OF STUDY ADVISORY COMMITTEE

19 TAC §§27.621 - 27.627

The repeal of Chapter 27 is proposed under Texas Education Code §§61.821 and 61.823, which provide for Field of Study curricula and authorize the Coordinating Board to form advisory committees to develop Field of Study curricula.

The proposed repeal affects Texas Education Code, §§61.059, 61.0593, 61.0670, 61.821, 61.823, 61.824, and 61.828. The propose repeal also affects Title 19, Chapter 1, Chapter 4, Subchapter B.

§27.621. *Authority and Specific Purposes of the Radio and TV Field of Study Advisory Committee.*

§27.622. *Definitions.*

§27.623. *Committee Membership and Officers.*

§27.624. *Duration.*

§27.625. *Meetings.*

§27.626. *Tasks Assigned to the Committee.*

§27.627. *Report to the Board; Evaluation of Committee Costs and Effectiveness.*

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SUBCHAPTER BB. MANAGEMENT INFORMATION SYSTEMS FIELD OF STUDY ADVISORY COMMITTEE

19 TAC §§27.641 - 27.647

The repeal of Chapter 27 is proposed under Texas Education Code §§61.821 and 61.823, which provide for Field of Study curricula and authorize the Coordinating Board to form advisory committees to develop Field of Study curricula.

The proposed repeal affects Texas Education Code, §§61.059, 61.0593, 61.0670, 61.821, 61.823, 61.824, and 61.828. The propose repeal also affects Title 19, Chapter 1, Chapter 4, Subchapter B.

§27.641. *Authority and Specific Purposes of the Management Information Systems Field of Study Advisory Committee.*

§27.642. *Definitions.*

§27.643. *Committee Membership and Officers.*

§27.644. *Duration.*

§27.645. *Meetings.*

§27.646. *Tasks Assigned to the Committee.*

§27.647. *Report to the Board; Evaluation of Committee Costs and Effectiveness.*

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SUBCHAPTER CC. HEALTH AND WELLNESS FIELD OF STUDY ADVISORY COMMITTEE

19 TAC §§27.661 - 27.667

The repeal of Chapter 27 is proposed under Texas Education Code §§61.821 and 61.823, which provide for Field of Study curricula and authorize the Coordinating Board to form advisory committees to develop Field of Study curricula.

The proposed repeal affects Texas Education Code, §§61.059, 61.0593, 61.0670, 61.821, 61.823, 61.824, and 61.828. The propose repeal also affects Title 19, Chapter 1, Chapter 4, Subchapter B.

§27.661. *Authority and Specific Purposes of the Health and Wellness Field of Study Advisory Committee.*

§27.662. *Definitions.*

§27.663. *Committee Membership and Officers.*

§27.664. *Duration.*

§27.665. *Meetings.*

§27.666. *Tasks Assigned to the Committee.*

§27.667. *Report to the Board; Evaluation of Committee Costs and Effectiveness.*

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

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SUBCHAPTER DD. COMMUNICATION DISORDERS SCIENCES AND SERVICES FIELD OF STUDY ADVISORY COMMITTEE

19 TAC §§27.681 - 27.687

The repeal of Chapter 27 is proposed under Texas Education Code §§61.821 and 61.823, which provide for Field of Study curricula and authorize the Coordinating Board to form advisory committees to develop Field of Study curricula.

The proposed repeal affects Texas Education Code, §§61.059, 61.0593, 61.0670, 61.821, 61.823, 61.824, and 61.828. The propose repeal also affects Title 19, Chapter 1, Chapter 4, Subchapter B.

§27.681. *Authority and Specific Purposes of the Communication Disorders Sciences and Services Field of Study Advisory Committee.*

§27.682. *Definitions.*

§27.683. *Committee Membership and Officers.*

§27.684. *Duration.*

§27.685. *Meetings.*

§27.686. *Tasks Assigned to the Committee.*

§27.687. *Report to the Board; Evaluation of Committee Costs and Effectiveness.*

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SUBCHAPTER EE. FINE AND STUDIO ARTS
FIELD OF STUDY ADVISORY COMMITTEE

19 TAC §§27.701 - 27.707

The repeal of Chapter 27 is proposed under Texas Education Code §§61.821 and 61.823, which provide for Field of Study curricula and authorize the Coordinating Board to form advisory committees to develop Field of Study curricula.

The proposed repeal affects Texas Education Code, §§61.059, 61.0593, 61.0670, 61.821, 61.823, 61.824, and 61.828. The propose repeal also affects Title 19, Chapter 1, Chapter 4, Subchapter B.

§27.701. Authority and Specific Purposes of the Fine and Studio Arts Field of Study Advisory Committee.

§27.702. Definitions.

§27.703. Committee Membership and Officers.

§27.704. Duration.

§27.705. Meetings.

§27.706. Tasks Assigned to the Committee.

§27.707. Report to the Board; Evaluation of Committee Costs and Effectiveness.

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SUBCHAPTER FF. JOURNALISM FIELD OF
STUDY ADVISORY COMMITTEE

19 TAC §§27.721 - 27.727

The repeal of Chapter 27 is proposed under Texas Education Code §§61.821 and 61.823, which provide for Field of Study curricula and authorize the Coordinating Board to form advisory committees to develop Field of Study curricula.

The proposed repeal affects Texas Education Code, §§61.059, 61.0593, 61.0670, 61.821, 61.823, 61.824, and 61.828. The propose repeal also affects Title 19, Chapter 1, Chapter 4, Subchapter B.

§27.721. Authority and Specific Purposes of the Journalism Field of Study Advisory Committee.

§27.722. Definitions.

§27.723. Committee Membership and Officers.

§27.724. Duration.

§27.725. Meetings.

§27.726. Tasks Assigned to the Committee.

§27.727. Report to the Board; Evaluation of Committee Costs and Effectiveness.

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SUBCHAPTER GG. ANIMAL SCIENCES
FIELD OF STUDY ADVISORY COMMITTEE

19 TAC §§27.741 - 27.747

The repeal of Chapter 27 is proposed under Texas Education Code §§61.821 and 61.823, which provide for Field of Study curricula and authorize the Coordinating Board to form advisory committees to develop Field of Study curricula.

The proposed repeal affects Texas Education Code, §§61.059, 61.0593, 61.0670, 61.821, 61.823, 61.824, and 61.828. The propose repeal also affects Title 19, Chapter 1, Chapter 4, Subchapter B.

§27.741. Authority and Specific Purposes of the Animal Sciences Field of Study Advisory Committee.

§27.742. Definitions.

§27.743. Committee Membership and Officers.

§27.744. Duration.

§27.745. Meetings.

§27.746. Tasks Assigned to the Committee.

§27.747. Report to the Board; Evaluation of Committee Costs and Effectiveness.

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

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SUBCHAPTER HH. AGRICULTURAL
BUSINESS AND MANAGEMENT FIELD OF
STUDY ADVISORY COMMITTEE

19 TAC §§27.761 - 27.767

The repeal of Chapter 27 is proposed under Texas Education Code §§61.821 and 61.823, which provide for Field of Study curricula and authorize the Coordinating Board to form advisory committees to develop Field of Study curricula.

The proposed repeal affects Texas Education Code, §§61.059, 61.0593, 61.0670, 61.821, 61.823, 61.824, and 61.828. The

propose repeal also affects Title 19, Chapter 1, Chapter 4, Subchapter B.

§27.761. *Authority and Specific Purposes of the Agricultural Business and Management Field of Study Advisory Committee.*

§27.762. *Definitions.*

§27.763. *Committee Membership and Officers.*

§27.764. *Duration.*

§27.765. *Meetings.*

§27.766. *Tasks Assigned to the Committee.*

§27.767. *Report to the Board; Evaluation of Committee Costs and Effectiveness.*

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SUBCHAPTER II. HEALTH SERVICES FIELD OF STUDY ADVISORY COMMITTEE

19 TAC §§27.781 - 27.787

The repeal of Chapter 27 is proposed under Texas Education Code §§61.821 and 61.823, which provide for Field of Study curricula and authorize the Coordinating Board to form advisory committees to develop Field of Study curricula.

The proposed repeal affects Texas Education Code, §§61.059, 61.0593, 61.0670, 61.821, 61.823, 61.824, and 61.828. The propose repeal also affects Title 19, Chapter 1, Chapter 4, Subchapter B.

§27.781. *Authority and Specific Purposes of the Health Services Field of Study Advisory Committee.*

§27.782. *Definitions.*

§27.783. *Committee Membership and Officers.*

§27.784. *Duration.*

§27.785. *Meetings.*

§27.786. *Tasks Assigned to the Committee.*

§27.787. *Report to the Board; Evaluation of Committee Costs and Effectiveness.*

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

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SUBCHAPTER JJ. HOSPITALITY ADMINISTRATION FIELD OF STUDY ADVISORY COMMITTEE

19 TAC §§27.801 - 27.807

The repeal of Chapter 27 is proposed under Texas Education Code §§61.821 and 61.823, which provide for Field of Study curricula and authorize the Coordinating Board to form advisory committees to develop Field of Study curricula.

The proposed repeal affects Texas Education Code, §§61.059, 61.0593, 61.0670, 61.821, 61.823, 61.824, and 61.828. The propose repeal also affects Title 19, Chapter 1, Chapter 4, Subchapter B.

§27.801. *Authority and Specific Purposes of the Hospitality Administration Field of Study Advisory Committee.*

§27.802. *Definitions.*

§27.803. *Committee Membership and Officers.*

§27.804. *Duration.*

§27.805. *Meetings.*

§27.806. *Tasks Assigned to the Committee.*

§27.807. *Report to the Board; Evaluation of Committee Costs and Effectiveness.*

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

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SUBCHAPTER KK. NATURAL RESOURCES CONSERVATION & RESEARCH FIELD OF STUDY ADVISORY COMMITTEE

19 TAC §§27.821 - 27.827

The repeal of Chapter 27 is proposed under Texas Education Code §§61.821 and 61.823, which provide for Field of Study curricula and authorize the Coordinating Board to form advisory committees to develop Field of Study curricula.

The proposed repeal affects Texas Education Code, §§61.059, 61.0593, 61.0670, 61.821, 61.823, 61.824, and 61.828. The propose repeal also affects Title 19, Chapter 1, Chapter 4, Subchapter B.

§27.821. *Authority and Specific Purposes of the Natural Resources Conservation & Research Field of Study Advisory Committee.*

§27.822. *Definitions.*

§27.823. *Committee Membership and Officers.*

§27.824. *Duration.*

§27.825. *Meetings.*

§27.826. *Tasks Assigned to the Committee.*

§27.827. *Report to the Board; Evaluation of Committee Costs and Effectiveness.*

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

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SUBCHAPTER LL. CHEMISTRY FIELD OF STUDY ADVISORY COMMITTEE

19 TAC §§27.841 - 27.847

The repeal of Chapter 27 is proposed under Texas Education Code §§61.821 and 61.823, which provide for Field of Study curricula and authorize the Coordinating Board to form advisory committees to develop Field of Study curricula.

The proposed repeal affects Texas Education Code, §§61.059, 61.0593, 61.0670, 61.821, 61.823, 61.824, and 61.828. The propose repeal also affects Title 19, Chapter 1, Chapter 4, Subchapter B.

§27.841. Authority and Specific Purposes of the Chemistry Field of Study Advisory Committee.

§27.842. Definitions.

§27.843. Committee Membership and Officers.

§27.844. Duration.

§27.845. Meetings.

§27.846. Tasks Assigned to the Committee.

§27.847. Report to the Board; Evaluation of Committee Costs and Effectiveness.

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

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SUBCHAPTER MM. MEDIA STUDIES FIELD OF STUDY ADVISORY COMMITTEE

19 TAC §§27.861 - 27.867

The repeal of Chapter 27 is proposed under Texas Education Code §§61.821 and 61.823, which provide for Field of Study curricula and authorize the Coordinating Board to form advisory committees to develop Field of Study curricula.

The proposed repeal affects Texas Education Code, §§61.059, 61.0593, 61.0670, 61.821, 61.823, 61.824, and 61.828. The propose repeal also affects Title 19, Chapter 1, Chapter 4, Subchapter B.

§27.861. Authority and Specific Purposes of the Media Studies Field of Study Advisory Committee.

§27.862. Definitions.

§27.863. Committee Membership and Officers.

§27.864. Duration.

§27.865. Meetings.

§27.866. Tasks Assigned to the Committee.

§27.867. Report to the Board; Evaluation of Committee Costs and Effectiveness.

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

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SUBCHAPTER NN. ADVERTISING AND PUBLIC RELATIONS FIELD OF STUDY ADVISORY COMMITTEE

19 TAC §§27.881 - 27.887

The repeal of Chapter 27 is proposed under Texas Education Code §§61.821 and 61.823, which provide for Field of Study curricula and authorize the Coordinating Board to form advisory committees to develop Field of Study curricula.

The proposed repeal affects Texas Education Code, §§61.059, 61.0593, 61.0670, 61.821, 61.823, 61.824, and 61.828. The propose repeal also affects Title 19, Chapter 1, Chapter 4, Subchapter B.

§27.881. Authority and Specific Purposes of the Advertising and Public Relations Field of Study Advisory Committee.

§27.882. Definitions.

§27.883. Committee Membership and Officers.

§27.884. Duration.

§27.885. Meetings.

§27.886. Tasks Assigned to the Committee.

§27.887. Report to the Board; Evaluation of Committee Costs and Effectiveness.

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

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SUBCHAPTER OO. NUTRITION AND
DIETETICS FIELD OF STUDY ADVISORY
COMMITTEE

19 TAC §§27.901 - 27.907

The repeal of Chapter 27 is proposed under Texas Education Code §§61.821 and 61.823, which provide for Field of Study curricula and authorize the Coordinating Board to form advisory committees to develop Field of Study curricula.

The proposed repeal affects Texas Education Code, §§61.059, 61.0593, 61.0670, 61.821, 61.823, 61.824, and 61.828. The propose repeal also affects Title 19, Chapter 1, Chapter 4, Subchapter B.

§27.901. Authority and Specific Purposes of the Nutrition and Dietetics Field of Study Advisory Committee.

§27.902. Definitions.

§27.903. Committee Membership and Officers.

§27.904. Duration.

§27.905. Meetings.

§27.906. Tasks Assigned to the Committee.

§27.907. Report to the Board; Evaluation of Committee Costs and Effectiveness.

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

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CHAPTER 150. COMMISSIONER'S RULES
CONCERNING EDUCATOR APPRAISAL
SUBCHAPTER AA. TEACHER APPRAISAL

19 TAC §150.1012

The Texas Education Agency (TEA) proposes an amendment to §150.1012, concerning local optional teacher designation systems. The proposed amendment would update provisions for local optional teacher designation systems to address the lack of State of Texas Assessments of Academic Readiness (STAAR®) testing in the 2019-2020 school year, ensure that the employing school district receives the allotment for a designated teacher, modify the percentage each district receives if a designated teacher is employed by multiple districts, add another reason designations may be voided, improve the quality of local designation systems by requiring calibration activities to be tied to the approved teacher observation rubric and requiring that the student growth and teacher observation data be from the same teaching assignment, and remove obsolete provisions.

BACKGROUND INFORMATION AND JUSTIFICATION: Texas Education Code (TEC), §21.3521, establishes a local optional teacher designation system, and TEC, §48.112, establishes a

teacher incentive allotment. Section 150.1012 implements the statutes by establishing the requirements for school districts and charter schools to implement local teacher designation systems.

Following is a description of the proposed amendment to §150.1012.

The proposed amendment to subsection (b)(1)(B) would align the language with TEC, §48.112, to ensure that the employing district receives the generated allotment.

The proposed amendment to subsection (c)(1)(A) would specify that districts have seven business days to rectify an incomplete application. This change would provide districts with a clear expectation of the timeline of incomplete submissions.

The proposed amendment to subsection (c)(1)(B) would clarify that only the system application is eligible for the resubmission process. This change would ensure that the application process can be completed in a timely manner.

The proposed amendment to subsection (c)(1)(C) would provide clarity about the requirements for provisionally approved districts to earn full approval.

The proposed amendment to subsection (c)(2)(A)(i)(I) would update the requirements of the teacher observation component. The proposed language would state that congruence is among appraisers, that correlation is between teacher observation and student growth data, and that both congruence and correlation need to be tied to the rubric approved in subsection (c)(2)(A)(i)(II). This change would provide clarity to districts on the application requirements and ensure that their calibration practices are tied to their approved teacher observation rubrics.

The proposed amendment to subsection (c)(2)(A)(i)(II) would clarify the requirements of a district-created rubric by adding reference to the standards outlined in 19 TAC §149.1001, Teacher Standards. This change would ensure that the district-created rubric meets the same requirements as the other approved rubrics.

Proposed new subsection (c)(2)(A)(ii)(IV), relating to the student growth component, would add requirements for the quality of vendor-created assessments. This change would ensure that all assessments meet the same requirements.

The proposed amendment to subsection (c)(2)(C) would add language to require that single-year data be collected from the same teaching assignment. This change would ensure that the student growth and teacher observation data collected for each teacher can be compared. Additionally, language would be added to allow TEA administrative discretion to allow districts to submit data if there are extenuating circumstances limiting their ability to collect data for all teachers in eligible teaching assignments. This change would allow districts that were impacted by the lack of STAAR® testing in 2019-2020 and school closures to submit designations in other teaching assignments.

Language would be added in subsection (e)(1)(C) to allow TEA administrative discretion to allow districts to submit data if there are extenuating circumstances limiting their ability to collect data for all teachers in eligible teaching assignments. This change would allow districts that were impacted by the lack of STAAR® testing in 2019-2020 and school closures to submit designations in other teaching assignments.

Proposed new subsection (e)(2) would be added to allow TEA to conduct a review of a local designation system based on annual data submission. This change would allow TEA to investigate

approved local designation systems to determine if there is appropriate implementation and reporting.

Proposed new subsection (f)(2)(E) would be added to specify that approval of a local optional designation system is voidable if a district fails to remove a district employee from the designation determination process who has a conflict of interest and acted in bad faith to influence designations. This change would contribute to the validity of district designations by ensuring that designations are not issued in bad faith.

Proposed new subsection (f)(3)(E) would be added to specify that approval of an individual teacher designation is voidable if the district issued a designation in bad faith by not removing a district employee from the designation determination process who had a conflict of interest. This change would contribute to the validity of district designations by ensuring that designations are not issued in bad faith.

The proposed amendment to subsection (g)(1)(A) would clarify that districts must delay designations to delay funding. This change would ensure that funding cannot be generated without active designations. Subsection (g)(1)(A)(i) and (ii) would be removed since the provisions applied only to districts that were issued funding in the 2019-2020 school year.

Subsection (g)(1)(C) would be modified to specify that funding for a teacher who works at multiple campuses would be calculated and split equally among the campuses where the employee is designated with a role code of 087 (Teacher). This change would allow teachers at multiple campuses to generate an allotment that takes into account each campus's socio-economic need and rural status.

Proposed new subsection (g)(1)(D) would allow TEA administrative discretion to redirect funds to the district where a designated teacher works if a miscoding error is discovered. This change would allow coding errors to be easily rectified to ensure appropriate distribution of funds in alignment with TEC, §48.112.

The proposed amendment to subsection (g)(2) would remove a redundant provision already addressed by subsection (g)(1)(C).

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

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

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

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

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

GOVERNMENT GROWTH IMPACT: TEA staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. During the first five years the proposed rulemaking would be in effect, it would both expand and limit an existing regulation by clarifying the process and requirements for school districts to request approval of a teacher designation system.

The proposed rulemaking would not create or eliminate a government program; would not require the creation of new employee positions or elimination of existing employee positions; would not require an increase or decrease in future legislative appropriations to the agency; would not require an increase or decrease in fees paid to the agency; would not create a new regulation; would not repeal an existing regulation; would not increase or decrease the number of individuals subject to its applicability; and would not positively or adversely affect the state's economy.

PUBLIC BENEFIT AND COST TO PERSONS: Ms. Oeser has determined that for each year of the first five years the proposal is in effect, the public benefit anticipated as a result of enforcing the proposal would be ensuring that rule language is based on current law and providing school districts and open-enrollment charter schools with clear processes and requirements to implement local optional teacher designation systems. There is no anticipated economic cost to persons who are required to comply with the proposal.

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

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

PUBLIC COMMENTS: The public comment period on the proposal begins January 15, 2021, and ends February 16, 2021. A request for a public hearing on the proposal submitted under the Administrative Procedure Act must be received by the commissioner of education not more than 14 calendar days after notice of the proposal has been published in the *Texas Register* on January 15, 2021. A form for submitting public comments is available on the TEA website at [https://tea.texas.gov/About_TEA/Laws_and_Rules/Commissioner_Rules_\(TAC\)/Proposed_Commissioner_of_Education_Rules/](https://tea.texas.gov/About_TEA/Laws_and_Rules/Commissioner_Rules_(TAC)/Proposed_Commissioner_of_Education_Rules/).

STATUTORY AUTHORITY. The amendment is proposed under Texas Education Code (TEC), §21.3521, which specifies that the commissioner (1) shall ensure that local optional teacher designation systems meet the statutory requirements for the system; (2) shall prioritize high needs campuses; (3) shall enter into a memorandum of understanding with Texas Tech University regarding assessment of local iterations of the local optional teacher designation system; (4) shall periodically conduct evaluations of the effectiveness of the local optional teacher designation system; (5) may adopt fees, which are exempted from the requirements of Texas Government Code, §2001.0045 and §2001.0221, to implement the local optional teacher designation system; and (6) may adopt rules to implement the local optional teacher designation system; and TEC, §48.112, which establishes a teacher incentive allotment and requires the commissioner to designate rural campuses and annually make available to the public a list of campuses with projected allotment amounts per teacher designation at each campus.

CROSS REFERENCE TO STATUTE. The amendment implements Texas Education Code, §21.3521 and §48.112.

§150.1012. *Local Optional Teacher Designation System.*

(a) General provisions.

(1) Definitions. The following words and terms, when used in this section, have the following meanings, unless the context clearly indicates otherwise.

(A) Active Texas certification--A valid certification labeled as provisional, professional, or standard under §230.31(a) of this title (relating to Types of Certificates) or a visiting international teacher certification under §230.41 of this title (relating to Visiting International Teacher Certificates).

(B) Charter school--A Texas public school that meets one of the following criteria:

(i) is operated by a charter holder under an open-enrollment charter granted either by the State Board of Education or commissioner of education pursuant to Texas Education Code (TEC), §12.101, identified with its own county district number;

(ii) has a charter granted under TEC, Chapter 12, Subchapter C, and is eligible for benefits under TEC, §11.174 and §48.252; or

(iii) has a charter granted under TEC, §29.259, and Human Resources Code, §221.002.

(C) Classroom teacher--An educator, as defined by TEC, §5.001, who is employed by a school district and who, not less than an average of four hours each day, teaches in an academic instructional setting or a career and technical instructional setting. This term does not include an educational aide or a full-time administrator.

(D) Data capture year--The year in which the teacher observation and student growth measure is collected based on the proposed local teacher designation system.

(E) Designated teacher--An exemplary, master, or recognized teacher.

(F) Eligible teaching assignment--An assignment based on campus, subject taught, or grade taught.

(G) National Board certification--Certification issued by the National Board for Professional Teaching Standards.

(H) Provisional approval--Conditional approval of a school district local optional teacher designation system that would require resubmission of system review and/or data validation for further approval.

(I) Reliability--The degree to which an instrument used to measure teacher performance and student growth produces stable and consistent results.

(J) Rural--A campus within a school district with fewer than 5,000 enrolled students that is categorized as a rural, non-metropolitan: stable, or non-metropolitan: fast growing district type by the Texas Education Agency (TEA); a campus within a school district with fewer than 5,000 enrolled students categorized as rural by the National Center for Education Statistics; or a campus defined in TEC, §48.112(a)(1).

(K) School district--The definition of a school district includes charter schools as defined in subparagraph (B) of this paragraph.

(L) Student growth--Student academic progress achieved in response to the pedagogical practices of teachers, as

measured at the individual teacher level by one or more measures of student growth aligned to the standards of the course.

(M) Teacher observation--One or more observations of a teacher instructing students for a minimum of 45 minutes or multiple observations that aggregate to at least 45 minutes.

(N) Validity--The degree to which an instrument used to measure teacher performance and student growth measures what it is intended to measure.

(2) Fees for teacher incentive allotment teacher designation and system renewal. A school district requesting approval of a teacher designation system or renewal of such a system shall pay the applicable fees from the following list:

(A) a \$500 fee for each teacher submitted for designation to TEA; or

(B) a system renewal fee to be determined by the commissioner and established in rule.

(b) Teacher eligibility.

(1) Teachers eligible to earn or receive designations under an approved local optional teacher designation system must meet the following requirements:

(A) the teacher holds an active Texas certification under Chapter 233 of this title (relating to Categories of Classroom Teaching Certificates), a Reading Specialist Certificate under Chapter 239, Subchapter D, of this title (relating to Reading Specialist Certificate), or a Legacy Master Teacher Certificate;

(B) the teacher is employed [~~or is to be employed~~] by the recommending school district in a role ID coded as 087 (Teacher) and corresponding class roles of 01, 02, or 03, if applicable, in the Texas Student Data System Texas Education Data Standards (TEDS) for 90 days at 100% of the day (equivalent to four and one-half months or a full semester) or 180 days at 50-99% of the day and compensated for that employment; and

(C) the teacher is not currently designated under a local optional teacher designation system, unless the teacher is being recommended for a higher designation or is in the last year of a teacher designation.

(2) School districts are eligible to receive funding for each designated teacher if the teacher meets the requirements in paragraph (1)(A) and (B) of this subsection.

(c) Application procedures and approval process.

(1) The following provisions apply to applications submitted under this section.

(A) If TEA determines that an application is incomplete, TEA may provide the applicant with notice of the deficiency and an opportunity to submit missing required information. If the missing required information is not submitted within seven business [~~calendar~~] days after the original submission deadline [~~notice is provided~~], the application will be denied.

(B) If TEA determines that a system [~~an~~] application does not meet the standards established under TEC, §21.3521, and this section, TEA shall permit the applicant to resubmit the application within three months of the original submission deadline. If no resubmission is timely made, the application will be denied.

(C) An applicant that demonstrates the need for ongoing support will be required to submit additional information that may result in provisional approval for one year. A school district with this

approval status cannot add eligible teaching assignments to its local optional teacher designation system and will be required to complete a new application or resubmit data for validation for the additional four years of approval.

(D) An applicant that has a local optional teacher designation system that has been paying teachers in the 2019-2020 school year may be issued provisional approval for two years if the system does not contain either a teacher observation component as specified in paragraph (2)(A)(i) of this subsection or a student growth component as specified in paragraph (2)(A)(ii) of this subsection. A school district with this approval status cannot add eligible teaching assignments to its local optional teacher designation system.

(E) Applications that are determined to meet the standards established under TEC, §21.3521 and §48.112, and this section shall be approved for an initial term of five years.

(2) The application shall include the following for each eligible teaching assignment:

(A) components of a local system for issuing designations, including:

(i) a teacher observation component that contains:

(I) a plan for calibration, using the rubric approved under subclause (II) of this clause, that includes congruence among appraisers, a [] and [] review of teacher observation data and the correlation between teacher observation and student growth data, and implementation of next steps; and

(II) an approved teacher observation rubric including the Texas Teacher Evaluation and Support System, Marzano's Teacher Evaluation Model and rubric created by the National Institute for Excellence in Teacher and The Danielson Group, or another rubric that is based on observable, job-related behaviors, including alignment to §149.1001 of this title (relating to Teacher Standards) [teacher implementation of discipline management and the performance of teachers' students]. A school district may be required to provide teacher observation videos if the ratings cannot be verified from the data submitted; and

(ii) a student growth component that:

(I) if using a student learning objective, is aligned to the standards of the course, measures the level of preparedness for each student at the beginning of the school, and measures the mastery level for each student at the end of the school year based on a body of evidence;

(II) if using a portfolio method, demonstrates that student work is aligned to the standards of the course, demonstrates mastery of standards, and includes criteria for scoring; [or]

(III) if using school district- or teacher-created assessments, is aligned to the standards of the course and conforms to a district rubric for district- or teacher-created assessments. A school district must approve district- or teacher-created assessments for the purpose of determining student growth by using a district process and rubric for approval of such assessments; or

(IV) if using vendor-created assessments, is aligned to the standards for the course and contains questions that cover a range of student skill levels;

(B) test administration processes for all student growth that will lead to validity and reliability of results, including:

(i) test security protocols;

(ii) testing windows;

(iii) testing accommodations; and

(iv) annual training for test administrators; and

(C) data for all teachers in eligible teaching assignments, including student growth, and observation data for all teachers in eligible teaching assignments for the data capture year. Multi-year data shall include student growth and observation data from the same year and teaching assignment. Single-year data shall include student growth and observation data from the same teaching assignment. TEA may exercise administrative discretion in circumstances where data is difficult to provide and a district would otherwise be unable to provide sufficient data for application consideration.

(d) System expansion and amendments.

(1) School districts must apply for approval for additional eligible teaching assignments with previously unapproved student growth or teacher observation components, new student growth components, or new teacher observation components.

(2) Proposed amendments to other components of the application will be due at the time of annual submission. Additional information and application processes may be requested.

(e) Monitoring and program evaluation of approved local designation systems.

(1) For the annual data submission, approved school districts shall submit the following information regarding a local teacher designation system:

(A) [(1)] the distribution of allotment funds from the previous school year in accordance with the funding provisions of subsection (g) of this section;

(B) [(2)] a response and implementation plan to annual surveys developed by TEA administered to teachers, campus principals, and human resources personnel gauging the perception of a school district's local designation system; and

(C) [(3)] teacher observations and student growth measure data for all teachers in eligible teaching assignments if school districts are submitting new teacher designations. TEA reserves the right to request data for the purposes of performance evaluation and investigation based on data review outcomes. TEA may exercise administrative discretion in circumstances where data is difficult to provide and a district would otherwise be unable to provide sufficient data for application consideration.

(2) Outcomes of the annual data submission may lead to a review, pursuant to TEC, §48.272(e), and subject to the period of review limitation in TEC, §48.272(f), of the local optional designation system that may be conducted at any time at the discretion of the TEA staff.

(f) Continuing approval and renewal.

(1) Approved local optional teacher designation systems are subject to review at least once every five years. However, a review may be conducted at any time at the discretion of TEA.

(2) Approval of local optional designation systems are voidable by TEA for one or more of the following reasons:

(A) failure to fulfill all local optional designation system requirements as defined in this section;

(B) failure to comply with annual data submission requirements;

(C) failure to comply with the provisions of TEC, §21.3521 and §48.112;

(D) failure to implement the local optional teacher designation system as approved by TEA and Texas Tech University; [or]

(E) failure to remove district employees from the designation determination process who have a conflict of interest and acted in bad faith to influence designations; or

(F) [(E)] at the discretion of the commissioner.

(3) Approval of individual teacher designations are voidable by TEA for one or more of the following reasons:

(A) a teacher has not fulfilled all designation requirements;

(B) the school district at which the designation was earned has had its local optional designation system voided;

(C) the National Board for Professional Teaching Standards revokes a National Board certification that provided the basis for a teacher's designation;

(D) the suspension, revocation, cancellation, or surrender of a certificate issued by the State Board for Educator Certification to a designated teacher; [or]

(E) the district issued a designation in bad faith by not removing a district employee from the designation determination process who had a conflict of interest; or

(F) [(E)] at the discretion of the commissioner.

(g) Funding.

(1) State funding.

(A) Teacher incentive allotment funds will be disbursed to school districts in the same school year for which the teacher designations are approved. The initial disbursement may occur either upon final approval of a local teacher designation system or in the school year following final approval if a district decides to delay designations.

~~[(i) For the initial disbursement after the approval of a local teacher designation system or system expansion, at least 90% of each allotment received must be spent on compensation of teachers employed at the campus at which the teacher for whom the school district received the allotment was employed for the first year of the designation.]~~

~~[(ii) Disbursements subsequent to the initial disbursement must meet the requirements of paragraph (2) of this subsection.]~~

(B) A school district is eligible to earn the base allotment for each designated teacher assigned to a zero-enrollment campus, a campus with fewer than 20 students, a juvenile justice alternative education program, a disciplinary alternative education program, a residential facility, or central administration if the designated teacher meets the requirements in subsection (b)(2) of this section, plus the multiplier based on the school district's average student point value and rural status, if applicable.

(C) Funding for teachers who work at multiple campuses shall be calculated and split equally among the campuses where ~~[distributed proportionally by the percent of time]~~ the employee is working in a role coded as 087 (Teacher) in the Texas Student Data System TEDS at each campus.

(D) TEA may exercise administrative discretion to redirect funds to the district where the designated teacher works if a miscoding error is discovered.

(2) Status and use of state funds. A school district that receives teacher incentive allotment funding must comply with the requirements of TEC, §48.112. ~~[Allotment funding generated by a designated teacher working for multiple school districts shall be split equally among the districts that employ the teacher.]~~

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 January 4, 2021.

TRD-202100020

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Earliest possible date of adoption: February 14, 2021

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



ADOPTED RULES

Adopted rules include new rules, amendments to existing rules, and repeals of existing rules. A rule adopted by a state agency takes effect 20 days after the date on which it is filed with the Secretary of State unless a later date is required by statute or specified in the rule (Government Code, §2001.036). If a rule is adopted without change to the text of the proposed rule, then the *Texas Register* does not republish the rule text here. If a rule is adopted with change to the text of the proposed rule, then the final rule text is included here. The final rule text will appear in the Texas Administrative Code on the effective date.

TITLE 1. ADMINISTRATION

PART 15. TEXAS HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 383. INTERSTATE COMPACT ON MENTAL HEALTH AND MENTAL RETARDATION

1 TAC §§383.101, 383.103, 383.105, 383.107, 383.109, 383.111, 383.113, 383.115, 383.117, 383.119, 383.121, 383.123

The Texas Health and Human Services Commission (HHSC) adopts the repeal of §383.101, concerning Purpose; §383.103, concerning Application; §383.105, concerning Definitions; §383.107, concerning Prerequisite for Transfer; §383.109, concerning Legal Basis for Institutionalization; §383.111, concerning Coordinating Requests for Interstate Transfer; §383.113, concerning Requests for Persons with Mental Retardation To Be Transferred from Texas; §383.115, concerning Requests for Persons with Mental Illness To Be Transferred from Texas; §383.117, concerning Requests for Persons with Mental Retardation to Transfer to Texas; §383.119, concerning Requests for Persons with Mental Illness to Transfer to Texas; §383.121, concerning Exhibits; and §383.123, concerning References.

The repeal of the rules is adopted without changes to the proposed text as published in the October 16, 2020, issue of the *Texas Register* (45 TexReg 7356). The rules will not be republished.

BACKGROUND AND JUSTIFICATION

The rules are repealed from Texas Administrative Code (TAC) Title 1, Part 15, Chapter 383 and new rules are adopted elsewhere in this issue of the *Texas Register*, in 26 TAC Chapter 903, Interstate Compact on Mental Health and Intellectual and Developmental Disabilities. The new rules in Chapter 903 update and reorganize rules addressing the interstate compact on mental health and intellectual and developmental disabilities.

COMMENTS

The 31-day comment period ended November 16, 2020.

During this period, HHSC did not receive any comments regarding the proposed repeal of these rules.

STATUTORY AUTHORITY

The repeals are authorized by Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Health and Safety Code §§533.014, 533.0356, 533A.0355,

571.006 and 612.004 which authorize creation of rules related to this topic.

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 December 29, 2020.

TRD-202005722

Karen Ray
Chief Counsel

Health and Human Services Commission

Effective date: January 18, 2021

Proposal publication date: October 16, 2020

For further information, please call: (512) 438-3049



TITLE 19. EDUCATION

PART 2. TEXAS EDUCATION AGENCY

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

19 TAC §151.1001

The Texas Education Agency adopts an amendment to §151.1001, concerning passing standards for educator certification examinations. The amendment is adopted without changes to the proposed text as published in the November 6, 2020 issue of the *Texas Register* (45 TexReg 7929) and will not be republished. The adopted amendment specifies the satisfactory scores for the following new educator certification examinations: Core Subjects: EC-6, Science of Teaching Reading, Early Childhood: PK-3, Educational Diagnostician, School Counselor, and Pedagogy and Professional Responsibilities for Trade and Industrial Education 6-12.

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

The amendment adopts passing standards for the new Core Subjects: EC-6, Science of Teaching Reading, Early Childhood: PK-3, Educational Diagnostician, School Counselor, and Pedagogy and Professional Responsibilities for Trade and Industrial Education 6-12 examinations.

A standard setting committee of educators developed a recommended passing standard for each subtest of the Core Subjects: EC-6 examination. The amendment to §151.1001(b)(1) implements the committee-recommended passing standard for each Core Subjects: EC-6 subtest.

The amendment also modifies §151.1001(b)(1), (b)(14), and (c) to implement an initial passing standard for the Science of Teaching Reading, Early Childhood: PK-3, Educational Diagnostician, School Counselor, and Pedagogy and Professional Responsibilities for Trade and Industrial Education 6-12 examinations. The initial passing standard includes the passing standard for selected-response and constructed-response examination sections. During the introductory period, the initial passing standards for the constructed-response section of each examination will be "complete." The adopted amendment defines "complete" as a full and complete scorable response that must address the specific requirements of the item, be of sufficient length to respond to the requirements of the item, be original work and written in the candidate's own words (however, candidates may use citations when appropriate), and conform to the standards of written English. The adopted amendment implements the initial passing standard of "complete" for each examination during an eight-month introductory period. This introductory period and the "complete" passing standard provide candidates and educator preparation programs with a transition period to adjust to more rigorous examinations without the deterrence or penalty that comes with a rigorous passing standard and allows for the collection of examination performance data to inform the development of passing standards for both the select-response and constructed-response sections after the introductory period.

Standard setting committees for each examination will develop recommendations to be used to develop passing standards after the introductory period. The initial passing standards for the Science of Teaching Reading, Early Childhood: PK-3, and Educational Diagnostician examinations will be implemented prior to September 6, 2021, and the initial passing standards for the School Counselor and Pedagogy and Professional Responsibilities for Trade and Industrial Education 6-12 examinations will be implemented prior to May 3, 2022.

SUMMARY OF COMMENTS AND AGENCY RESPONSES: The public comment period on the proposal began November 6, 2020, and ended December 7, 2020. Following is a summary of the public comment received and the corresponding agency response.

Comment: A candidate seeking School Counselor certification provided a statement requesting a change to School Counselor certification requirements to include obtaining a bachelor's degree; having a master's degree in school counseling or any child psychology; completing "certain hours" working under a counselor; and making it optional to have experience as a teacher, substitute, or any other teaching experience before applying for certification.

Agency Response: This comment is outside the scope of the current rule proposal, which addresses certification examination passing standards.

STATUTORY AUTHORITY. The amendment is adopted under Texas Education Code, §21.048(a), which requires the commissioner to determine the level of performance considered to be satisfactory on educator certification examinations and further authorizes the commissioner to require a satisfactory level of performance on each core subject covered by an examination.

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

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 December 30, 2020.

TRD-202005745

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Effective date: January 19, 2021

Proposal publication date: November 6, 2020

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



TITLE 25. HEALTH SERVICES

PART 1. DEPARTMENT OF STATE HEALTH SERVICES

CHAPTER 1. MISCELLANEOUS PROVISIONS

SUBCHAPTER V. ADULT STEM CELLS

25 TAC §1.462

The Executive Commissioner of the Texas Health and Human Services Commission (HHSC), on behalf of the Department of State Health Services (DSHS), adopts amendment to §1.462, relating to Informed Consent for Investigational Stem Cell Treatment.

The amendment to §1.462 is adopted without changes to the proposed text as published in the September 11, 2020, issue of the *Texas Register* (45 TexReg 6313); the rule will not be republished.

BACKGROUND AND JUSTIFICATION

The amendment is necessary to implement House Bill (H.B.) 3148, 86th Legislature, Regular Session, 2019, which amended Texas Health and Safety Code, §1003.054(c), to require the Executive Commissioner of HHSC, by rule, to adopt an informed consent form that must be signed by an eligible patient before receiving an investigational stem cell treatment. The Executive Commissioner delegated the development of the informed consent form and rule amendment to DSHS. H.B. 3148 requires the informed consent form to provide notice that DSHS administers Texas Health and Safety Code, Chapter 1003, Adult Stem Cells.

Before this amendment, Texas Health and Safety Code, Chapter 1003, was permissive and did not require the Executive Commissioner to adopt an informed consent form. Under the current §1.462, physicians are required to provide the written informed consent to the eligible patient. The adopted standard informed consent form helps ensure that eligible patients are informed that investigational stem cell treatments, as defined by Chapter 1003, must be part of a clinical trial and are not approved for general use by the United States Food and Drug Administration.

COMMENTS

The 31-day comment period ended October 12, 2020. During this period, DSHS received comments regarding the proposed

rule from two commenters, including the Texas Medical Association (TMA) and one individual. A summary of comments relating to §1.462 and DSHS's responses follows.

Comment: A commenter recommended including a review schedule for the DSHS informed consent form referenced in §1.462.

Response: DSHS disagrees and declines to revise the rule in response to this comment. The consent form will not be codified in rule to allow flexibility for updates, as necessary, to comply with any changes in statute or rule and with approval from the Executive Commissioner.

Comment: Two commenters indicated that §1.462(b) is unclear and suggests that additional consent, beyond the adopted informed consent form, is required.

Response: DSHS disagrees and declines to revise the rule or form in response to this comment. The intent of the informed consent form prescribed in accordance with Texas Health and Safety Code, §1003.054, is for the patient to acknowledge they have been informed that the investigational stem cell treatment is a treatment that is part of a clinical trial, but not yet approved for general use by the United States Food and Drug Administration. Additional consent forms related to the clinical trial for a specific class of investigational stem cell treatment may be required by the physician administering the investigational stem cell treatment or overseeing the clinical trial.

In addition to comments received for changes to the rule text, DSHS received comments regarding DSHS's draft Informed Consent Form as posted on the DSHS website.

Comment: TMA suggested including an acknowledgment of the physician's consultation regarding the patient's treatment options on the informed consent form.

Response: DSHS agrees and revises the informed consent form as suggested that is located on the DSHS's website at www.dshs.texas.gov/chronic/.

Comment: TMA suggested the informed consent form be clarified to avoid any potential ambiguity between the informed consent form and disclosure form.

Response: DSHS agrees and revises the informed consent form located on the DSHS website.

Comment: TMA suggested that DSHS clarify the information required for the "Treatment Information" field on the informed consent form located on DSHS's website.

Response: DSHS agrees and revises the informed consent form to clarify that treatment information refers to the investigational stem cell treatment/clinical trial information.

STATUTORY AUTHORITY

The amendment is authorized by Texas Health and Safety Code §1003.054, which requires the Executive Commissioner of HHSC, by rule, to adopt an informed consent form that must be signed by an eligible patient before receiving an investigational stem cell treatment. The amendment is also authorized by Texas Government Code, §531.0055 and Texas Health and Safety Code, §1001.075, which provides that the Executive Commissioner of HHSC shall adopt rules and policies necessary for the operation and provision of services by DSHS and for the administration of Texas Health and Safety Code, Chapters 1001 and 1003.

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 December 29, 2020.

TRD-202005721

Barbara L. Klein

General Counsel

Department of State Health Services

Effective date: January 18, 2021

Proposal publication date: September 11, 2020

For further information, please call: (512) 939-7575



TITLE 26. HEALTH AND HUMAN SERVICES

PART 1. HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 306. BEHAVIORAL HEALTH DELIVERY SYSTEM

SUBCHAPTER D. MENTAL HEALTH SERVICES--ADMISSION, CONTINUITY, AND DISCHARGE

DIVISION 5. DISCHARGE AND ABSENCES FROM A STATE MENTAL HEALTH FACILITY OR FACILITY WITH A CONTRACTED PSYCHIATRIC BED

26 TAC §306.204

The Texas Health and Human Services Commission (HHSC) adopts an amendment to §306.204, concerning Discharge of an Individual Involuntarily Receiving Treatment. The amendment to §306.204 is adopted with changes to the proposed text as published in the September 25, 2020, issue of the *Texas Register* (45 TexReg 6665). This rule will be republished.

BACKGROUND AND JUSTIFICATION

The amendment is necessary to implement §574.081(c-2) of the Texas Health and Safety Code, as amended by Senate Bill 362, 86th Legislature, Regular Session, 2019. The amendment outlines requirements for private mental health facilities with a contracted psychiatric bed (CPB) through HHSC, or funded and operated by a local mental health authority or local behavioral health authority, to provide psychoactive medication, and any other medication prescribed to counteract adverse side effects of psychoactive medication, at the time an individual receiving court-ordered inpatient mental health services is furloughed or discharged from a facility with a CPB. The facility with a CPB is only required to provide the medication if funding is available from HHSC to cover the cost of the medications. The facility with a CPB is not required to provide or pay for more than a seven-day supply of the medication.

COMMENTS

The 31-day comment period ended October 26, 2020.

During this period, HHSC received comments regarding the proposed rule amendment from two commenters, including Disability Rights Texas and one individual. A summary of comments relating to the rule and HHSC's responses follows.

Comment: A commenter suggested that the rules ensure an individual has medications to bridge the gap between release and outpatient treatment in circumstances where there is a delay in the individual getting to their ongoing provider. It was also suggested that the rules require the facility with a CPB to verify the individual's appointment with the ongoing provider.

Response: HHSC is not authorized to provide or pay for psychoactive medication for more than seven days after furlough or discharge pursuant to Health and Safety Code §574.081(c-2). HHSC declines to modify the rule in response to this comment.

Comment: A commenter suggested that the rule language include HHSC contact information for an individual discharged from a facility with a CPB to verify availability of funding to confirm whether their psychoactive medication should be provided or paid for at furlough or discharge.

Response: HHSC agrees and revised the rule by adding new paragraph (C) at §306.204(c)(3). The new paragraph requires a facility with a CPB to inform an individual if funding is not available to provide or pay for medications upon the individual's furlough or discharge. The rule was also revised to add a cross-reference that requires an individual's designated local mental health authority or local behavioral health authority to pay for the medication, if applicable.

A minor editorial change was made to §306.204(d) replacing the word "conjunction" with "accordance" for clarity.

STATUTORY AUTHORITY

The amendment is adopted under Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Health and Safety Code §574.081(c-2), which requires HHSC to adopt rules to determine the quantity and manner of providing psychoactive medications to patients furloughed or discharged from certain hospitals pursuant to §574.081.

§306.204. Discharge of an Individual Involuntarily Receiving Treatment.

(a) Discharge from emergency detention.

(1) Except as provided by §306.178 of this subchapter (relating to Voluntary Treatment Following Involuntary Admission) and in accordance with Texas Health and Safety Code §573.021(b) and §573.023(b), an SMHF or facility with a CPB immediately discharges an individual under emergency detention if:

(A) the SMHF administrator, administrator of the facility with a CPB, or designee concludes, based on a physician's determination, the individual no longer meets the criteria in §306.176(c)(1) of this subchapter (relating to Admission Criteria for a Facility with a Contracted Psychiatric Bed Authorized by an LMHA or LBHA or for a State Mental Health Facility for Emergency Detention); or

(B) except as provided in paragraph (2) of this subsection:

(i) 48 hours has elapsed from the time the individual was presented to the SMHF or facility with a CPB; and

(ii) the SMHF or facility with a CPB has not obtained a court order for further detention of the individual.

(2) In accordance with Texas Health and Safety Code §573.021(b), if the 48-hour period described in paragraph (1)(B)(i) of this subsection ends on a Saturday, Sunday, or legal holiday, or before 4:00 p.m. on the next business day after the individual was presented to the SMHF or facility with a CPB, the SMHF or facility with a CPB detains the individual until 4:00 p.m. on such business day.

(b) Discharge under order of protective custody. Except as provided by §306.178 of this subchapter and in accordance with Texas Health and Safety Code §574.028, an SMHF or facility with a CPB immediately discharges an individual under an order of protective custody if:

(1) the SMHF administrator, facility with a CPB administrator, or designee determines that, based on a physician's determination, the individual no longer meets the criteria described in Texas Health and Safety Code §574.022(a);

(2) the SMHF administrator, facility with a CPB administrator, or designee does not receive notice that the individual's continued detention is authorized after a probable cause hearing held within the time period prescribed by Texas Health and Safety Code §574.025(b);

(3) a final order for court-ordered inpatient mental health services has not been entered within the time period prescribed by Texas Health and Safety Code §574.005; or

(4) an order to release the individual is issued in accordance with Texas Health and Safety Code §574.028(a).

(c) Discharge under court-ordered inpatient mental health services.

(1) Except as provided by §306.178 of this subchapter and in accordance with Texas Health and Safety Code §574.085 and §574.086(a), an SMHF or facility with a CPB immediately discharges an individual under a temporary or extended order for inpatient mental health services if:

(A) the order for inpatient mental health services expires; or

(B) the SMHF administrator, administrator of the facility with a CPB, or designee concludes that, based on a physician's determination, the individual no longer meets the criteria for court-ordered inpatient mental health services.

(2) In accordance with Texas Health and Safety Code §574.086(b), before discharging an individual in accordance with paragraph (1) of this subsection, the SMHF administrator, administrator of the facility with a CPB, or designee considers whether the individual should receive court-ordered outpatient mental health services in accordance with a modified order described in Texas Health and Safety Code §574.061.

(3) In accordance with Texas Health and Safety Code §574.081, at the time an individual receiving court-ordered inpatient mental health services is furloughed or discharged from a facility with a CPB, a facility with a CPB is responsible for providing or paying for psychoactive medication and any other medication prescribed to counteract adverse side effects of psychoactive medication.

(A) A facility with a CPB is only required to provide or pay for these medications if funding to cover the cost of the medications is available to be paid to the facility for this purpose from HHSC.

(B) The facility with a CPB must provide or pay for the medications in an amount sufficient to last until the individual can see a physician, or provider with prescriptive authority, but the facility with a CPB is not required to provide or pay for more than a seven-day supply.

(C) The facility with a CPB must inform an individual if funding is not available to provide or pay for the medications upon furlough or discharge. If funding is not available, the individual's designated LMHA or LBHA is responsible for providing psychoactive medications as provided in §306.207(2)(A) of this division (relating to Post Discharge or Absence for Trial Placement: Contact and Implementation of the Recovery or Treatment Plan), if applicable.

(4) Individuals committed under Texas Code of Criminal Procedure, Chapter 46B or 46C may only be discharged as provided by §306.202(f) of this division (relating to Special Considerations for Discharge Planning).

(d) Discharge packet. An SMHF administrator, administrator of a facility with a CPB, or designee forwards a discharge packet, as provided in §306.201(h) of this division (relating to Discharge Planning), of any individual committed under the Texas Code of Criminal Procedure to the jail and the LMHA or LBHA in accordance with state and federal privacy laws.

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 December 31, 2020.

TRD-202005748

Karen Ray

Chief Counsel

Health and Human Services Commission

Effective date: January 20, 2021

Proposal publication date: September 25, 2020

For further information, please call: (512) 838-4314



CHAPTER 903. INTERSTATE COMPACT ON MENTAL HEALTH AND INTELLECTUAL AND DEVELOPMENTAL DISABILITIES

26 TAC §§903.1 - 903.8

The Texas Health and Human Services Commission (HHSC) adopts new §903.1, concerning Purpose; §903.2, concerning Application; §903.3, concerning Definitions; §903.4, concerning Prerequisite for Transfer; §903.5, concerning Legal Basis for Institutionalization; §903.6, concerning Coordinating Requests for Interstate Transfer; §903.7, concerning Requests for a Person with Mental Illness or Intellectual and Developmental Disabilities to Transfer from Texas; and §903.8, concerning Requests for a Person with Mental Illness or Intellectual and Developmental Disabilities to Transfer to Texas.

Section 903.7 is adopted with changes to the proposed text as published in the October 16, 2020, issue of the *Texas Register* (45 TexReg 7390). The rule will be republished in the *Texas Register*. Sections 903.1 - 903.6 and 903.8 will be adopted without changes to the proposed text as published in the October 16, 2020, issue of the *Texas Register* (45 TexReg 7390). The rules will not be republished.

BACKGROUND AND JUSTIFICATION

The new chapter contains updated and reorganized rules related to the interstate compact on mental health and intellectual and developmental disabilities. These rules replace rules in 1 TAC

Chapter 383. The repeal of 1 TAC Chapter 383 is located elsewhere in this issue of the *Texas Register*.

COMMENTS

The 31-day comment period ended on November 16, 2020.

During this period, HHSC Health and Specialty Care System (HSCS) received one comment from HHSC Intellectual and Developmental Disability Services (IDDS) regarding the proposed rules.

Comment: IDDS asked who is responsible for ensuring the person served or legally authorized representative is informed that an interstate transfer will not occur (§903.7(c)).

Response: HSCS agrees with the commenter's concern and revised §903.7(c) to designate who is responsible.

STATUTORY AUTHORITY

The new sections are authorized by Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, and Texas Health and Safety Code §§533.014, 533.0356, 533A.0355, 571.006 and 612.004 which authorize creation of rules related to this topic.

§903.7. *Requests for a person with Mental Illness or Intellectual and Developmental Disabilities to Transfer from Texas.*

(a) A letter of request for interstate transfer of a person with mental illness or intellectual and developmental disabilities from a state hospital or SSLC must be sent to the Texas ICC by email (preferred) or mail.

(b) State hospital or SSLC staff must discuss the proposed transfer and the person's preference with the person, the person's LAR, and the person's family, or, if appropriate, other available sources to ascertain whether the transfer is in the person's best interest.

(c) If the transfer will not occur, the Texas ICC must provide written notification to the person or LAR and the individual who requested the transfer that the transfer will not occur and the reason for not proceeding with the transfer.

(d) The Texas ICC must contact the receiving state's ICC and make a reasonable effort to obtain authorization for the transfer if HHSC determines the transfer of a person is in the person's best interest.

(e) If the person is proposed to be transferred from a state hospital or SSLC to a facility in another state that is a party to the interstate compact, HHSC must not take final action without the approval of the committing Texas court.

(f) If the receiving state decides to accept the person for immediate transfer, then the state hospital or SSLC must:

(1) make all travel arrangements, including coordinating with the facility in the receiving state to assist with travel inside the receiving state;

(2) be responsible for all transfer expenses;

(3) ensure arrangements are made for an escort or escorts to accompany and assist the person to reach their destination;

(4) ensure the following items accompany the person upon transfer to the receiving state:

(A) all appropriate legal documents;

(B) the person's Medicaid, Medicare, or third-party insurance card or cards, if available;

(C) copies of all the person's laboratory reports and physical exams conducted within the past 30 days and any additional significant reports made within the past year;

(D) all the person's personal belongings at the state hospital or SSLC; and

(E) the supply of all prescribed medication as agreed upon by the sending and receiving facilities.

(g) The Texas ICC must ensure all authorized parties are informed of the progress made on the transfer request.

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 December 29, 2020.

TRD-202005723

Karen Ray

Chief Counsel

Health and Human Services Commission

Effective date: January 18, 2021

Proposal publication date: October 16, 2020

For further information, please call: (512) 438-3049



TITLE 34. PUBLIC FINANCE

PART 1. COMPTROLLER OF PUBLIC ACCOUNTS

CHAPTER 3. TAX ADMINISTRATION

SUBCHAPTER V. FRANCHISE TAX

34 TAC §3.591

The Comptroller of Public Accounts adopts amendments to §3.591, concerning margin: apportionment, with changes to the proposed text as published in the November 13, 2020, issue of the *Texas Register* (45 TexReg 8104). The rule will be republished.

The amendments implement House Bill 500, 83rd Legislature, 2013, effective January 1, 2014 and House Bill 2896, 84th Legislature, 2015, effective January 1, 2018. The amendments also update the section to reflect current guidance and improve readability.

The comptroller received comments regarding the proposed amendments from Jo Ellen Stark of Union Pacific; Celeste Embrey of Texas Bankers Association; Kim Chamberlain of Securities Industry and Financial Market Association (SIFMA); Chris Rosas of Rackspace; Angela Miele of Motion Picture Association; Patrick Reynolds of Council on State Taxation (COST); Dale Craymer of Texas Taxpayers and Research Association (TTARA); Sandi Farquharson of Ryan; and Brandon Newton of Crowe LLP.

Throughout the section, the comptroller adds titles to statutory citations; replaces the term intangibles with intangible assets; replaces the term receipts with gross receipts; replaces the term

gross receipts everywhere with gross receipts from an entity's entire business; references other relevant sections; replaces the term apportioned with sourced; replaces the term legal domicile of payor with location of payor; replaces the term revenue with gross receipts; and makes minor revisions to improve readability.

The comptroller amends the definition of "capital asset" in subsection (b)(1) to remove language that makes it circular with the definition of "investment" in subsection (b)(6).

The comptroller removes former subsection (b)(2), the definition of "commercial domicile," and renumbers the subsequent paragraphs as necessary. The definition is no longer necessary as the term is no longer used in this section.

The comptroller amends renumbered subsection (b)(3) to revise the definition of "gross receipts" to reflect that certain non-receipt items excluded when calculating total revenue are not used in calculating gross receipts. Any item of revenue excluded from total revenue is not included in computing gross receipts under Tax Code, §171.1055(a). For most entities, gross receipts will equal the amount reported in total revenue unless the taxable entity has excluded non-receipt items from total revenue that must be added back when computing gross receipts, including: \$500 per pro bono services case; the actual cost of uncompensated care; the direct cost of providing waterway transportation; the direct cost of providing agricultural aircraft services and the cost of a vaccine. For example, under Tax Code, §171.1011(g-3) (Termination of Total Revenue from Entire Business), an attorney may exclude \$500 from total revenue for handling a pro bono case. Since the \$500 is not a receipt, there is no exclusion for pro bono work when calculating gross receipts.

The comptroller adds new language to the definition of "Internal Revenue Code" in renumbered subsection (b)(4) to specify that the federal tax year beginning on January 1, 2007, is the operative federal tax year for references to the Internal Revenue Code (IRC). The new language replaces the reference to Tax Code, §171.0001 (General Definitions).

The comptroller adds new subsection (b)(5) to define "inventory." This definition is based on the discussion of inventory from IRC §1221(a)(1) and incorporates the guidance provided by STAR Accession No. 201311792L (November 21, 2013).

Sandi Farquharson of Ryan requests that following language be deleted from the definition: "Securities and loans for investment, hedging, or risk management purposes are not inventory." However, the comptroller will retain the language because it is an accurate statement that will assist auditors and taxpayers in determining what is and is not inventory.

The comptroller amends the definition of "investment" in subsection (b)(6) to make clear that inventory is not included in investments. The definition incorporates the guidance provided by STAR Accession No. 201311792L.

The comptroller amends the definition of "legal domicile" in subsection (b)(7) to remove the definition of "principal place of business" because the term will be separately defined in subsection (b)(9).

The comptroller adds new subsection (b)(9) to define "principal place of business" for all taxable entities. The definition is based on the United States Supreme Court decision, *Hertz Corp. v. Friend*, 559 U.S. 77, 92 (2010) where the court concluded that "...principal place of business' is best read as referring to the place where a corporation's officers direct, control, and coordinate the corporation's activities."

The comptroller adds new subsection (b)(10) to define "regulated investment company." The definition is consistent with the language in Tax Code, §171.106(b) (Apportionment of Margin to this State). Subsequent paragraphs are renumbered accordingly.

Sandi Farquharson of Ryan comments that the parenthetical reference to IRC § 475(c)(2) in subsection (b)(11) should be "Security Defined" rather than "Mark to market accounting method for dealers in securities." The comptroller lists the title of the section rather than the title of the paragraph within the section. Therefore, the comptroller declines to make this change.

The comptroller adds new subsection (b)(14) to define "Texas gross receipts" pursuant to Tax Code, §171.103 (Determination of Gross Receipts from Business Done in this State for Margin).

The comptroller amends subsection (c)(1) to provide guidance from Tax Code, §171.106(b) relating to the sourcing of receipts from services provided to a regulated investment company. New subparagraphs (A) and (B) provide guidance on how to determine Texas gross receipts and gross receipts from an entity's entire business, respectively, for a regulated investment company.

The comptroller amends subsection (c)(2) to track the statutory language in Tax Code, §171.106(c) relating to the sourcing of receipts from services provided to an employee retirement plan. New subparagraphs (A) and (B) provide guidance on how to determine Texas gross receipts and gross receipts from an entity's entire business, respectively, for an employee retirement plan.

The comptroller amends subsection (d)(1) to delete the reference to §3.595 (relating to Margin: Transition) as the transition period is no longer within the statute of limitations and §3.595 has been repealed.

The comptroller amends subsection (d)(2) to add language to limit the filing of an initial report to taxable entities with a beginning date prior to October 4, 2009, pursuant to §3.584(c)(1) (relating to Margin: Reports and Payments). The comptroller also adds reporting requirements for taxable entities with a beginning date on or after October 4, 2009, consistent with §3.584(c)(2).

The comptroller amends subsection (d)(5) to explain that exclusions under §3.587 of this title (relating to Margin: Total Revenue) that are non-receipt items are not deducted from receipts.

The comptroller amends the title to subsection (e) to more accurately reflect the contents of the subsection.

The comptroller deletes the original language in subsection (e)(1) concerning bad debt recoveries. The comptroller determines the guidance unnecessary and intends no change in policy by this deletion.

The comptroller adds language to subsection (e)(1) to consolidate the sourcing rules for receipts from advertising, which are currently addressed in subsection (e)(20) for newspapers or magazines, (e)(22) for radio/television, and (e)(26) for advertising services in other media. The new language in subsection (e)(1) will provide a uniform sourcing rule across all media and will be consistent with the amendments to the general rule for sourcing receipts from services in subsection (e)(26), which states that a service is performed at the location of the receipt-producing, end-product act.

Angela Miele of MPA requests that subsection (e)(1) be applied prospectively since it changes the sourcing of receipts for radio/television advertising transmitted from a location in Texas.

The comptroller amends subsection (e)(1) to retain the option to source these receipts for prior periods based on the transmitter location, as provided in former subsection (e)(22).

The comptroller restructures subsection (e)(2) concerning capital assets and investments into new subparagraphs, and revises the treatment of the sale of investments and capital assets. To be consistent with the Texas Supreme Court decision in *Hallmark Marketing Co. v. Hegar*, 488 S.W.3d 795 (Tex. 2016), net losses are no longer included in gross receipts. In addition, for reports originally due on or after January 1, 2021, net gains and losses will be determined on a sale-by-sale basis.

Under the current rule, gains and losses during an accounting period are offset to determine a "net" amount. The comptroller adopted this rule to comply with the holding in *Calvert v. Electro-Science Investors, Inc.*, 509 S.W.2d 700 (Tex. Civ. App. - Austin 1974, no writ). See Tex. Comp. of Pub. Accts., Rule 026.02.12.013(2)(k) (1975) (STAR Accession No. 7601R1000B02). In its *Electro-Science* opinion, the Court of Appeals held that the plain meaning of "net gain" in the apportionment statute required that "gains and losses be offset against one another in order that a net figure be obtained."

However, more recently, in *Hallmark Marketing Co. v. Combs*, No. 13-14-00093-CV (Tex. App. - Corpus Christi-Edinburg 2014) (mem. op.), rev'd on other grounds, 488 S.W.3d 795 (2016), the Court of Appeals found that the statute was ambiguous:

"The ambiguity arises because it is unclear, by examining only the plain language of the statute, what the term 'net gain' means. On the one hand, 'net gain' may refer to the particular gain or loss that results from each individual sale when proceeds are offset by costs. ... On the other hand, 'net gain' may instead refer to the taxpayer's cumulative gain or loss on its various investment and capital asset sales made throughout the year."

The Texas Supreme Court reversed the Court of Appeals' *Hallmark* decision on other grounds, holding that "we do not need to relitigate the question in order to determine Hallmark did not have a net gain under any calculation." 488 S.W.3d at 799.

In the process of revising its rule to comply with the Supreme Court's determination that net losses may not be included in gross receipts, the comptroller has also evaluated its rule regarding the calculation of net gains and losses. The comptroller has concluded that the only reasonable interpretation of the statute is that "net gain" refers to the net amount resulting from proceeds of an asset sale reduced by the adjusted basis in the asset. Because the statute only permits the inclusion of net gains, the net loss from the sale of one asset cannot be used to offset the net gain from another asset.

The objective of the apportionment statute is to apportion an entity's total revenues based on the entity's business activity in Texas relative to the entity's entire business activity. The apportionment statute uses an entity's gross receipts as a proxy for business activity. Given this objective, it makes no sense to negate gains from one transaction with losses from another, resulting in one business activity essentially negating another.

Suppose a real estate investment company sold two Texas investment properties, with the loss on one sale equaling the gain on the other. If the loss offsets the gain for apportionment purposes, the company will have no Texas receipts and a zero Texas apportionment factor even though it had substantial business activity in the State. The comptroller has concluded that the Leg-

islature could not have intended that absurd result. Rather, the only reasonable interpretation of legislative intent is the opposite -- the Legislature provided that the "net gain," that is, a positive amount resulting from the proceeds from an asset sale less the asset's adjusted basis, is included in gross receipts, and the net gain should not be neutralized by net losses on other transactions.

Accordingly, new subparagraph (A) provides that only the "net gain" from the sale of an investment or capital asset should be included in gross receipts. New subparagraph (B) defines "net gain." New subparagraph (C) retains the legacy rule for legacy periods. New subparagraph (D) provides that sourcing as a Texas or non-Texas receipt is determined by the asset type. And new subparagraph (E) provides examples.

Celeste Embrey of TBA and Kim Chamberlain of SIFMA request that subsection (e)(2) still allow the netting of gains and losses. Both argue that computing the net gain or loss separately for each sale would cause undue burden and not allowing the netting of the losses could exclude a material segment of a taxpayer's business. The comptroller disagrees. The addition of only net gain involves fewer transactions than the addition of net gains and net losses, and it is the offsetting of gains with losses that could result in the exclusion of a material segment of a taxpayer's business.

Additionally, Sandi Farquharson of Ryan argues that the comptroller does not have the authority to limit the losses with respect to Texas receipts without a legislative change because Section 171.103 does not contain the same language as Section 171.105 with regards to including "only the net gain." The comptroller addressed this argument in STAR Accession 202001008L (January 22, 2020): "Although the 'net gain' language only appears in Section 171.105 for gross receipts everywhere, we will also apply the Hallmark decision to the calculation of Texas gross receipts. There must be symmetry between Texas gross receipts and gross receipts everywhere." Therefore, the comptroller declines to make this change.

Revised subsection (e)(3) replaces the sourcing rules for receipts from the sale of computer software services and programs with the sourcing rules for receipts from the sale of computer hardware and digital property and adds new subparagraphs (A) through (I). The title is changed accordingly.

New subparagraph (A) treats the sale of software installed on computer hardware as part of the sale of the computer hardware.

New subparagraph (B) treats the lease of software installed on computer hardware as part of the leasing of the computer hardware.

New subparagraph (C) treats the sale of digital property on fixed physical media (such as compact discs) as the sale of tangible personal property. This treatment is consistent with the treatment of other intellectual property that is sold in non-digital fixed physical media (such as books).

New subparagraph (D) treats the lease of digital property on fixed physical media (such as compact discs) as the lease of tangible personal property.

New subparagraph (E) treats the sale of digital property transferred by means other than fixed physical media as the sale of intangible property, which is sourced to the location of the payor. This treatment is consistent with the former paragraph (e)(3) regarding computer software.

New subparagraph (F) treats the receipts from the delivery of digital property as a service as receipts from providing services.

New subparagraph (G) treats the receipts from the delivery of digital property as part of an internet hosting service as receipts from providing internet hosting services.

New subparagraph (H) treats the receipts from the use of digital property as receipts from the use of an intangible asset.

New subparagraph (I) provides two examples of sourcing receipts from digital property. The examples illustrate that digital products lie at the intersection of multiple sourcing provisions, resulting in a complex roadmap for sourcing. Because the sourcing is dictated by statute, the complexity is unavoidable. However, many of the sourcing routes may lead to the same destination. For example, at least with regard to receipts received from individual consumers, the location where tangible personal property is delivered, the location where a service is performed, the location where the customer is located, and the location of the payor, may all be in the same state.

Brandon Newton of Crowe LLP requests a more robust definition of "digital property" and a clearer distinction between the sale of digital property and the delivery of digital property as a service. Subparagraph (C) of subsection (e)(3) identifies "digital property" as "computer programs and any content in digital format that is either protected by copyright law or no longer protected by copyright law solely due to the passage of time." Also, subparagraph (D) of subsection (e)(13) identifies factors that may be considered in distinguishing the purchase of access to computer services over the internet from the purchase or lease of digital property. The comptroller believes that these provisions, along with the examples in subparagraph (I) of subsection (e)(3), will be sufficient guides to auditors and taxpayers.

The comptroller moves former subsection (e)(7), concerning the deemed sales of assets under IRC, §338 to new subsection (e)(22). The comptroller renumbers subsequent paragraphs accordingly.

The comptroller amends renumbered subsection (e)(7), which formerly concerned both dividends and interest, to move the guidance related to interest to subsection (e)(12) and to retitle the paragraph accordingly. Subsection (e)(7) now contains guidance on dividends only.

The comptroller adds new subsection (e)(10) to provide guidance for sourcing receipts from the settlement of hedging contracts and other financial derivatives for risk management purposes. These types of investments are intangibles and the receipts are sourced to the location of the payor.

Sandi Farquharson of Ryan comments that the subsection (e)(10) is unnecessary as it does not serve any different purpose from subsection (e)(17), concerning loans and securities treated as inventory of the seller. She also restates her comments to the definition of "inventory" in subsection (b)(5). For the reasons stated in the discussion of subsection (b)(5), the comptroller declines to make changes to subsection (e)(10). Subsection (e)(10) will alert auditors and taxpayers that these types of financial derivatives are not considered to be inventory for the purpose of subsection (e)(17).

The comptroller adds new subsection (e)(12) to incorporate and reorganize the interest language moved from renumbered subsection (e)(7).

The comptroller amends renumbered subsection (e)(13) concerning internet access fees to more clearly explain the sourcing of receipts from internet hosting services to the location of the customer, pursuant to House Bill 500, 83rd Legislature, 2013, codified as Tax Code, §171.106(g), effective for reports originally due on or after January 1, 2014.

New subparagraph (A) defines "internet hosting service" using the language from Tax Code, §151.108(a), which Tax Code, §171.106(g) references.

New subparagraph (B) gives non-exhaustive examples of internet hosting services. These examples extend beyond what might be ordinarily considered as internet hosting services. However, the statutory definition extends beyond the ordinary meaning, as was noted by the analysis of the same definition that was proposed in House Bill 416 during the same legislative session. House Research Organization Analysis of House Bill 416, 83rd Legislature, 2013 ("A growing number of companies offering cloud computing services and products likely would fall under the definition of web hosting in the bill."). House Bill 500's specific exclusion of telecommunications service, which would not ordinarily be considered as an internet hosting service, indicates that the Legislature was aware of the broad sweep of the definition. The specific meaning dictated by the legislation "elevate{s} the Legislature's substituted meaning even when it departs from the term's ordinary meaning." *Entergy Gulf States, Inc. v. Summers*, 282 S.W.3d 433, 442 (2009).

New subparagraph (C) gives non-exhaustive examples that are not internet hosting services.

New subparagraph (D) lists factors for distinguishing the purchase of access to computer services over the internet from the purchase or lease of digital property over the internet. The factors are taken from the Internal Revenue Service Notice of Proposed Rulemaking regarding "Classification of Cloud Transactions and Transactions Involving Digital Content," 84 Fed. Reg. 40317 (Aug. 14, 2019).

Chris Rosas of Rackspace suggested various revisions to fine-tune the factors. The Comptroller declines these suggestions. Subparagraph (D) contains a partial list of factors, the relevance of which may vary depending upon the circumstances. If a factor described in subparagraph (D) does not fit a particular circumstance, it may be discounted.

New subparagraph (E) provides guidance for determining the physical location of the customer. The statute refers to "the customer to whom the service is provided." The comptroller has concluded from these references that the "customer" means the purchaser, or the designee of the purchaser, that consumes the service. Thus, in a resale situation, the service provider should source the revenue to the customer's customer that actually receives the service.

The statute provides no further instruction for determining the location of the customer. New subparagraph (E) enables taxpayers to determine the most reasonable sourcing method based on the available information. The method will be subject to audit review for reasonableness under the circumstances.

Chris Rosas of Rackspace requested the comptroller delete the example in subparagraph (E)(iii) regarding customer location when an intermediary purchases access to a computer service for resale to a third party. The comptroller declines the request. This is an example of the general rule that the customer location

is determined by the physical location where the purchaser or the purchaser's designee consumes the service.

The comptroller amends renumbered subsection (e)(14) addressing leases and subleases to standardize the language used throughout the section. The comptroller amends subparagraphs (C) - (E) to improve readability.

The comptroller amends renumbered subsection (e)(15) to improve readability.

The comptroller amends the title of renumbered subsection (e)(16) to include all loan servicing and adds two subparagraphs. New subparagraph (A) contains the original guidance for sourcing gross receipts from servicing loans secured by real property, pursuant to Tax Code, §171.103(a)(2). New subparagraph (B) provides guidance on sourcing gross receipts from servicing other loans that are not secured by real property.

The comptroller amends the title of renumbered subsection (e)(17) to reflect that the content applies only to loans and securities treated as inventory of the seller. The comptroller amends subparagraph (A) to state that loans and securities held by a taxable entity for investment or risk management purposes are not inventory. The comptroller adds references to information on sourcing receipts from the sale of loans and securities. The comptroller amends subparagraph (B) to reflect that the guidance applies to original reports due on or after January 1, 2008, pursuant to STAR Accession No. 201005671L (May 28, 2010).

Sandi Farquharson of Ryan comments that subsection (e)(17) repeats the mistakes of subsection (b)(5), in stating that securities and loans held for investment or risk management purposes are not inventory. For the reasons stated in response to the comments under subsection (b)(5), the comptroller declines to make any changes to subsection (e)(17).

The comptroller removes subsection (e)(20) concerning the sourcing of receipts from newspaper and magazine advertising and incorporates the information into new subsection (e)(1) to consolidate sourcing rules for advertising.

The comptroller amends subsection (e)(21) on the sourcing of receipts from the licensing of intangibles to improve the readability of subparagraph (B) and add examples taken from *TGS-NOPEC Geophysical Co. v. Combs*, 340 S.W.3d 432 (Tex. 2011) in new subparagraph (C).

The comptroller moves the information on the sourcing of receipts from radio and television advertising from former subsection (e)(22) to new subsection (e)(1) to consolidate sourcing rules for advertising. The comptroller moves information on sourcing receipts from qualified stock purchases under IRC, §338(h)(10) from former subsection (e)(7) to subsection (e)(22). The comptroller retitles subsection (e)(22) to more accurately reflect the contents and amends the language to improve readability.

The comptroller amends subsection (e)(24) to improve readability.

The comptroller amends subsection (e)(25) to update the percentage that is applied to securities sold through an exchange when a buyer cannot be identified in order to use more current population data for Texas and the United States. The Comptroller's Revenue Estimating Division provided the current data.

Celeste Embrey of TBA and Kim Chamberlain of SIFMA comment that subsection (e)(25) should be applied prospective and request that taxpayers be given an additional option to source

securities when a buyer cannot be identified. Both request that taxpayers be able to source receipts earned in Texas from similar, comparable securities instead of 8.7%. The comptroller agrees in part and will retain the use of 7.9% of gross receipts for prior periods. The comptroller declines to amend the section to provide for the alternative method of sourcing because determining what securities would be similar, comparable securities would be too subjective.

The comptroller amends subsection (e)(26) to provide additional guidance on the sourcing of receipts from services and reorganizes the paragraph.

The statutory apportionment formula for the margin tax is based on "each service performed in this state," with a proviso that receipts from servicing loans secured by real property are apportioned based on the location of the property. Historically, the comptroller has interpreted the statute largely by ad hoc adjudications of specific cases, which were sometimes followed by rule codifications of specific outcomes for specific industries. See, *Southwestern Bell Tel. Co. v. Combs*, 270 S.W.3d 249, 266 at n. 39 (Tex. App. - Amarillo 2008, pet. denied). The former rule had special provisions for internet access fees, fees for loan servicing of real property, newspaper and magazine advertising revenue, radio and television advertising revenue, services procurement, telephone companies, and transportation companies. The adopted rule largely retains or consolidates these special provisions, and adds a new special provision for internet hosting services as a result of the 2013 legislation.

Amended subsection (e)(26), like former subsection (e)(26), remains as the generic rule for apportioning all other service receipts. Former subsection (e)(26) provided little guidance. It tracked the statutory declaration that receipts from services are apportioned to the location where the service is performed and added a second sentence: "If services are performed inside and outside Texas, then such receipts are Texas receipts on the basis of the fair value of the services rendered in Texas." Although this sentence explained the manner of apportionment "if" services were performed inside and outside Texas, neither the sentence nor the rest of the subsection text explained *when* services were considered to be performed inside and outside Texas.

In Comptroller's Decision No. 10,028 (1980), the comptroller added some additional meaning to the generic apportionment rule for services (emphasis added):

"To accomplish the goal of giving independent meaning and significance to the receipts factor from sales of services of a corporation, the phrase 'services performed within Texas' as used in Art. 12.02(1)(b)(ii) must be construed as 'units of service sold, the performance of which occurs within Texas,' thereby shifting the focus geographically from every activity performed by a corporation that generates service receipts, to those *specific, end-product acts for which a customer contracts and pays to receive*. If no distinction between *receipt-producing activities versus non-receipt-producing, albeit essential, support activities* were made, no independent meaning could be given to the 'receipts from sales of services' factor, since the determination of the dollar amount of such services performed within Texas would always be ascertained by looking at other factors, such as the property and payroll located in Texas, on the theory that no activity of a corporation that generates service receipts is any more important than any other activity, since all are essential to the end-product performance of the service that is sold."

The agency has cited this decision on a number of occasions, and the courts have acknowledged that the decision represents a "longstanding interpretation" of the agency. *Westcott Communications, Inc. v. Strayhorn*, 104 S.W.3d 141, 146 (Tex. App. - Austin 2003, pet. denied); *Hegar v. Sirius XM Radio, Inc.*, No. 03-18-00573-CV (Tex. App. - Austin 2020).

Comptroller's Decision No. 10,028 distinguishes between receipts-producing activities and non-receipts producing, albeit essential support activities and focuses on the end-product acts for which a customer contracts and pays to receive. The adopted rule expounds upon these principles.

The comptroller amends subparagraph (A) or subsection (e)(26) to assist auditors and taxpayers in identifying where a service is performed. The new language reflects current guidance that a service is performed at the location where the receipts-producing, end-product act occurs, provided that there is a receipts-producing, end-product act. New clauses (i)-(ii) are added to provide examples. The comptroller amends subparagraph (B) to provide additional guidance for determining the fair value of services performed in Texas. New clauses (i)-(iii) give examples. The comptroller amends subparagraph (C) to contain information originally provided in subparagraph (A). New subparagraph (D) contains information originally provided in subparagraph (B). New subparagraph (E) contains information originally provided in subparagraph (C).

Patrick Reynolds of COST argues that the amendments to subsection (e)(26) result in market-based sourcing that is not supported by any legislative change, and that any changes should be applied prospectively. The comptroller agrees with COST that Rule 3.591 should seek to fairly apportion multistate business to Texas consistent with the statutes. The comptroller disagrees that the adopted rule is a retroactive application of market-based sourcing to service receipts. Rather, the rule recognizes that sometimes a service is performed where the taxpayer's market is located and sometimes it is not. That is the comptroller's current interpretation of the sourcing statutes, and the comptroller hopes that the rule will assist taxpayers and auditors in telling the difference.

The comptroller amends subsection (e)(27) to provide guidance on the sourcing of receipts from the sale of a membership interest in a single member limited liability company and delete the guidance regarding service procurement. Renumbered subsection (e)(13) on internet hosting and subsection (e)(26), the general rule for services, cover the sourcing of receipts from service procurement.

The comptroller amends the title of subsection (e)(30) to accurately reflect that it applies to all taxable entities providing telecommunication services.

The comptroller adds new subsection (e)(31) concerning sourcing of broadcasting receipts to implement House Bill 2896, which enacted Tax Code, §171.106(h). The language in this paragraph tracks the statutory language. Subsequent paragraphs are renumbered accordingly.

Sandi Farquharson of Ryan requests that the comptroller remove subsection (e)(32) on the ground that language regarding the sourcing receipts from transactions that occur in Texas waters is not necessary, and that these receipts should be sourced under the other types of transactions in subsection (e). She further comments that this paragraph might conflict with other sourcing paragraphs like paragraph (26) (Services). She suggests that subsection (e)(32) might be more appropriate moved

to subsection (b) as a definition regarding transactions sourced to "Texas" as including Texas waters. The comptroller declines to make these changes. Subsection (e)(32) has been in existence since the adoption of the rule, and there have not been any disputes regarding the application of this subsection.

The comptroller amends renumbered subsection (e)(33) to retitle the paragraph to accurately reflect that it applies to transportation services, and to replace the concept of "intrastate commerce" with the concept of transportation "in Texas."

The proposed rule eliminated the option to source based on the ratio of Texas mileage to everywhere mileage. Jo Ellen Stock of Union Pacific requested that the comptroller retain the option, but to clarify that the calculation should only include mileage involving the actual movement of goods and passengers. The adopted rule accepts the comment to retain the mileage option. The adopted rule also provides that only compensated mileage should be included in the calculation, to be consistent with the Legislature's overall scheme that sourcing should be based on activities that generate gross receipts.

The comptroller received comments from Celeste Embrey of TBA, Kim Chamberlain of SIFMA, and Dale Craymer of TTARA regarding the retroactive application of the additions and revisions to the rule.

When the additions or revisions are changes, the adopted rule retains the option of applying the sourcing procedures of the former rule to former periods. For example, subsection (e)(2) no longer allows the adding of net gains and net losses in calculating gross receipts from the sale of capital assets and investments. So, the subsection retains the old rule provision that allowed the addition of net gains and losses for reports originally due prior to January 1, 2021. The adopted rule retains similar options for the sourcing of receipts from the sale of securities under subsection (e)(25), which changed the percentage of Texas receipts when the payor cannot be identified, and the sourcing of receipts from radio and television advertising under subsection (e)(1), which changed the sourcing from the location of the broadcast tower to the location of the audience.

In some instances, the rule adds text to incorporate legislation adopted after the previous rule revision. New subsection (e)(31) implements the sourcing of broadcasting receipts under House Bill 2896, 84th Legislature, and new subsection (e)(13) implements the sourcing of internet hosting receipts under House Bill 500, 83rd Legislature. In those instances, the adopted rule applies the effective date of the legislation, so the additions are not retroactive applications of the law.

In other instances, the additions or revisions are expositions of existing Comptroller policy rather than changes. An example is the general rule for sourcing service receipts under subsection (e)(26). The rule is an exposition of the comptroller's current interpretation of the sourcing statute, which has been endorsed in part by the Court of Appeals opinion in the *Sirius XM Radio* litigation. TTARA suggests that it may be premature to revise the rule until the Texas Supreme Court has ruled on the pending petition for review. However, TTARA has also filed an amicus brief in the Texas Supreme Court asserting that "clarification of the sourcing rule" is needed. The amended rule clarifies how the agency applies the sourcing statute.

Finally, TTARA and others point to language in the preamble of the proposed rule that the agency might supersede some prior inconsistent rulings. However, superseding selected rulings that

are inconsistent with the agency's current interpretation, as it has been broadly applied, does not constitute retroactive rulemaking. Obsolete or inconsistent rulings are routinely superseded even without rulemaking.

This amendment is adopted 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 of the provisions of Tax Code, Title 2.

The amendment implements Tax Code, §171.106 (Apportionment of Margin to This State).

§3.591. *Margin: Apportionment.*

(a) Effective date. The provisions of this section apply to franchise tax reports originally due on or after January 1, 2008, except as otherwise noted.

(b) Definitions. The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Capital asset--Any asset that is held for use in the production of income, and that is subject to depreciation, depletion or amortization.

(2) Employee retirement plan--A plan or other arrangement that qualifies under Internal Revenue Code (IRC), §401(a) (Qualified pension, profit-sharing, and stock bonus plans), or that satisfies the requirement of IRC, §403 (Taxation of employee annuities), or a government plan described in IRC, §414(d) (Definitions and special rules).

(3) Gross receipts--Revenue as determined under §3.587 of this title (relating to Margin: Total Revenue), except as provided in subsection (e)(2) (concerning capital assets and investments) and subsection (e)(17) (concerning loans and securities) of this section. Non-receipt items excluded from total revenue under §3.587 of this title are not included in the calculation of total revenue under that section and are not deducted from gross receipts. These non-receipt items include the exclusion for uncompensated care, the \$500 exclusion per pro bono services case, the exclusion for the direct cost of providing waterway transportation, the exclusion for the direct cost of providing agricultural aircraft services, and the exclusion for the cost of a vaccine. See subsection (d)(5) of this section for gross receipts that are excluded from the apportionment calculation.

(4) Internal Revenue Code--The Internal Revenue Code of 1986 in effect for the federal tax year beginning on January 1, 2007, not including any changes made by federal law after that date, and any regulations adopted under that code applicable to that period.

(5) Inventory--Property held primarily for sale to customers in the ordinary course of a trade or business. Securities and loans held for investment, hedging, or risk management purposes are not inventory.

(6) Investment--Any non-cash asset that is not a capital asset or inventory.

(7) Legal domicile--The legal domicile of a corporation or limited liability company is its state of formation. The legal domicile of a partnership, trust, or joint venture is the principal place of business of the partnership, trust, or joint venture.

(8) Location of payor--The legal domicile of the payor.

(9) Principal place of business--The place where an entity's management directs, controls, and coordinates the entity's activities.

(10) Regulated investment company--Any domestic corporation defined under IRC, §851(a) (Definition of regulated investment company), including a taxable entity that includes trustees or sponsors of employee benefit plans that have accounts in a regulated investment company.

(11) Security--An instrument defined under IRC, §475(c)(2) (Mark to market accounting method for dealers in securities). This term includes instruments described by §475(e)(2)(B), (C), and (D) of that code.

(12) Tax reporting period--The period upon which the tax is based under Tax Code, §171.1532 (Business on Which Tax on Net Taxable Margin Is Based) or §171.0011 (Additional Tax).

(13) Taxable entity--Any entity upon which tax is imposed under Tax Code, §171.0002(a) (Definition of Taxable Entity) and not specifically excluded under Tax Code, §171.0002(b) or §171.0002(c). See also §3.581 of this title (relating to Margin: Taxable and Nontaxable Entities).

(14) Texas gross receipts--The portion of a taxable entity's gross receipts that is from business done in Texas.

(c) Apportionment formula. Except as provided in paragraphs (1) and (2) of this subsection, a taxable entity's margin is apportioned to Texas to determine the amount of franchise tax due by multiplying the taxable entity's margin by a fraction, the numerator of which is the taxable entity's Texas gross receipts and the denominator of which is the taxable entity's gross receipts from its entire business.

(1) Regulated investment company services. A taxable entity's margin derived, directly or indirectly, from the sale of management, distribution, or administration services to or on behalf of a regulated investment company, is apportioned to Texas by multiplying that portion of the taxable entity's total margin by a fraction:

(A) the numerator of which is the average of the sum of shares owned at the beginning of the year and the sum of the shares owned at the end of the year by the investment company shareholders whose principal place of business is in this state or, if the shareholders are individuals, are residents of this state; and

(B) the denominator of which is the average of the sum of shares owned at the beginning of the year and the sum of shares owned at the end of the year by all investment company shareholders.

(2) Employee retirement plan services. A taxable entity's margin derived, directly or indirectly, from the sale of management, administration, or investment services to an employee retirement plan is apportioned to Texas by multiplying that portion of the taxable entity's total margin by a fraction:

(A) the numerator of which is the average of the sum of beneficiaries domiciled in Texas at the beginning of the year and the sum of beneficiaries domiciled in Texas at the end of the year; and

(B) the denominator of which is the average of the sum of all beneficiaries at the beginning of the year and the sum of all beneficiaries at the end of the year.

(d) General rules for reporting gross receipts.

(1) A taxable entity that files an annual report must report gross receipts based on the business done by the taxable entity beginning with the day after the date upon which the previous report was based, and ending with the last accounting period ending date for federal income tax purposes ending in the calendar year before the calendar year in which the report is originally due.

(2) A taxable entity with a beginning date prior to October 4, 2009 that files an initial report must report gross receipts based on its activities commencing with the beginning date, as described in §3.584 of this title (relating to Margin: Reports and Payments), and ending on the last accounting period ending date for federal income tax purposes that is at least 60 days before the original due date of the initial report. A taxable entity with a beginning date on or after October 4, 2009 that files a first annual report must report gross receipts based on its activities commencing with the beginning date and ending on the last accounting period ending date for federal income tax purposes in the same calendar year as the beginning date.

(3) Taxable entities that are members of an affiliated group that are part of a unitary business must file a combined franchise tax report. See §3.590 of this title (relating to Margin: Combined Reporting), for determining gross receipts for a combined report.

(4) When a taxable entity computes gross receipts for apportionment, the taxable entity is deemed to have elected to use the same methods that the taxable entity used in filing its federal income tax return.

(5) Any item of revenue that is excluded from total revenue under Texas law or United States law is excluded from gross receipts from an entity's entire business and Texas gross receipts as provided by Tax Code, §171.1055(a) (Exclusion of Certain Receipts for Margin Apportionment). For example, any amount that is excluded from total revenue under the IRC, §78 (Dividends received from certain foreign corporations by domestic corporations choosing foreign tax credit) or §§951 - 964 (26 U.S. Code Subpart F - Controlled Foreign Corporations), is excluded from gross receipts. Non-receipt items that are excluded from total revenue under §3.587 of this title, such as \$500 per pro bono services case; the actual cost of uncompensated care; the direct cost of providing waterway transportation; the direct cost of providing agricultural aircraft services and the cost of a vaccine, are not deducted from gross receipts under this section. See subsection (b)(3) of this section, concerning definition of gross receipts. For example, under Tax Code, §171.1011(g-3) (Determination of Total Revenue from Entire Business), an attorney may exclude \$500 from total revenue for handling a pro bono case. Since the \$500 is not a receipt, there is no exclusion for pro bono work when calculating gross receipts. Therefore, if a taxable entity starts with its total revenue amount to calculate its gross receipts, the taxable entity must add back the \$500 per pro bono services case.

(6) A taxable entity that uses a 52 - 53 week accounting year end and that has an accounting year that ends during the first four days of January of the year in which the report is originally due may use the preceding December 31 as the date through which margin is computed.

(7) Any item of allocated revenue excluded under §3.587(c)(9) of this title is excluded from Texas gross receipts and gross receipts from an entity's entire business.

(e) Computation and sourcing of gross receipts.

(1) Advertising services. Gross receipts from the dissemination of advertising are sourced to the locations of the advertising audience. The locations of the advertising audience should be determined in good faith using the most reasonable method under the circumstances, considering the information reasonably available. The method should be consistently applied from year to year and supported by records retained by the service provider. Locations that may be reasonable include the physical locations of the advertising, advertising audience locations recorded in the books and records of the service provider, and locations listed in published rating statistics. If the locations of nationwide advertising audiences cannot otherwise be reason-

ably determined, then 8.7% of the gross receipts are sourced to Texas. For reports originally due prior to January 1, 2021, advertising receipts attributable to a radio or television station transmitter in Texas may be sourced to Texas.

(2) Capital assets and investments.

(A) Except as provided in subparagraph (C), only the net gain from the sale of a capital asset or investment is included in gross receipts. A net loss from the sale of a capital asset or investment is not included in gross receipts.

(B) The net gain or net loss from the sale of a capital asset or investment is the amount realized from the sale less the adjusted basis for federal income tax purposes.

(C) For reports originally due prior to January 1, 2021, a taxable entity may add the net gains and losses from sales of investments and capital assets to determine the total gross receipts from such transactions. If both Texas and out-of-state sales have occurred, then a separate calculation of net gains and losses on Texas sales must be made. If the combination of net gains and losses results in a loss, the taxable entity may not net the loss against other receipts.

(D) The net gain from the sale of a capital asset or investments is sourced based on the type of asset or investment sold. The net gain from the sale of an intangible asset is sourced to the location of the payor as provided in paragraph (21)(B) of this subsection, concerning gross receipts from the sale of intangible assets, and paragraph (25) of this subsection, concerning securities, of this subsection. Examples of intangible assets include, but are not limited to, stocks, bonds, commodity contracts, futures contracts, patents, copyrights, licenses, trademarks, franchises, goodwill, and general receivable rights. The net gain from the sale of real property is sourced as provided in paragraph (23) of this subsection, concerning real property. The net gain from the sale of tangible personal property is sourced as provided in paragraph (29) of this subsection, concerning tangible personal property.

(E) Examples.

(i) Example 1. During a report year, a real estate investment company sells two Texas investment properties, reporting a gain on sale of one property and a loss on the sale of the other property. The company should include the net gain on the profitable sale in gross receipts from its entire business but should not include the net loss on the unprofitable sale. The company should not offset the net loss against the net gain. To determine Texas gross receipts, the asset should be sourced based on its nature. Receipts from the sale of real property are sourced to the location of the property, as provided in paragraph (23) of this subsection. The company should include only the net gain on the sale of the Texas investment property in Texas gross receipts and should not include the net loss on the sale of the other Texas investment property.

(ii) Example 2. The facts are the same as in Example 1, except the real estate investment company also had net gains and net losses from the sale of out-of-state properties. For reports originally due prior to January 1, 2021, the real estate investment company may offset all of the net losses from these sales against all of the net gains. If the result is a net gain, the net gain is included in gross receipts from its entire business. If the result is a net loss, the net loss may not be included in gross receipts from its entire business. To determine Texas gross receipts, the company may offset the net loss from the sale of the one Texas property against the net gain from the sale of the other Texas property. If the result is a net gain, the net gain is included in Texas gross receipts. If the result is a net loss, the net loss may not be included in Texas gross receipts.

(3) Computer hardware and digital property.

(A) Gross receipts from the sale of computer hardware together with any software installed on the hardware are sourced as the sale or lease of tangible personal property under paragraph (29) of this subsection.

(B) Gross receipts from the lease of computer hardware together with any software installed on the hardware are sourced as the leasing of tangible personal property under paragraph (14)(B) of this subsection.

(C) Gross receipts from the sale of digital property (computer programs and any content in digital format that is either protected by copyright law or no longer protected by copyright law solely due to the passage of time) that is transferred by fixed physical media are sourced as the sale of tangible personal property under paragraph (29) of this subsection.

(D) Gross receipts from lease of digital property that is transferred by fixed physical media are sourced as the leasing of tangible personal property under paragraph (14)(B) of this subsection.

(E) Gross receipts from the sale or lease of digital property that is transferred by means other than by fixed physical media are sourced as the sale of intangible property under paragraph (21)(B) of this subsection.

(F) Gross receipts from the delivery of digital property as a service are sourced under paragraph (26) of this subsection, unless otherwise provided in this subsection.

(G) Gross receipts from the delivery of digital property as part of an internet hosting service are sourced as internet hosting receipts under paragraph (13) of this subsection. See paragraph (13)(D) of this subsection for factors distinguishing the purchase of access over the internet to computer services from the purchase or lease of digital property.

(H) Gross receipts from the use (as opposed to the sale or licensing) of digital property are sourced under paragraph (21)(A) of this subsection.

(I) Examples.

(i) Example 1. Movie Studio produces a copyrighted movie in digital format and successively sells the theatrical rights to Movie Theater Chain Company, the broadcast rights to Cable Company, the internet streaming rights to Internet Company A, the internet rental rights to Internet Company B, the digital versatile disc (DVD) sale rights to DVD Company, DVD rental rights to Kiosk Company, and the permanent download sale rights to Download Company. In each instance, Movie Studio's receipts are from the right to use its copyrighted digital property and sourced to where the copyright is used under paragraph (21)(A) of this subsection. Movie Theater Chain Company receipts from ticket sales are from the sale of a service and sourced to the audience location under paragraph (26)(A)(i) of this subsection. Cable Company subscription receipts from broadcasting the movie are from the sale of a service and sourced to the audience location under paragraph (26)(A)(i) of this subsection. Internet Company A's subscription receipts for its streaming service using its website are from an internet hosting service and sourced to the location of the customer under paragraph (13) of this subsection. Internet Company B's receipts from the rental (access for a limited time) of the movie using the company's website are from an internet hosting service and sourced to the location of the customer under paragraph (13) of this subsection. DVD Company's receipts from the sale of DVDs are from the sale of tangible personal property and sourced under paragraph (29) of this subsection. Kiosk Company's

receipts from the rental of DVDs are from the rental of property and sourced to the location of the property under paragraph (14) of this subsection. Download Company's receipts from the sale of permanent downloads of the movie are from the sale intangibles and sourced to the location of payor under paragraph (21)(B) of this subsection.

(ii) Example 2. Software Company designs bookkeeping software for personal use. Software Company licenses the software to Computer Company to include in the software sold with its computers. Software Company sells digital versatile discs (DVDs) of the bookkeeping software to Retail Company for resale to end users. Software Company sells downloads of its bookkeeping software directly to end users. Software Company sells an on-line version of its bookkeeping software in which end users can enter and store data on-line using the Software Company's website for a periodic fee. Software Company receipts from licensing the software to Computer Company are from the use of its digital product and sourced to the location of use under paragraph (21)(A) of this subsection. Computer Company's receipts from the sale of computers with pre-loaded software are from the sale of tangible personal property and sourced under paragraph (29) of this subsection. Software Company's receipts from the sale of DVDs to Retail Company are from the sale of tangible personal property and sourced under paragraph (29) of this subsection. Software Company's receipts from the sale of downloads to end users are from the sale of intangible property and sourced to the location of payor under paragraph (21)(B) of this subsection. Software Company's receipts from the sale of its on-line version are from the sale of an internet hosting service and sourced to the location of the customer under paragraph (13) of this subsection.

(4) Condemnation. Gross receipts from condemnation of property are sourced to the location of the property condemned.

(5) Debt forgiveness. If a creditor releases any part of a debt, then the amount that the creditor forgives is a gross receipt that is sourced to the legal domicile of the creditor.

(6) Debt retirement. Gross receipts from the retirement of a taxable entity's own indebtedness, such as through the taxable entity's purchase of its own bonds at a discount, are sourced to the taxable entity's legal domicile. The indebtedness is treated as an investment in the determination of the amount of gross receipts.

(7) Dividends.

(A) Dividends that are recognized as a reduction of the taxpayer's basis in stock of a taxable entity for federal income tax purposes are not gross receipts. Dividends that exceed the taxpayer's basis for federal income tax purposes that are recognized as a capital gain are treated as dividends for apportionment purposes.

(B) The following are excluded from Texas gross receipts and gross receipts from an entity's entire business:

(i) dividends from a subsidiary, associate, or affiliated taxable entity that does not transact a substantial portion of its business or regularly maintain a substantial portion of its assets in the United States;

(ii) Form 1120, Schedule C special deductions that are excluded from total revenue; and

(iii) dividends on federal obligations that are excluded from total revenue.

(C) Dividends that are received from a corporation or other sources are sourced to the location of the payor.

(D) Dividends received from a national bank are sourced to Texas if the bank's principal place of business is located

in Texas. Dividends received from a bank that is organized under the Texas Banking Code are sourced to Texas.

(8) Exchanges of property. Exchanges of property are included in gross receipts to the extent that the exchange is recognized as a taxable transaction for federal income tax purposes. Such exchange must be included in gross receipts based on the gross exchange value, unless otherwise required under this section.

(9) Federal enclave. Gross receipts from a taxable entity's sales, services, leases, or other business activities that are transacted on a federal enclave that is located in Texas are sourced to Texas, unless otherwise excepted by this section.

(10) Financial derivatives. Gross receipts from the settlement of financial derivatives contracts, including hedges, options, swaps, futures, and forward contracts, and other risk management transactions are sourced to the location of the payor.

(11) Insurance proceeds.

(A) Business interruption insurance proceeds are gross receipts when the proceeds are intended to replace lost profits. Such receipts are Texas gross receipts when the location of the payor is in Texas.

(B) Gross receipts from fire and casualty insurance proceeds are sourced to the location of the damaged or destroyed property.

(12) Interest.

(A) Except as provided in subparagraph (B) of this paragraph, interest received is sourced to the location of the payor.

(B) Interest received from a national bank is a Texas gross receipt if the bank's principal place of business is located in Texas. Interest received from a bank that is organized under the Texas Banking Code is a Texas gross receipt.

(C) The following are excluded from Texas gross receipts and gross receipts from an entity's entire business:

(i) interest on federal obligations that is excluded from total revenue; and

(ii) interest that is exempt from federal income tax.

(D) A banking corporation may exclude from its Texas gross receipts interest that is earned on federal funds and interest that is earned on securities that are sold under an agreement to repurchase and that are held in a correspondent bank that is domiciled in Texas, but the banking corporation must include the interest in its gross receipts from an entity's entire business.

(13) Internet hosting service. For reports originally due on or after January 1, 2014, receipts from internet hosting are Texas gross receipts if the customer is located in Texas.

(A) Internet hosting service means providing to an unrelated user access over the internet to computer services using property that is owned or leased and managed by the provider and on which the user may store or process the user's own data or use software that is owned, licensed, or leased by the user or provider.

(B) Internet hosting includes real-time, nearly real-time, and on-demand access over the internet to computer services such as:

(i) data storage and retrieval;

(ii) video gaming;

(iii) database search services;

- (iv) entertainment streaming services;
- (v) processing of data; and
- (vi) marketplace provider services.

(C) Internet hosting does not include:

- (i) telecommunications service;
- (ii) cable television service;
- (iii) internet connectivity service;
- (iv) internet advertising service; or

(v) internet access solely to download digital content for storage and use on the customer's computer or other electronic device.

(D) The purchase of access over the internet to computer services is distinguished from the purchase or lease of computer hardware or digital property (which are sourced under subsection (e)(3) of this section) by taking into account all relevant factors, the relevance of which may vary depending upon the circumstances. Some relevant factors indicating the purchase of access to a computer service rather than the purchase or lease of computer hardware or digital property include:

- (i) the customer is not in physical possession of the property;
- (ii) the customer does not control the property, beyond the customer's network access and use of the property;
- (iii) the provider has the right to determine the specific property used in the transaction and replace such property with comparable property;
- (iv) the property is a component of an integrated operation in which the provider has other responsibilities, including ensuring the property is maintained and updated;
- (v) the customer does not have a significant economic or possessory interest in the property;
- (vi) the provider bears any risk of substantially diminished receipts or substantially increased expenditures if there is nonperformance under the contract;
- (vii) the provider uses the property concurrently to provide significant services to entities unrelated to the customer;
- (viii) the provider's fee is primarily based on a measure of work performed or the level of the customer's use rather than the mere passage of time; and
- (ix) the total contract price substantially exceeds the rental value of the property for the contract period.

(E) The customer location is determined by the physical location where the purchaser or the purchaser's designee consumes the service. The location should be determined in good faith using the most reasonable method under the circumstances, considering the information reasonably available. Receipts from some services may be sourced to multiple customer locations or to multiple customers. Locations that may be reasonable under the circumstances include the customer's principal place of business, the customer's business unit that is using the computer services, the delivery addresses for individual units of service provided to the customer, the primary place or places of consumption by the customer, the service address of the customer, the billing address of the customer, or a combination of methods.

(i) Example 1. An individual purchases access to a dating application. The most reasonable customer location for consumption of the service may be the billing address of the individual in the absence of information regarding the individual's physical address.

(ii) Example 2. A benefactor purchases access to a computer service for a charitable organization. The customer is the purchaser's designee for consuming the service - the charitable organization. The most reasonable customer location for consumption of the service may be the physical address of the charitable organization.

(iii) Example 3. An intermediary purchases access to a computer service for resale to a third party. The customer is purchaser's designee for consuming the service - the third party. The most reasonable customer location for consumption of the service may be the physical location of the third party, if known.

(iv) Example 4. A law firm purchases access to a database search program for attorneys in multiple offices. The customers are the purchaser's designees for consuming the service - its attorneys. The most reasonable customer locations for consumption of the service may be physical addresses of each office, with the access fee sourced proportionately based on the number of attorneys in each office.

(v) Example 5. A retailer with multiple sales outlets purchases access to point of sales software that reports to the retailer's central office. The most reasonable customer locations for consumption of the service may be the physical addresses of the central office and each designated point of sale, with the access fee sourced proportionately between the central office and each designated point of sale.

(vi) Example 6. A retailer with multiple sales outlets purchases access to federal income tax preparation software. The most reasonable customer location for consumption of the service may be the principal place of business of the retailer.

(vii) Example 7. An individual pays a fee to an internet ride-sharing service connecting the individual with a driver at a particular location. The most reasonable customer location for consumption of the service may be the physical address of rendezvous point for the ride.

(14) Leases and subleases.

(A) Gross receipts from the lease, sublease, rental, or subrental of real property are sourced to the location of the property.

(B) Gross receipts from the lease, sublease, rental, or subrental of tangible personal property are sourced to the location of the property. If the property is used both inside and outside Texas, then lease payments are sourced based on the number of days that the tangible personal property was used in Texas divided by the number of days that the tangible personal property was used everywhere. If the amount due under the lease is based on mileage, then the lease payments are sourced based on the number of miles in Texas divided by the number of miles everywhere.

(C) If a lump sum is charged for the lease, sublease, rental, or subrental of more than one item of property, and the items are located both inside and outside Texas, the lump-sum is sourced to Texas based on a ratio of the fair rental value of the items located in Texas to the fair value of the items located outside of Texas.

(D) Gross receipts from the lease, sublease, rental, or subrental of a vessel that engages in commerce are sourced to Texas based on the number of days that the vessel is engaged in commerce in Texas waters divided by the number of days that the vessel is engaged in commerce everywhere.

(E) Gross receipts from a lease, sublease, rental, or subrental of real property or tangible personal property that is treated as a sale for federal income tax purposes are sourced in the same manner as a sale. Any portion of the payments that the contracting parties designate as interest is sourced as provided in paragraph (12) of this subsection, concerning interest.

(15) Litigation awards. Litigation awards are gross receipts that are sourced to the location of the payor; however, if the litigation awards are intended to replace receipts for which another rule provided in this section applies, then the gross receipts are sourced in accordance with that rule. For example, if a taxable entity sues a Delaware corporation to recover on a sale of goods delivered to a Texas location, then a judgment for the amount of that sale would not convert the receipts from Texas gross receipts to Delaware receipts. See subsection (f) of this section, for the sourcing of receipts from judgments, compromises, or settlements that relate to natural gas production.

(16) Loan servicing.

(A) Gross receipts from servicing loans secured by real property are sourced to the location of the collateral real property that secures the loan being serviced.

(B) Gross receipts from servicing loans that are not secured by real property are sourced as provided in paragraph (26) of this subsection, concerning services.

(17) Loans and securities treated as inventory of the seller.

(A) Gross proceeds from the sale of a loan or security treated as inventory of the seller for federal income tax purposes are included in gross receipts even though the tax basis is not included in total revenue under §3.587(e)(4) of this title. Securities and loans held for investment or risk management purposes are not inventory. Gross receipts from the sale of a loan or security treated as inventory of the seller are sourced to the location of the payor as provided in paragraph (25) of this subsection, concerning securities. See paragraph (2) of this subsection, concerning capital assets and investments, or paragraph (10) of this subsection, concerning financial derivatives, for the treatment of gains and losses from sales of loans and securities not treated as inventory of the seller.

(B) If a lending institution categorizes a loan or security as "Securities Available for Sale" or "Trading Securities" under Financial Accounting Standard No. 115, the gross proceeds of the sale of that loan or security are considered gross receipts. In this subparagraph, "Financial Accounting Standard No. 115" means the Financial Accounting Standard No. 115 in effect as of January 1, 2009, not including any changes made after that date.

(18) Membership or enrollment fees paid for access to benefits. Membership or enrollment fees paid for access to benefits are gross receipts from the sale of an intangible asset and are sourced to the location of the payor.

(19) Mixed transactions. If a transaction involves elements of both a sale of tangible personal property and a service, but no documentation exists to show separate charges for the tangible personal property and service elements, then the comptroller may determine the amounts that are allocable to each element based on fair values or on any available evidence.

(20) Net distributive income. The net distributive income or loss from a passive entity that is included in total revenue is sourced to the principal place of business of the passive entity.

(21) Patents, copyrights, and other intangible assets.

(A) Gross receipts from the use of intangible assets.

(i) Revenues from a patent royalty are included in Texas receipts to the extent that the patent is utilized in production, fabrication, manufacturing, or other processing in Texas.

(ii) Revenues from a copyright royalty are included in Texas receipts to the extent that the copyright is utilized in printing or other publication in Texas.

(iii) Gross receipts that the owner of a patent, copyrighted material, trademark, franchise, or license receives from licensing the use of the patent, copyrighted material, trademark, franchise, or license are sourced to Texas to the extent the patent, copyrighted material, trademark, franchise or license is used in Texas.

(iv) Royalties from an affiliated taxable entity that does not transact a substantial portion of its business or regularly maintain a substantial portion of its assets in the United States are excluded from Texas gross receipts and gross receipts from an entity's entire business.

(B) Gross receipts from the sale of intangible assets. Except as otherwise provided in this section, gross receipts from the sale of intangible assets are sourced to the location of payor.

(C) Examples.

(i) Example 1. The owner of seismic data grants a license to an oil company to access the seismic data. Even though a license is part of this transaction, the receipts are from the use of the underlying intangible property, the seismic data (which cannot be copyrighted), not from the use of a license. Accordingly, the receipts are sourced under subparagraph (B) of this paragraph to the location of the payor.

(ii) Example 2. An inventor licenses a patent to a manufacturer. When the manufacturer licensee thereafter produces the patented item, it uses the patent, and its payments to the inventor, owner of the patent, are receipts from the use of a patent under subparagraph (A) of this paragraph. The receipts that the inventor receives are included in Texas receipts to the extent that the patent is used in production, fabrication, manufacturing, or other processing in Texas.

(iii) Example 3. The owner of copyrighted material grants a license to a publisher to publish the copyrighted material. When the publisher publishes the copyrighted material, it uses the copyright, and its payments to the owner are receipts from the use of a copyright under subparagraph (A) of this paragraph. The receipts that the copyright owner receives from the use of its copyright is included in Texas receipts to the extent the copyright is used in Texas.

(22) Qualified stock purchase under IRC, §338(h)(10) (Certain stock purchases treated as asset acquisitions). Receipts that are treated as receipts from the sale of assets by the target taxable entity under IRC, §338(h)(10) are sourced according to the rules that apply to sales of such assets. For the purposes of this paragraph, the purchaser of the target's stock is considered the purchaser of the assets.

(23) Real property. Gross receipts from the sale, lease, rental, sublease, or subrental of real property, including mineral interests, are sourced to the location of the property. Royalties from mineral interests are considered revenue from real property.

(24) Sales taxes. State or local sales taxes that are imposed on the customer, but are collected by a seller are not included in the seller's gross receipts. However, discounts that a seller is allowed to take in remittance of the collected sales tax are gross receipts to the seller.

(25) Securities. Gross receipts from the sale of securities are sourced to the location of the payor. If securities are sold through an exchange, and the payor cannot be identified, then 8.7% of the revenue is a Texas gross receipt. For reports originally due prior to January 1, 2021, a taxable entity may use 7.9% instead of 8.7%.

(26) Services. Except as otherwise provided in this section, gross receipts from a service are sourced to the location where the service is performed.

(A) Location of performance. Except as provided in other subparagraphs, a service is performed at the location of the receipts-producing, end-product act or acts. If there is a receipts-producing, end-product act, the location of other acts will not be considered even if they are essential to the performance of the receipts-producing acts. If there is not a receipts-producing, end-product act, then the locations of all essential acts may be considered.

(i) Example 1. Admission fees, subscription fees, or other charges for an audience to observe live or pre-recorded performances are sourced to the locations where the recipients observe the performance. The location where the live performance was rehearsed, the location where the pre-recorded performance was recorded, and the location where the admission fee or other charge was paid are not determinative.

(ii) Example 2. Gross receipts from the architectural design of a structure, are sourced to the location or locations where the architect performed the work. The delivery location of any tangible work product, such as a blueprint, is not determinative. However, if the tangible work product of the architect is considered to be the sale of tangible personal property rather than the sale of a service, such as the sale of house plan books, the gross receipts are sourced as provided in paragraph (29) of this subsection, concerning tangible personal property.

(B) If services are performed both inside and outside Texas for a single charge, then receipts from the services are Texas gross receipts on the basis of the fair value of the services that are performed in Texas. In determining fair value, the relative value of each service provided on a stand-alone basis may be considered. Units of service, such as hours worked, may also be considered. The cost of performing a service does not necessarily represent its value. If costs are considered, costs should be limited to costs directly related to the service and not overhead costs.

(i) Example 1. A law firm with offices in Texas and Louisiana charges a client by the hour. Hours billed for work conducted in Texas are Texas gross receipts.

(ii) Example 2. A law firm with offices in Texas and Louisiana charges a client a lump sum fee of \$5,000 to draft a document. Attorneys in the Texas office recorded 20 hours on the project, and attorneys in the Louisiana office recorded 5 hours on the project at the same billing rate. Texas gross receipts are \$4,000. If the law firm does not record hours worked on a project, other measures of direct cost may be considered.

(iii) Example 3. A Texas-based landscaper provides grounds maintenance services at its client's four offices in Texas, and one office in Oklahoma, for an annual fee of \$50,000. The landscape services at each of the locations are substantially the same. Texas gross receipts are \$40,000. Although the cost of performing the landscaping maintenance service at the Oklahoma office is higher than the cost of performing the service at the other locations because of the additional travel cost, the additional cost is not considered.

(C) Taxable entities that have margin that is derived, directly or indirectly, from the sale of services to or on behalf of a regu-

lated investment company should refer to subsection (c)(1) of this section for information on apportionment of such margin.

(D) Taxable entities that have margin that is derived, directly or indirectly, from the sale of management, administration, or investment services to an employee retirement plan should refer to subsection (c)(2) of this section for information on apportionment of such margin.

(E) Receipts from services that a defense readjustment project performs in a defense economic readjustment zone are not Texas gross receipts.

(27) Single member limited liability company (SMLLC). For purposes of this section, the sale of a SMLLC by its sole owner is the sale of a membership interest in the SMLLC. The membership interest is an intangible asset, and receipts from the sale of a SMLLC are sourced to the location of payor.

(28) Subsidies or grants. Proceeds of subsidies or grants that a taxable entity receives from a governmental agency are gross receipts, except when the funds are required to be expended dollar-for-dollar (i.e., passed through) to third parties on behalf of the agency. Receipts from a governmental subsidy or grant are sourced in the same manner as the item to which the subsidy or grant was attributed. For example, receipts from a grant to conduct research for the government are receipts from a service and are sourced to the location where the research is performed.

(29) Tangible personal property. Examples of transactions that involve the sale of tangible personal property and result in Texas gross receipts include, but are not limited to, the following:

(A) the sale of tangible personal property that is delivered in Texas to a purchaser. Delivery is complete upon transfer of possession or control of the property to the purchaser, an employee of the purchaser, or transportation vehicles that the purchaser leases or owns. FOB point, location of title passage, and other conditions of the sale are not relevant to the determination of Texas gross receipts;

(B) the sale of tangible personal property that is delivered in Texas to an employee or transportation agent of an out-of-state purchaser. A carrier is an employee or agent of the purchaser if the carrier is under the supervision and control of the purchaser with respect to the manner in which goods are transported;

(C) the sale and delivery in Texas of tangible personal property that is loaded into a barge, truck, airplane, vessel, tanker, or any other means of conveyance that the purchaser of the property leases and controls or owns. The sale of tangible personal property that is delivered in Texas to an independent contract carrier, common carrier, or freight forwarder that a purchaser of the property hires results only in gross receipts everywhere if the carrier transports or forwards the property to the purchaser outside this state;

(D) the sale of tangible personal property with delivery to a common carrier outside Texas, and shipment by that common carrier to a purchaser in Texas;

(E) the sale of oil or gas to an interstate pipeline company, with delivery in Texas;

(F) the sale of tangible personal property that is delivered in Texas to a warehouse or other storage facility that the purchaser owns or leases;

(G) the sale of tangible personal property that is delivered to and stored in a warehouse or other storage facility in Texas at the purchaser's request, as opposed to a necessary delay in transit, even though the property is subsequently shipped outside Texas;

(H) the drop shipment of tangible personal property in Texas. A drop shipment is a shipment of tangible personal property from a seller directly to a purchaser's customer, at the request of the purchaser, without passing through the hands of the purchaser. This results in Texas gross receipts for the seller and the purchaser.

(30) Telecommunication services.

(A) Gross receipts from telephone calls that both originate and terminate in Texas are sourced to Texas.

(B) Gross receipts from telephone calls that originate in Texas but terminate outside of Texas or that originate outside of Texas but terminate in Texas are not sourced to Texas.

(C) Gross receipts from telecommunication services other than those services in subparagraph (A) or (B) of this paragraph are sourced to Texas if the services are performed in Texas. For example, a telephone company that provides a long distance carrier access to the telephone company's local exchange network in Texas is performing a service in Texas. Any fee that the telephone company charges the long distance carrier for access to the local exchange network in Texas is a Texas receipt regardless of whether the access is related to an interstate call. A fee that is charged to obtain access to a local exchange network in Texas and that is based on the duration of an interstate telephone call are not sourced to Texas.

(31) Television broadcaster licensing income. For reports originally due on or after January 1, 2018, a broadcaster's gross receipts from licensing income from broadcasting or otherwise distributing film programming by any means are sourced to Texas if the legal domicile of the broadcaster's customer is in this state. In this subparagraph, the following words and terms shall have the following meaning:

(A) Broadcaster--A taxable entity, not including a cable service provider or a direct broadcast satellite service, that is a television station licensed by the Federal Communications Commission, television broadcast network, cable television network, or television distribution company.

(B) Customer--A person, including a licensee, who has a direct connection or contractual relationship with a broadcaster under which the broadcaster derives revenue.

(C) Film programming--All or part of a live or recorded performance, event, or production intended to be distributed for visual and auditory perception by an audience.

(D) Programming--Includes news, entertainment, sporting events, plays, stories, or other literary, commercial, educational, or artistic works.

(32) Texas waters. Gross receipts from transactions that occur in Texas waters are sourced to Texas. Texas waters are considered to extend to 10.359 statute miles, or nine nautical miles, from the Texas coastline.

(33) Transportation services. Gross receipts from the transportation of goods or passengers are sourced to Texas by:

(A) including gross receipts from the transportation of goods or passengers that both originates and terminates in Texas; or

(B) the multiplication of total transportation receipts by the ratio of total compensated mileage in the transportation of goods and passengers in Texas to total compensated mileage.

(f) Natural gas production.

(1) Gross receipts that a gas producer realizes from the contract price of gas that the gas producer produces and that the purchaser

takes pursuant to the terms of sales are sourced to Texas, if the gas is delivered in Texas.

(2) Gross receipts that a gas producer realizes from a purchaser's payment under a sale or purchase contract for gas to be produced even if no gas is produced and delivered to the purchaser, are sourced to the location of the payor.

(3) Gross receipts that a gas producer realizes from a purchaser's payments to terminate a gas purchase contract are sourced to the location of the payor.

(4) Gross receipts that a gas producer realizes from a contract amendment that relates to the price of the gas sold are treated as gross receipts from the sales of gas and are sourced to Texas if delivery is made to a location in Texas. Gross receipts that the gas producer realizes from a contract amendment that relates to a provision other than the price of gas sold are sourced to the location of the payor.

(5) Gross receipts that a gas producer realizes from litigation awards for a breach of contract, reimbursements for litigation-related expenses (e.g., documented attorney's fees or court costs), or interest (upon which the parties have agreed, that the records of the producer reflects, or in an amount that a court has ordered) are sourced to the location of the payor.

(6) Gross receipts that a gas producer realizes from a judgment, compromise, or settlement relating to the recovery of a contract price of gas produced are sourced to Texas to the extent the contract specified delivery to a location in Texas. Gross receipts that a gas producer realizes from a judgment, compromise, or settlement that relates to several claims or causes of action shall be prorated based upon the documented amounts due under the contract for each claim or cause of action according to the records of the producer. For example, a settlement sum of \$100,000 for a pricing dispute of \$25,000 and for failure to pay for gas not taken in the amount of \$225,000, would result in receipts of \$10,000 from gas sales ($100,000 \times 25,000/250,000$) and receipts from other business of \$90,000 ($100,000 \times 225,000/250,000$). Records of the producer shall include, but are not limited to the following: contracts, settlement agreements, accounting records and entries, court pleadings and worksheets, including calculations reflecting settlement amounts.

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 January 4, 2021.

TRD-202100049

William Hamner

Special Counsel for Tax Administration

Comptroller of Public Accounts

Effective date: January 24, 2021

Proposal publication date: November 13, 2020

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

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**PART 3. TEACHER RETIREMENT
SYSTEM OF TEXAS**

**CHAPTER 47. QUALIFIED DOMESTIC
RELATIONS ORDERS**

34 TAC §47.17

The Teacher Retirement System of Texas (TRS) adopts amendments to §47.17, relating to Calculation for Alternate Payee Benefits Before a Member's Benefit Begins, of Chapter 47, in Title 34, Part 3, of the Texas Administrative Code without changes to the proposed text as originally published in the November 6, 2020, issue of the *Texas Register* (45 TexReg 7988). The rule will not be republished.

REASONED JUSTIFICATION

TRS adopts amendments to TRS §47.17, relating to calculation of alternate payee benefits before a member's benefit begins. The adopted amendments change how reductions to member standard annuity payments are calculated after an alternate payee of a TRS member has elected to receive benefits under Texas Government Code §804.005. Recently, TRS has encountered multiple situations in which the reductions were so great that a member's standard annuity ended up being negative. The adopted amendments would prevent this outcome, simplify how TRS calculates the reductions, and be actuarially neutral to the fund. In addition, while some TRS members may face an increased reduction to their annuity payments in certain limited circumstances under the adopted rule, this increased reduction will never exceed the reduction those TRS members would have incurred if the member had retired before their former spouse elected for benefits under TRS §47.17 and the member's benefits were divided under the applicable qualified domestic relations order (QDRO).

Government Code §804.005 and TRS §47.17 authorize an alternate payee to elect to receive a portion of the actuarial equivalent of a member's accrued retirement benefit at the time of election in lieu of the interest awarded to the alternate payee under a QDRO. The alternate payee can make this election once the member is 62 years old or eligible for normal-age retirement, whichever is later, so long as the member has not yet retired.

If an alternate payee elects to receive these benefits, TRS must reduce the member's monthly standard annuity benefit when the member eventually retires based on the payments to the alternate payee. Under the existing rule, TRS bases the reduction on the actuarial equivalent of the alternate payee's benefits at the time the member retires, which means that the reduction to the member's benefit increases over time after the alternate payee elects to receive Section 804.005 benefits. In some instances, the increase to the reduction can become so great that the member ends up with a negligible or negative annuity at the time of retirement.

To remedy this issue, TRS adopts these amendments that reduce the member's standard annuity at the time of retirement by the alternate payee's unadjusted QDRO share of the member's accrued benefit at the time of the alternate payee's Section 804.005 election. This calculation bases the reduction to the member's annuity on the actuarial equivalent of the alternate payee's benefits at the time the alternate payee elected to receive the payments. For example, if at the time of an alternate payee's election a member's accrued benefit was \$1,000 and the alternate payee's QDRO interest was 50%, the reduction to the member's standard annuity at the time of retirement would

simply be \$500. In addition, the reduction to the member's standard annuity would not increase in the time between the alternate payee's Section 804.005 election and the member's retirement as it would under the current rule, which means that a member will never have a negative annuity under the adopted rule.

In addition to this amended calculation, TRS staff also adopts several non-substantive or conforming amendments to TRS §47.17 that streamline the rule and improve its readability. Under the amended rule, TRS also removes the Tables for Interest Annuity Factors and Interest Accumulation Factors provided by the TRS actuary of record because the tables are no longer necessary to calculate benefits under the amended rule. The new actuarial table will only include the Life Annuity Factors that were originally adopted to be effective on September 1, 2019.

Lastly, TRS has determined that the adopted amended rule shall only apply to member retirements with effective dates of retirement or other distribution events that occur after the effective date of the rule. The rule will also only apply to alternate payee elections made after the effective date of the rule.

COMMENTS

No comments on the proposed adoption of the amendments were received.

STATUTORY AUTHORITY

Amended §47.17 is adopted under the authority of Government Code §825.102 which authorizes the TRS Board of Trustees to adopt rules for the eligibility for membership, the administration of the funds of the retirement system, and the transaction of business of the board and Government Code §804.005, which requires that a distribution made pursuant to that section be the actuarial equivalent of the accrued retirement benefit of the member of the retirement system, determined as if the member retired on the date of the alternate payee's election.

CROSS-REFERENCE TO STATUTE

The adopted amendments to §47.17 implement Chapter 804, Subchapter A, Texas Government Code, concerning Qualified Domestic Relations Orders.

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

Filed with the Office of the Secretary of State on December 29, 2020.

TRD-202005725

Don Green

Chief Financial Officer

Teacher Retirement System of Texas

Effective date: January 18, 2021

Proposal publication date: November 6, 2020

For further information, please call: (512) 542-6506





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

Texas Department of Insurance, Division of Workers' Compensation

Title 28, Part 2

The Texas Department of Insurance, Division of Workers' Compensation (DWC) will review all sections in 28 Texas Administrative Code Chapters 140 - 144, 147 - 148, 150, 152, and 156. This review will be in accordance with the requirements for periodic rule review under Texas Government Code §2001.039.

DWC will consider whether the initial reasons for adopting these rules continue to exist and whether these rules should be repealed, readopted, or readopted with amendments.

To comment on this rule review project, submit your written comments by 5:00 p.m., Central time, on February 16, 2021. Comments received after that date will not be considered.

Clearly specify the rule section your comment applies to and include proposed alternative language as appropriate. Designate general comments as such.

Email your comments to RuleComments@tdi.texas.gov or mail or deliver them to:

Cynthia Guillen

Legal Services, MS-4D

Texas Department of Insurance, Division of Workers' Compensation

7551 Metro Center Drive, Suite 100

Austin, Texas 78744-1645.

In future rulemaking, we may consider any suggested repeals or amendments identified during this rule review under the Administrative Procedure Act in Texas Government Code Chapter 2001.

TRD-202100058

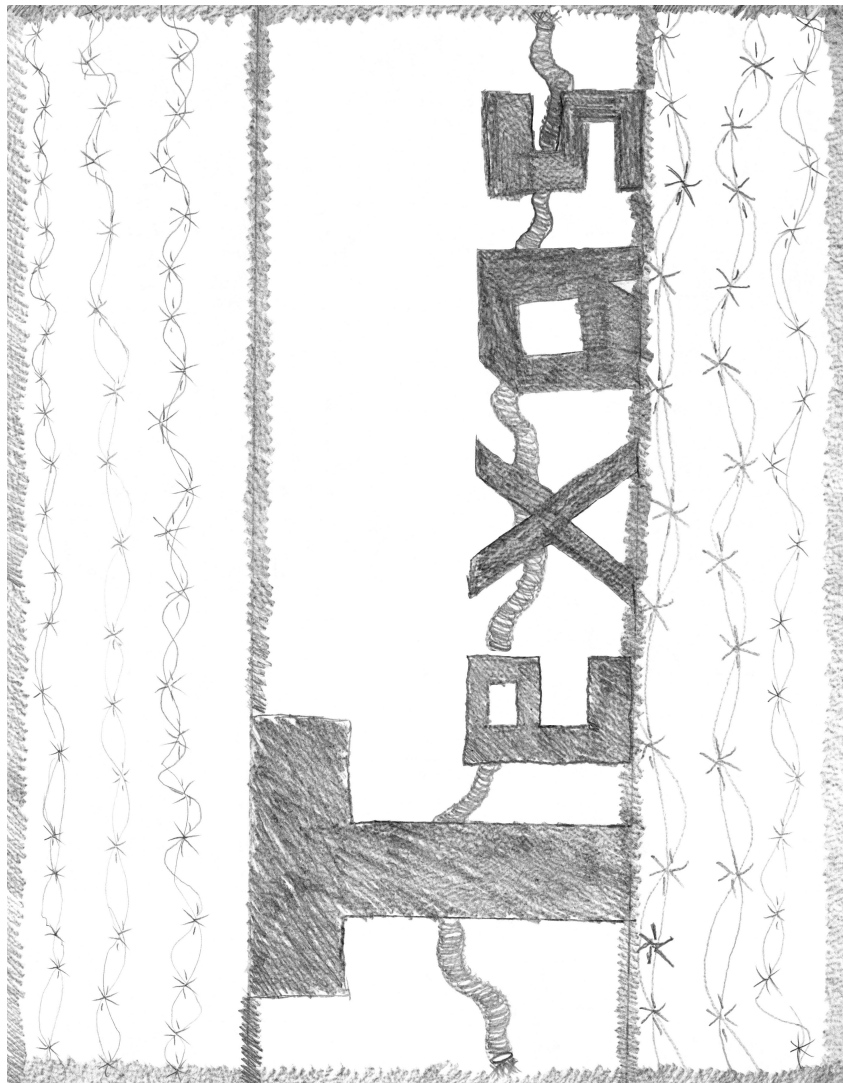
Kara Mace

Deputy Commissioner of Legal Services

Texas Department of Insurance, Division of Workers' Compensation

Filed: January 5, 2021





IN ADDITION

The *Texas Register* is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings issued by the Office of Consumer Credit Commissioner, and consultant proposal requests and awards. State agencies also may publish other notices of general interest as space permits.

Office of the Attorney General

Notice of Settlement of a Texas Water Code Enforcement Action

The State of Texas gives notice of the following proposed resolution of an environmental enforcement action under the Texas Water 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: *United States of America and the State of Texas v. E.I. du Pont de Nemours and Company, and the Chemours Company FC, LLC*; Case No. 1:20-cv-00556-MJT, in the U.S. District Court for the Eastern District of Texas.

Background: Defendants E.I. du Pont de Nemours and Company, and Chemours Company FC, LLC are respectively the former and current owner and operator of production facilities at the West Marsh of the Beaumont Works Industrial Park Complex located in Nederland, Jefferson County, Texas (the "Site"). Historical operations at the Site's West Waste Management Area have resulted in the disposal of hazardous substances, including arsenic, chromium, lead, zinc, copper, mercury, and nickel, and the release of hazardous substances into the environment. The United States of America and the State of Texas filed the referenced complaint seeking natural resources damages pursuant to Section 107 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9607; and the Texas Hazardous Substances Spill Prevention and Control Act, Texas Water Code §§ 26.261-26.267.

Proposed Settlement: The lawsuit is to be settled by a Consent Decree in the U.S. District Court providing for Defendants' undertaking of restoration initiatives, including the preservation of a 475-acre tract of tidal intermediate wetlands through the execution of a Conservation Easement in Orange County, Texas, which will protect the conservation values of the property in perpetuity. The Consent Decree also requires Defendants to pay \$198,853.44 to reimburse costs incurred by the state and federal trustees. Defendants will also be liable for future trustee costs.

For a complete description of the settlement, the proposed Consent Decree should be reviewed in its entirety. Requests for copies of the proposed judgment and settlement, and written comments on the same, should be directed to Ekaterina DeAngelo, 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. Email: Ekaterina.DeAngelo@oag.texas.gov. Written comments must be received within 30 days of publication of this notice to be considered.

TRD-202100067

Austin Kinghorn
General Counsel
Office of the Attorney General
Filed: January 5, 2021

Office of Consumer Credit Commissioner

Notice of Rate Ceilings

The Consumer Credit Commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in §§303.003, 303.005 and 303.009, Texas Finance Code.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 01/11/21 - 01/17/21 is 18% for Consumer¹/Agricultural/Commercial² credit through \$250,000.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 01/11/21 - 01/17/21 is 18% for Commercial over \$250,000.

The monthly ceiling as prescribed by §303.005 and 303.009³ for the period of 01/01/21 - 01/31/21 is 18% or Consumer/Agricultural/Commercial credit through \$250,000.

The monthly ceiling as prescribed by §303.005 and 303.009 for the period of 01/01/21 - 01/31/21 is 18% for Commercial over \$250,000.

¹Credit for personal, family or household use.

²Credit for business, commercial, investment or other similar purpose.

³For variable rate commercial transactions only.

TRD-202100063
Leslie L. Pettijohn
Commissioner
Office of Consumer Credit Commissioner
Filed: January 5, 2021

East Texas Regional Water Planning Group (Region I)

Request for Qualifications (RFQ) Professional Engineering Services

Request for Qualifications (RFQ) No. 2021-01-06-001

GENERAL INFORMATION

Senate Bill 1 (SB 1), passed by the 75th Texas Legislature, mandated the Texas Water Development Board (TWDB) to implement a statewide water planning program to ensure that the water needs of all Texans are met looking forward 50 years. In response to this legislation, TWDB adopted state and regional water planning rules, delineated the state into sixteen regional areas, and selected the initial members for the Regional Water Planning Group serving in each area.

The East Texas Regional Water Planning Group (ETRWPG) has been designated Region I and consists of all or parts of the following twenty (20) east Texas counties: Anderson, Angelina, Cherokee, Hardin, Hen-

derson, Houston, Jasper, Jefferson, Nacogdoches, Newton, Orange, Panola, Polk, Rusk, Sabine, San Augustine, Shelby, Smith, Trinity and Tyler counties.

The ETRWPG is responsible for preparing and adopting a regional water plan for its area and hires a consultant to assist the Group with developing the engineering, hydrological, environmental, legal, and institutional components of the plan. The planning process begins with the collection and analyses of many types of information related to regional water supplies and the demands placed on them by area users. The Group decides how future water needs may be met and includes in their water plan information about water supplies and demand, water quality problems affecting the water supply, and the social and economic characteristics of the region.

The plan will also identify water supply threats to agriculture and natural resources. Information concerning current preparations for drought and the status of other water plans in the region will also be reviewed during plan development. In addition, the plan addresses the prioritization of water management strategies, based on factors related to strategy cost, year of need, amount of water the strategy provides, and so on.

Before the plan can be finalized, ETRWPG must provide for public input in the planning process, hold public meetings, and furnish a draft report of the plan for public review and comment. The water plan must address the needs of all water users and suppliers in their region (except certain political subdivisions that decide not to participate.) Once this process has been completed, the final adopted plan will be forwarded to TWDB for approval and incorporation into a comprehensive state water plan.

SOLICITATION

The City of Nacogdoches, on behalf of the Region I ETRWPG, is soliciting Statements of Qualifications (SOQ) from engineering/planning firms qualified to provide professional consulting services related to Regional Water Planning activities. The City of Nacogdoches is the administrative entity for the ETRWPG, and as such will be the contracting party on behalf of the Group. The SOQ should be submitted in accordance with the instructions listed in ITEM 7 below.

SCOPE OF WORK

The ETRWPG has not approved a Scope of Work (SOW) for the preparation of its Sixth Cycle Regional Water Plan. However, general guidance documents related to the planning effort will be posted to the Texas Water Development Board Website at the following link:

<https://www.twdb.texas.gov/waterplanning/rwp/index.asp>

The applicant should include in their SOQ, their reasons and assurances that they could perform the professional services required under TWDB regulations and guidance related to regional water planning as found at the above link.

Funding of Regional Water Planning activities by the Texas Water Development Board is contingent upon continued legislative appropriations. Because regional water planning activities cover multiple funding biennium, changes in funding legislative appropriations may result in changes to the approved SOW. Respondents may contact the following individual regarding clarification of the Request for Qualification:

Kelley Holcomb, Chairman

Region I ETRWPG

2901 N. John Redditt Drive

Lufkin, Texas 75904

Ph: (936) 633-7543

Email kholcomb@anra.org

CONSULTANT SELECTION PROCESS

This RFQ is the first step in a two-step process for selecting firms (consultant teams) for the project referenced in ITEM 3. Members of ETRWPG selection committee will analyze and evaluate each SOQ. Based on the evaluation criteria established for the project, the selection committee may respond (depending on the number of submittals received) by selecting a consultant team and asking the selected consultant team to begin contract negotiations.

Alternatively, the selection committee may rank the responding consultant teams and develop a shortlist of no more than three firms. The RFQ provides information necessary to prepare and submit qualifications for consideration and ranking by the selection committee. The selection committee will then interview the shortlisted respondents and further rank the firms in order of preference. One consultant team will be selected and asked to begin contract negotiations.

Regardless of the selection approach taken by the selection committee, final contract negotiations will result in the selected consultant team receiving a contract to perform the professional services necessary for the development and adoption of the Region I Regional Water Plan.

Acceptance of evaluation methodology: By submitting its SOQ in response to this RFQ, respondent accepts the evaluation process as outlined in ITEM 5 and acknowledges and accepts that the determination of the "most qualified" firm may require subjective judgments made by the selection committee.

Public information: All information, documentation and other materials submitted in response to this solicitation are considered non-confidential and/or non-proprietary and are subject to public disclosure under the Texas Public Information Act after the solicitation has been completed and the contract executed with the selected firm.

Firms associating with other firms in order to bring specific expertise and experience to the project is allowed and encouraged.

REQUIREMENTS FOR SOQ

Respondents shall carefully read the information in the following evaluation criteria and submit a complete SOQ that addresses all questions and is in the format provided below:

Ability to provide services

Provide the following information:

Legal name of firm, Form 1295 and current W-9.

Location, size, and description of the firm and services offered.

Contact person(s).

Date of firm formation.

Legal business description (i.e., Individual, Partnership, Corporation, Joint Venture, etc.).

Evidence of being licensed to provide professional and consulting services in the state of Texas.

Qualifications and Availability: The respondent must provide a:

Statement of interest for the project including a narrative describing the firm's specific expertise and unique qualifications as they pertain to TWDB regional water planning and to this project.

Statement regarding the availability and commitment of the firm, its principal(s) and assigned professionals to undertake the project.

Statement that the firm is familiar with state of Texas rules regarding regional water planning and regional water planning grant assistance as

adopted by TWDB on February 19, 1998 (Ref. Texas Administrative Code (TAC), Title 31, Part 10, Chapter 355, Subchapter C, Regional Water Planning Grant Rules; Chapter 357, Regional Water Planning Guideline Rules; and Chapter 358, Subchapter's A & B, State Water Planning Guidelines Rules.)

Staffing Capabilities: The respondent must provide:

An organizational chart listing all personnel (including consultants) who will be assigned to work on this project.

Names and roles of key project team members that will perform the assigned tasks.

Resumés for all key project team members. Identify any members who have had previous experience on similar projects.

Staffing size by areas of expertise.

Current workload of prime firm.

Staff availability to perform services.

Description of any sub-consultants that may be employed as part of the project team.

Project Experience: The respondent must provide:

An overview and history of the firm and consultants.

Verifiable examples of at least five (5) similar regional water planning projects, including:

Project name and location

Services provided

Date of completion or project status

Final consultant costs

Client name and point-of-contact person

Statement indicating whether project was completed within the allotted time schedule.

Project Methodology: The respondent must provide:

A description of the approach to complete the project's Scope of Work.

A proposed project schedule based on any available TWDB guidance relating to schedule and the project team's understanding of the planning process.

A description of the internal project review process and quality assurance program that will be utilized by the project team.

History of Successful Performance: The respondent must submit:

Documentation showing a history of meeting TWDB regional water planning project schedules.

Documentation showing a history of accomplishing TWDB regional water planning services within established budget - include projected cost vs. actual cost.

A list of TWDB regional water planning references, to include: organization's name, point-of-contract person(s) and phone number(s).

Responsiveness to RFQ

Qualifications shall be prepared simply and economically, providing a straightforward, concise description of the respondent's ability to meet the requirements of this RFQ. Emphasis shall be placed on quality, completeness, clarity of content, responsiveness to the requirements, and understanding of ETRWPG needs.

ADDITIONAL INFORMATION TO BE INCLUDED IN STATEMENT OF QUALIFICATION

The ETRWPG requires professional liability insurance for firms with which it contracts. Please state what insurance coverage your firm carries and in what amounts.

DUE DATE AND CONTACT

Respondents must submit one electronic copy of their Statement of Qualifications by 2:00 p.m., February 2, 2021. All responses should be addressed and delivered to:

Stacy Corley

City of Nacogdoches

Region I Administrative Contact

202 East Pilar St Room 343

Nacogdoches, Texas 75961-5508

TRD-202100083

Stacy Corley

Region I Administration Contact

East Texas Regional Water Planning Group (Region I)

Filed: January 6, 2021

Texas Commission on Environmental Quality

Agreed Orders

The Texas Commission on Environmental Quality (TCEQ, agency, or commission) staff is providing an opportunity for written public comment on the listed Agreed Orders (AOs) in accordance with Texas Water Code, (TWC), §7.075. TWC, §7.075, requires that before the commission may approve the AOs, the commission shall allow the public an opportunity to submit written comments on the proposed AOs. TWC, §7.075, requires that notice of the proposed orders and the opportunity to comment must be published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **February 16, 2021**. 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 **February 16, 2021**. Written comments may also be sent by facsimile machine to the enforcement coordinator at (512) 239-2550. The commission's enforcement coordinators are available to discuss the AOs and/or the comment procedure at the listed phone numbers; however, TWC, §7.075, provides that comments on the AOs shall be submitted to the commission in writing.

(1) COMPANY: A & S MEMORIAL INVESTMENT, INC dba Fast & Easy; DOCKET NUMBER: 2020-0845-PST-E; IDENTIFIER:

RN101844405; LOCATION: Houston, Harris County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §37.815(a) and (b), by failing to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum underground storage tanks (USTs); 30 TAC §334.7(a)(1) and §334.8(c)(4)(A)(vi)(II), by failing to register with the commission on authorized agency forms, all USTs in existence on or after September 1, 1987, by submitting a properly completed UST registration and self-certification form to the agency within 30 days after the date any regulated substance was placed into the UST; 30 TAC §334.8(c)(5)(A)(i) and TWC, §26.3467(a), by failing to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs; and 30 TAC §334.10(b)(2), by failing to assure that all UST record-keeping requirements are met; PENALTY: \$4,094; ENFORCEMENT COORDINATOR: Alain Elegbe, (512) 239-6924; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(2) COMPANY: City of Barstow; DOCKET NUMBER: 2019-0627-PWS-E; IDENTIFIER: RN101241719; LOCATION: Barstow, Ward County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.110(e)(4)(A) and (f)(3) and §290.122(c)(2)(A) and (f), by failing to submit a Disinfectant Level Quarterly Operating Report (DLQOR) to the executive director (ED) by the tenth day of the month following the end of each quarter for the third quarter of 2017 through the fourth quarter of 2018, and failing to provide public notification and submit a copy of the public notification, accompanied with a signed Certificate of Delivery, to the ED regarding the failure to submit a DLQOR for the third quarter of 2017; and 30 TAC §290.122(c)(2)(A) and (f), by failing to timely provide public notification and submit a copy of the public notification, accompanied with a signed Certificate of Delivery, to the ED regarding the failure to collect lead and copper tap samples for the July 1, 2017 - December 31, 2017, monitoring period; PENALTY: \$545; ENFORCEMENT COORDINATOR: Ronica Rodriguez, (361) 825-3425; REGIONAL OFFICE: 9900 West IH-20, Suite 100, Midland, Texas 79706, (432) 570-1359.

(3) COMPANY: Enterprise Products Operating LLC; DOCKET NUMBER: 2020-0878-AIR-E; IDENTIFIER: RN102323268; LOCATION: Mont Belvieu, Chambers County; TYPE OF FACILITY: natural gas processing plant; RULES VIOLATED: 30 TAC §§101.20(3), 116.115(c), and 122.143(4), New Source Review Permit Numbers 19930, PSDTX797M1, and PSDTX790, Special Conditions Number 1, Federal Operating Permit Number O1641, General Terms and Conditions and Special Terms and Conditions Number 19, Texas Health and Safety Code, §382.085(b), by failing to prevent unauthorized emissions; PENALTY: \$25,000; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$12,500; ENFORCEMENT COORDINATOR: Amanda Diaz, (512) 239-2601; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(4) COMPANY: ExxonMobil Oil Corporation; DOCKET NUMBER: 2020-0802-AIR-E; IDENTIFIER: RN100542844; LOCATION: Beaumont, Jefferson County; TYPE OF FACILITY: chemical manufacturing plant; RULES VIOLATED: 30 TAC §§101.20(3), 116.115(c), and 122.143(4), New Source Review Permit Numbers 83702, PSDTX843M2, PSDTX860M2, PAL 15, and GHGPS-DTX176, Special Conditions Number 1, Federal Operating Permit Number O2292, General Terms and Conditions and Special Terms and Conditions Number 26, and Texas Health and Safety Code, §382.085(b), by failing to prevent unauthorized emissions; PENALTY: \$13,126; ENFORCEMENT COORDINATOR: Richard Garza, (512)

534-5859; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1830, (409) 898-3838.

(5) COMPANY: Fort Bend County Municipal Utility District Number 206; DOCKET NUMBER: 2020-0432-PWS-E; IDENTIFIER: RN106598246; LOCATION: Sugar Land, Fort Bend County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.41(c)(3)(A), by failing to submit well completion data for review and approval prior to placing the facility's public drinking water well into service; and 30 TAC §§290.41(c)(3)(O), 290.42(m), and 290.43(e), by failing to provide an intruder-resistant fence or well house around each water treatment plant, well unit, potable storage tank, pressure maintenance facility, and related appurtenances that remains locked during periods of darkness and when the facility is unattended; PENALTY: \$713; ENFORCEMENT COORDINATOR: Ronica Rodriguez, (361) 825-3425; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(6) COMPANY: Grizzly Pines, LLC; DOCKET NUMBER: 2020-0922-PWS-E; IDENTIFIER: RN11055521; LOCATION: Navasota, Grimes County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.42(b)(1) and (e)(3), by failing to provide disinfection facilities for the groundwater supply for the purpose of microbiological control and distribution protection; 30 TAC §290.46(n)(1), by failing to maintain at the public water system accurate and up-to-date detailed as-built plans or record drawings and specifications for each treatment plant, pump station, and storage tank until the facility is decommissioned; and 30 TAC §290.46(q)(1), by failing to issue a boil water notice to customers throughout the distribution system or in the affected area(s) of the distribution system as soon as possible, but in no case later than 24 hours as a special precaution due to a lack of disinfection equipment, as specified in 30 TAC §290.47(e); PENALTY: \$1,750; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$700; ENFORCEMENT COORDINATOR: Julianne Dewar, (817) 588-5861; REGIONAL OFFICE: 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

(7) COMPANY: Harris County Municipal Utility District Number 23; DOCKET NUMBER: 2019-1539-MWD-E; IDENTIFIER: RN101513240; LOCATION: Houston, 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 Permit Number WQ0011485001, Effluent Limitations and Monitoring Requirements Number 1, by failing to comply with permitted effluent limitations; PENALTY: \$50,625; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$50,625; ENFORCEMENT COORDINATOR: Harley Hobson, (512) 239-1337; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(8) COMPANY: LA FAMA FOODS, INCORPORATED; DOCKET NUMBER: 2019-1761-WQ-E; IDENTIFIER: RN107106262; LOCATION: Ore City, Upshur County; TYPE OF FACILITY: tortilla product manufacturing facility with on-site wet corn milling; RULES VIOLATED: 30 TAC §305.125(1) and Texas Pollutant Discharge Elimination System Multi-Sector General Permit Number TXR05BZ85, Part III, Section A, 4.b, by failing to utilize good housekeeping measures to ensure that areas of the facility that contribute or potentially contribute pollutants to stormwater discharges are maintained in a clean and orderly manner; and TWC, §26.121(a)(1), by failing to prevent an unauthorized discharge of wastewater into or adjacent to any water in the state; PENALTY: \$2,550; ENFORCEMENT COORDINATOR: Caleb Olson, (817) 588-5856; REGIONAL OFFICE: 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

(9) COMPANY: Lone Star Specialty Products, LLC; DOCKET NUMBER: 2019-1511-AIR-E; IDENTIFIER: RN101627776; LOCATION: Lone Star, Morris County; TYPE OF FACILITY: crude tar refinery; RULES VIOLATED: 30 TAC §116.110(a) and Texas Health and Safety Code (THSC), §382.0518(a) and §382.085(b), by failing to obtain authorization prior to constructing or modifying a source of air contaminants; 30 TAC §116.115(c), New Source Review (NSR) Permit Number 56304, Special Conditions (SC) Number 8, and THSC, §382.085(b), by failing to comply with the minimum removal efficiency for the control of total volatile organic compounds (VOC); 30 TAC §116.115(c), NSR Permit Number 56304, SC Number 14.A, and THSC, §382.085(b), by failing to maintain the exterior surfaces of uninsulated storage tanks exposed to the sun with a white or unpainted aluminum surface; 30 TAC §116.115(c), NSR Permit Number 56304, SC Number 14.B, and THSC, §382.085(b), by failing to maintain an emissions record which includes calculated emissions of VOC from all storage tanks during the previous calendar month and the past consecutive 12-month period; and 30 TAC §116.115(c), NSR Permit Number 56304, SC Number 15, and THSC, §382.085(b), by failing to calibrate the temperature monitor on an annual basis; PENALTY: \$43,024; ENFORCEMENT COORDINATOR: Johnnie Wu, (512) 239-2524; REGIONAL OFFICE: 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

(10) COMPANY: Mark Kenneth Stewart dba Green Hills Subdivision; DOCKET NUMBER: 2020-0739-PWS-E; IDENTIFIER: RN101194447; LOCATION: Atlanta, Cass County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.51(a)(6) and TWC, §5.702, by failing to pay public health service fees, including associated late fees, for TCEQ Financial Administration Account Number 90340019 for Fiscal Years 2015 through 2020; 30 TAC §291.76 and TWC, §5.702, by failing to pay regulatory assessment fees for the TCEQ Public Utility Account regarding the Certificate of Convenience and Necessity Number 12416 for calendar years 2016, 2018, and 2019; 30 TAC §290.106(e) and §290.107(e), by failing to provide the results of metals, minerals, and synthetic organic chemical contaminants (Methods 504, 515, and 531) sampling to the executive director (ED) for the January 1, 2017 - December 31, 2019, monitoring period; 30 TAC §290.106(e) and §290.107(e), by failing to provide the results of nitrate and volatile organic chemical contaminants sampling to the ED for the January 1, 2019 - December 31, 2019, monitoring period; 30 TAC §290.109(d)(4)(B), by failing to collect, within 24 hours of notification of the routine distribution total coliform-positive samples on May 28, 2019 and August 27, 2019, at least one raw groundwater source *Escherichia coli* (or other approved fecal indicator) sample from Well Numbers 1 and 2; 30 TAC §290.110(e)(4)(A) and (f)(3), by failing to submit a Disinfection Level Quarterly Operating Report to the ED by the tenth day of the month following the end of each quarter for the fourth quarter of 2019; 30 TAC §290.117(i)(6) and (j), by failing to provide consumer notification of lead tap water monitoring results to persons served at the sites that were tested, and failed to mail a copy of the consumer notification of tap results to the ED along with certification that the consumer notification has been distributed for the January 1, 2019 - June 30, 2019, monitoring period; and 30 TAC §290.271(b) and §290.274(a) and (c), by failing to mail or directly deliver one copy of the Consumer Confidence Report (CCR) to each bill paying customer by July 1st for each year, and failing to submit to the TCEQ by July 1st for each year a copy of the annual CCR and certification that the CCR has been distributed to the customers of the facility and that the information in the CCR is correct and consistent with compliance monitoring data for calendar year 2018; PENALTY: \$5,352; ENFORCEMENT COORDINATOR: Julianne Dewar, (817) 588-5861; REGIONAL OFFICE: 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

(11) COMPANY: OCI Beaumont LLC; DOCKET NUMBER: 2020-0691-AIR-E; IDENTIFIER: RN102559291; LOCATION: Nederland, Jefferson County; TYPE OF FACILITY: chemical manufacturing plant; RULES VIOLATED: 30 TAC §§101.20(3), 116.115(c), and 122.143(4), New Source Review Permit Numbers 901 and PSDTX1334, Special Conditions Number 1, Federal Operating Permit Number O1645, General Terms and Conditions and Special Terms and Conditions Number 16, and Texas Health and Safety Code, §382.085(b), by failing to prevent unauthorized emissions; PENALTY: \$17,400; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$6,960; ENFORCEMENT COORDINATOR: Toni Red, (512) 239-1704; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1830, (409) 898-3838.

(12) COMPANY: Permian Basin Materials, LLC; DOCKET NUMBER: 2020-0828-WQ-E; IDENTIFIER: RN109793752; LOCATION: Midland, Ector County; TYPE OF FACILITY: concrete production facility; RULES VIOLATED: 30 TAC §305.125(1), TWC, §26.121(a)(1), and Texas Pollutant Discharge Elimination System General Permit Number TXG112336, Part III, Permit Requirements A.1., by failing to comply with permitted effluent limitations; PENALTY: \$2,625; ENFORCEMENT COORDINATOR: Katelyn Tubbs, (512) 239-2512; REGIONAL OFFICE: 9900 West IH-20, Suite 100, Midland, Texas 79706, (432) 570-1359.

(13) COMPANY: Peter Henry Schouten Sr. and Nova Darlene Schouten dba P & L Dairy; DOCKET NUMBER: 2020-0644-AGR-E; IDENTIFIER: RN102915873; LOCATION: Hico, Erath County; TYPE OF FACILITY: concentrated animal feeding operation; RULES VIOLATED: 30 TAC §305.125(1) and §321.36(b) and Texas Pollutant Discharge Elimination System (TPDES) Permit Number WQ0003675000, Part X, M, by failing to maintain the settling basin so as to assure attainment of the 40% designed removal efficiency; 30 TAC §305.125(1) and §321.39(b)(2) and TPDES Permit Number WQ0003675000, Part VII, A.3(d)(2), by failing to operate and maintain a margin of safety in the retention control structure (RCS) to contain the volume of runoff and direct precipitation from the 25-year, ten-day rainfall event; 30 TAC §§305.125(1), 321.36(b), and 321.39(c)(1), and TPDES Permit Number WQ0003675000, Part VII, A.5(g), by failing to remove sludge from the RCS in accordance design schedule for cleanout to prevent the accumulation of sludge from encroaching on the volumes reserved for minimum treatment; and 30 TAC §§305.125(1), 321.36(b), and 321.43(j)(5)(B), and TPDES Permit Number WQ0003675000, Part VII, A.6(b), by failing to maintain earthen pens to ensure good drainage, minimize ponding, and minimize the entrance of uncontaminated stormwater to the RCSs; PENALTY: \$4,800; ENFORCEMENT COORDINATOR: Had Darling, (512) 239-2520; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(14) COMPANY: RONNIE W. BORDERS, LTD.; DOCKET NUMBER: 2020-0674-WR-E; IDENTIFIER: RN110970894; LOCATION: San Augustine, San Augustine County; TYPE OF FACILITY: water rights; RULES VIOLATED: 30 TAC §297.11 and TWC, §11.081 and §11.121, by failing to obtain authorization prior to diverting, impounding, storing, taking, or using state water; PENALTY: \$2,000; ENFORCEMENT COORDINATOR: Harley Hobson, (512) 239-1337; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1830, (409) 898-3838.

(15) COMPANY: The LETCO Group, LLC; DOCKET NUMBER: 2020-0703-WQ-E; IDENTIFIER: RN109973990; LOCATION: College Station, Brazos County; TYPE OF FACILITY: recycling facility; RULES VIOLATED: 30 TAC §305.125(1), TWC, §26.121(a), and Texas Pollutant Discharge Elimination System General Permit Number TXR05DT19, Part III, Section A.1, by failing to develop and im-

plement a Stormwater Pollution Prevention Plan; PENALTY: \$1,312; ENFORCEMENT COORDINATOR: Steven Van Landingham, (512) 239-5717; REGIONAL OFFICE: 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

TRD-202100055

Charmaine Backens

Deputy Director, Litigation

Texas Commission on Environmental Quality

Filed: January 5, 2021



Notice of Application and Public Hearing for an Air Quality Standard Permit for a Concrete Batch Plant with Enhanced Controls: Proposed Air Quality Registration Number 162943

APPLICATION. Ingram Readymix No. 26, L.L.C., 3580 Farm-to-Market Road 482, New Braunfels, Texas 78132-5012 has applied to the Texas Commission on Environmental Quality (TCEQ) for an Air Quality Standard Permit for a Concrete Batch Plant with Enhanced Controls Registration Number 162943 to authorize the operation of a concrete batch plant. The facility is proposed to be located at 22845 Old Nacogdoches Road, New Braunfels, Comal County, Texas 78132. This link to an electronic map of the site or facility's general location is provided as a public courtesy and not part of the application or notice. For exact location, refer to application. <http://www.tceq.texas.gov/assets/public/hb610/index.html?lat=29.647639&lng=-98.23625&zoom=13&type=r>. This application was submitted to the TCEQ on October 6, 2020. The primary function of this plant is to manufacture concrete by mixing materials including (but not limited to) sand, aggregate, cement and water. The executive director has determined the application was technically complete on November 20, 2020.

PUBLIC COMMENT / PUBLIC HEARING. Public written comments about this application may be submitted at any time during the public comment period. The public comment period begins on the first date notice is published and extends to the close of the public hearing. Public comments may be submitted either in writing to the Texas Commission on Environmental Quality, Office of the Chief Clerk, MC-105, P.O. Box 13087, Austin, Texas 78711-3087, or electronically at www.tceq.texas.gov/epic/eComment/. 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.

A public hearing has been scheduled, that will consist of two parts, an informal discussion period and a formal comment period. During the informal discussion period, the public is encouraged to ask questions of the applicant and TCEQ staff concerning the application, but comments made during the informal period will not be considered by the executive director before reaching a decision on the permit, and no formal response will be made to the informal comments. During the formal comment period, members of the public may state their comments into the official record. **Written comments about this application may also be submitted at any time during the hearing.** The purpose of a public hearing is to provide the opportunity to submit written comments or an oral statement about the application. **The public hearing is not an evidentiary proceeding.**

The Public Hearing is to be held:

Wednesday, February 3, 2021, at 6:00 p.m.

Members of the public who would like to ask questions or provide comments during the meeting may access the meeting via webcast by following this link: <https://www.gotomeeting.com/webinar/join-webinar>

and entering Webinar ID 822-435-907. 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, (213) 929-4232 and enter access code 998-355-507.

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>.

RESPONSE TO COMMENTS. A written response to all formal comments will be prepared by the executive director after the comment period closes. The response, along with the executive director's decision on the application, will be mailed to everyone who submitted public comments and the response to comments will be posted in the permit file for viewing.

The executive director shall approve or deny the application not later than 35 days after the date of the public hearing, considering all comments received within the comment period, and base this decision on whether the application meets the requirements of the standard permit.

CENTRAL/REGIONAL OFFICE. The application will be available for viewing and copying at the TCEQ Central Office and the TCEQ San Antonio Regional Office, located at 14250 Judson Road, San Antonio, Texas 78233-4480, during the hours of 8:00 a.m. to 5:00 p.m., Monday through Friday, beginning the first day of publication of this notice.

INFORMATION. If you need 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.

Further information may also be obtained from Ingram Readymix No. 26, L.L.C., 3580 Farm-to-Market Road 482, New Braunfels, Texas 78132-5012, or by calling Mr. Gary Johnson, Vice President at (830) 625-9156.

Notice Issuance Date: December 22, 2020

TRD-202100001

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: January 4, 2021



Notice of Correction to Agreed Order Number 18

In the July 3, 2020, issue of the *Texas Register* (45 TexReg 4545), the Texas Commission on Environmental Quality (commission) published notice of Agreed Orders, specifically Item Number 18, for Mr. Carlos Antonio Flores and Ms. Tomasa C. Flores, Docket Number 2020-0039-MLM-E. The error is as submitted by the commission.

The reference to the Company should be corrected to read: "Carlos Antonio Flores and Tomasa C. Flores."

For questions concerning these errors, please contact Michael Parrish at (512) 239-2548.

TRD-202100056

Charmaine Backens
Deputy Director, Litigation
Texas Commission on Environmental Quality
Filed: January 5, 2021



Notice of District Petition

Notice issued December 30, 2020

TCEQ Internal Control No. D-05112020-019; Petro-Hunt, LLC (Petitioner) filed a petition and an amended petition for creation of Abston Hills Municipal Utility District No. 1-A (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 (TWC); 30 Texas Administrative Code Chapter 293; and the procedural rules of the TCEQ. The amended petition states that: (1) the Petitioner holds title to a majority in value of the land to be included in the proposed District; (2) the proposed District will contain approximately 252.779 acres (revised from 274.71 acres to eliminate any acreage that could be in the Nevada ETJ) located within Collin County, Texas; and (3) all of the land within the proposed District is wholly within the extraterritorial jurisdiction of the City of Lavon, Texas. Additional information provided by the Petitioner confirmed that there are no lienholders on the property to be included in the proposed District. In accordance with Local Government Code §42.042 and Texas Water Code §54.016, the Petitioner submitted a petition to the City, requesting the City's consent to the creation of the District. After more than 90 days passed without receiving consent, the petitioner submitted a petition to the City to provide water or sewer services to the District. The 120-day period for reaching a mutually agreeable contract as established by Texas Water Code §54.016(c) expired and the information provided indicates that the Petitioner and the City have not executed a mutually agreeable contract for service. Pursuant to Texas Water Code §54.016(d), failure to execute such an agreement constitutes authorization for the Petitioner to initiate proceedings to include the land with the district. The amended petition further states that the proposed District will: (1) construct, maintain, and operate a waterworks system, including the purchase and sale of water, for domestic and commercial purposes; (2) construct, maintain, and operate a sanitary sewer collection, treatment, and disposal system, for domestic and commercial purposes; (3) construct, install, maintain, purchase, and operate drainage and roadway facilities and improvements; and (4) construct, install, maintain, purchase, and operate facilities, systems, plants, and enterprises of such additional facilities as shall be consonant with the purposes for which the district is organized. According to the information provided, a preliminary investigation has been made to determine the cost of the project, and it is estimated that the cost of said project will be approximately \$38,820,000 (\$21,935,000 for water, wastewater, and drainage plus \$16,885,000 for roads).

INFORMATION SECTION

To view the complete issued notice, view the notice on our website at www.tceq.texas.gov/agency/cc/pub_notice.html or call the Office of the Chief Clerk at (512) 239-3300 to obtain a copy of the complete notice. When searching the website, type in the issued date range shown at the top of this document to obtain search results.

The TCEQ may grant a contested case hearing on the petition if a written hearing request is filed within 30 days after the newspaper publication of the notice. To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and

fax number, if any; (2) the name of the Petitioner and the TCEQ Internal Control Number; (3) the statement "I/we request a contested case hearing"; (4) a brief description of how you would be affected by the petition in a way not common to the general public; and (5) the location of your property relative to the proposed District's boundaries. You may also submit your proposed adjustments to the petition. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below. The Executive Director may approve the petition unless a written request for a contested case hearing is filed within 30 days after the newspaper publication of this notice. If a hearing request is filed, the Executive Director will not approve the petition and will forward the petition and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting. If a contested case hearing is held, it will be a legal proceeding similar to a civil trial in state district court. Written hearing requests should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Districts Review Team, at (512) 239-4691. Si desea información en español, puede llamar al (512) 239-0200. General information regarding TCEQ can be found at our website at www.tceq.texas.gov.

TRD-202100002

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: January 4, 2021



Notice of District Petition

Notice issued December 30, 2020

TCEQ Internal Control No. D-05112020-020; Petro-Hunt, LLC and Far East Lavon, LP (Petitioners) filed a petition and an amended petition for creation of Abston Hills Municipal Utility District No. 1-B (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 (TWC); 30 Texas Administrative Code Chapter 293; and the procedural rules of the TCEQ. The amended petition states that: (1) the Petitioner holds title to a majority in value of the land to be included in the proposed District; (2) the proposed District will contain approximately 437.72 acres located within Collin County, Texas; and (3) all of the land within the proposed District is wholly within the extraterritorial jurisdiction of the City of Lavon, Texas. Additional information provided by the Petitioners confirmed that there are no lienholders on the property to be included in the proposed District.

In accordance with Local Government Code §42.042 and Texas Water Code §54.016, the Petitioner submitted a petition to the City, requesting the City's consent to the creation of the District. After more than 90 days passed without receiving consent, the petitioner submitted a petition to the City to provide water or sewer services to the District. The 120-day period for reaching a mutually agreeable contract as established by Texas Water Code §54.016(c) expired and the information provided indicates that the Petitioners and the City have not executed a mutually agreeable contract for service. Pursuant to Texas Water Code §54.016(d), failure to execute such an agreement constitutes authorization for the Petitioners to initiate proceedings to include the land with the district.

The amended petition further states that the proposed District will: (1) construct, maintain, and operate a waterworks system, including the purchase and sale of water, for domestic and commercial purposes; (2) construct, maintain, and operate a sanitary sewer collection, treatment, and disposal system, for domestic and commercial purposes; (3) construct, install, maintain, purchase, and operate drainage and roadway facilities and improvements; and (4) construct, install, maintain, purchase, and operate facilities, systems, plants, and enterprises of such additional facilities as shall be consonant with the purposes for which the district is organized. According to the information provided, a preliminary investigation has been made to determine the cost of the project, and it is estimated that the cost of said project will be approximately \$73,410,000 (\$42,625,000 for water, wastewater, and drainage plus \$30,785,000 for roads).

INFORMATION SECTION

To view the complete issued notice, view the notice on our website at www.tceq.texas.gov/agency/cc/pub_notice.html or call the Office of the Chief Clerk at (512) 239-3300 to obtain a copy of the complete notice. When searching the website, type in the issued date range shown at the top of this document to obtain search results.

The TCEQ may grant a contested case hearing on the petition if a written hearing request is filed within 30 days after the newspaper publication of the notice. To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) the name of the Petitioner and the TCEQ Internal Control Number; (3) the statement "I/we request a contested case hearing"; (4) a brief description of how you would be affected by the petition in a way not common to the general public; and (5) the location of your property relative to the proposed District's boundaries. You may also submit your proposed adjustments to the petition. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below. The Executive Director may approve the petition unless a written request for a contested case hearing is filed within 30 days after the newspaper publication of this notice. If a hearing request is filed, the Executive Director will not approve the petition and will forward the petition and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting. If a contested case hearing is held, it will be a legal proceeding similar to a civil trial in state district court. Written hearing requests should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Districts Review Team, at (512) 239-4691. Si desea información en español, puede llamar al (512) 239-0200. General information regarding TCEQ can be found at our website at www.tceq.texas.gov.

TRD-202100003

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: January 4, 2021



Notice of District Petition

Notice issued December 30, 2020

TCEQ Internal Control No. D-05112020-022; Petro-Hunt, LLC and Far East Lavon, LP (Petitioners) filed a petition and an amended petition for creation of Abston Hills Municipal Utility District No.

1-D (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 (TWC); 30 Texas Administrative Code Chapter 293; and the procedural rules of the TCEQ. The amended petition states that: (1) the Petitioner holds title to a majority in value of the land to be included in the proposed District; (2) the proposed District will contain approximately 426.41 acres located within Collin County, Texas; and (3) all of the land within the proposed District is wholly within the extraterritorial jurisdiction of the City of Lavon, Texas. Additional information provided by the Petitioners confirmed that there are no lienholders on the property to be included in the proposed District.

In accordance with Local Government Code §42.042 and Texas Water Code §54.016, the Petitioner submitted a petition to the City, requesting the City's consent to the creation of the District. After more than 90 days passed without receiving consent, the petitioner submitted a petition to the City to provide water or sewer services to the District. The 120-day period for reaching a mutually agreeable contract as established by Texas Water Code §54.016(c) expired and the information provided indicates that the Petitioners and the City have not executed a mutually agreeable contract for service. Pursuant to Texas Water Code §54.016(d), failure to execute such an agreement constitutes authorization for the Petitioners to initiate proceedings to include the land with the district.

The amended petition further states that the proposed District will: (1) construct, maintain, and operate a waterworks system, including the purchase and sale of water, for domestic and commercial purposes; (2) construct, maintain, and operate a sanitary sewer collection, treatment, and disposal system, for domestic and commercial purposes; (3) construct, install, maintain, purchase, and operate drainage and roadway facilities and improvements; and (4) construct, install, maintain, purchase, and operate facilities, systems, plants, and enterprises of such additional facilities as shall be consonant with the purposes for which the district is organized. According to the information provided, a preliminary investigation has been made to determine the cost of the project, and it is estimated that the cost of said project will be approximately \$64,390,000 (\$38,265,000 for water, wastewater, and drainage plus \$26,125,000 for roads).

INFORMATION SECTION

To view the complete issued notice, view the notice on our website at www.tceq.texas.gov/agency/cc/pub_notice.html or call the Office of the Chief Clerk at (512) 239-3300 to obtain a copy of the complete notice. When searching the website, type in the issued date range shown at the top of this document to obtain search results.

The TCEQ may grant a contested case hearing on the petition if a written hearing request is filed within 30 days after the newspaper publication of the notice. To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) the name of the Petitioner and the TCEQ Internal Control Number; (3) the statement "I/we request a contested case hearing"; (4) a brief description of how you would be affected by the petition in a way not common to the general public; and (5) the location of your property relative to the proposed District's boundaries. You may also submit your proposed adjustments to the petition. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below. The Executive Director may approve the petition unless a written request for a contested case hearing is filed within 30 days after the newspaper publication of this notice. If a hearing request is filed, the Executive Director will not approve the petition and

will forward the petition and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting. If a contested case hearing is held, it will be a legal proceeding similar to a civil trial in state district court. Written hearing requests should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Districts Review Team, at (512) 239-4691. Si desea información en español, puede llamar al (512) 239-0200. General information regarding TCEQ can be found at our website at www.tceq.texas.gov.

TRD-202100004

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: January 4, 2021



Notice of District Petition

Notice issued December 30, 2020

TCEQ Internal Control No. D-05112020-021; Petro-Hunt, LLC (Petitioner) filed a petition and an amended petition for creation of Abston Hills Municipal Utility District No. 1-C (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 (TWC); 30 Texas Administrative Code Chapter 293; and the procedural rules of the TCEQ. The amended petition states that: (1) the Petitioner holds title to a majority in value of the land to be included in the proposed District; (2) the proposed District will contain approximately 273.06 acres located within Collin County, Texas; and (3) all of the land within the proposed District is wholly within the extraterritorial jurisdiction of the City of Lavon, Texas. Additional information provided by the Petitioner confirmed that there are no lienholders on the property to be included in the proposed District. In accordance with Local Government Code §42.042 and Texas Water Code §54.016, the Petitioner submitted a petition to the City, requesting the City's consent to the creation of the District. After more than 90 days passed without receiving consent, the petitioner submitted a petition to the City to provide water or sewer services to the District. The 120-day period for reaching a mutually agreeable contract as established by Texas Water Code §54.016(c) expired and the information provided indicates that the Petitioner and the City have not executed a mutually agreeable contract for service. Pursuant to Texas Water Code §54.016(d), failure to execute such an agreement constitutes authorization for the Petitioner to initiate proceedings to include the land with the district. The amended petition further states that the proposed District will: (1) construct, maintain, and operate a waterworks system, including the purchase and sale of water, for domestic and commercial purposes; (2) construct, maintain, and operate a sanitary sewer collection, treatment, and disposal system, for domestic and commercial purposes; (3) construct, install, maintain, purchase, and operate drainage and roadway facilities and improvements; and (4) construct, install, maintain, purchase, and operate facilities, systems, plants, and enterprises of such additional facilities as shall be consonant with the purposes for which the district is organized. According to the information provided, a preliminary investigation has been made to determine the cost of the project, and it is estimated that the cost of said project will be approximately \$49,075,000 (\$29,945,000 for water, wastewater, and drainage plus \$19,130,000 for roads).

INFORMATION SECTION

To view the complete issued notice, view the notice on our website at www.tceq.texas.gov/agency/cc/pub_notice.html or call the Office of the Chief Clerk at (512) 239-3300 to obtain a copy of the complete notice. When searching the website, type in the issued date range shown at the top of this document to obtain search results.

The TCEQ may grant a contested case hearing on the petition if a written hearing request is filed within 30 days after the newspaper publication of the notice. To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) the name of the Petitioner and the TCEQ Internal Control Number; (3) the statement "I/we request a contested case hearing"; (4) a brief description of how you would be affected by the petition in a way not common to the general public; and (5) the location of your property relative to the proposed District's boundaries. You may also submit your proposed adjustments to the petition. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below. The Executive Director may approve the petition unless a written request for a contested case hearing is filed within 30 days after the newspaper publication of this notice. If a hearing request is filed, the Executive Director will not approve the petition and will forward the petition and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting. If a contested case hearing is held, it will be a legal proceeding similar to a civil trial in state district court. Written hearing requests should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Districts Review Team, at (512) 239-4691. Si desea información en español, puede llamar al (512) 239-0200. General information regarding TCEQ can be found at our website at www.tceq.texas.gov.

TRD-202100005

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: January 4, 2021



Notice of Opportunity to Comment on Agreed Orders of Administrative Enforcement Actions

The Texas Commission on Environmental Quality (TCEQ or commission) staff is providing an opportunity for written public comment on the listed Agreed Orders (AOs) in accordance with Texas Water Code (TWC), §7.075. TWC, §7.075, requires that before the commission may approve the AOs, the commission shall allow the public an opportunity to submit written comments on the proposed AOs. TWC, §7.075, requires that notice of the opportunity to comment must be published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **February 16, 2021**. TWC, §7.075, also requires that the commission promptly consider any written comments received and that the commission may withdraw or withhold approval of an AO if a comment discloses facts or considerations that indicate that consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the statutes and rules within the commission's jurisdiction or the commission's orders and permits issued in accordance with the commission's regulatory authority. Additional notice of changes to a proposed AO is not required to be published if those changes are made in response to written comments.

A copy of each proposed AO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building A, 3rd Floor, Austin, Texas 78753, (512) 239-3400 and at the applicable regional office listed as follows. Written comments about an AO should be sent to the attorney designated for the AO at the commission's central office at P.O. Box 13087, MC 175, Austin, Texas 78711-3087 and must be **received by 5:00 p.m. on February 16, 2021**. Comments may also be sent by facsimile machine to the attorney at (512) 239-3434. The designated attorneys are available to discuss the AOs and/or the comment procedure at the listed phone numbers; however, TWC, §7.075, provides that comments on an AO shall be submitted to the commission in **writing**.

(1) COMPANY: Jackie Reaves; DOCKET NUMBER: 2019-0297-IHW-E; TCEQ ID NUMBER: RN110075488; LOCATION: 254 County Road 1791, Sunset, Wise County; TYPE OF FACILITY: property; RULES VIOLATED: TWC, §26.121(a)(1) and 30 TAC §§335.4(1), 335.5, and 335.6, by causing, suffering, allowing, or permitting the disposal of industrial solid waste and/or agricultural waste; PENALTY: \$1,250; STAFF ATTORNEY: Tracy Chandler, Litigation, MC 175, (512) 239-0629; REGIONAL OFFICE: Dallas-Fort Worth Regional Office, 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(2) COMPANY: KRZ OPERATIONS INC and Zia Mehar dba Country Quick Mart; DOCKET NUMBER: 2020-0244-PST-E; TCEQ ID NUMBER: RN1054487599; LOCATION: 5777 United States Highway 380, Caddo Mills, Hunt County; TYPE OF FACILITY: underground storage tank (UST) system and a convenience store with retail sales of gasoline; RULES VIOLATED: TWC, §26.3475(d) and 30 TAC §334.49(a), by failing to provide corrosion protection for the UST system; TWC, §26.3475(c)(1) and 30 TAC §334.50(b)(1)(A), by failing to monitor the UST system for releases at a frequency of at least once every 30 days; 30 TAC §334.10(b)(2), by failing to assure all UST recordkeeping requirements are met - specifically, the facility has not maintained records for release detection since February 2015; and 30 TAC §334.77, by failing to conduct the corrective actions required for a confirmed release and submit the required remediation report to the TCEQ within 20 days of the confirmed release; PENALTY: \$14,950; STAFF ATTORNEY: Ryan Rutledge, Litigation, MC 175, (512) 239-0630; REGIONAL OFFICE: Dallas-Fort Worth Regional Office, 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(3) COMPANY: Maynard J. Haddad dba H & H Car Wash; DOCKET NUMBER: 2019-0764-PST-E; TCEQ ID NUMBER: RN100961473; LOCATION: 701 East Yandell Drive, El Paso, El Paso County; TYPE OF FACILITY: underground storage tank (UST) system and a car wash with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.8(c)(4)(A)(vii) and (5)(B)(ii), by failing to renew a previously issued UST delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date - specifically, the delivery certificate expired on January 31, 2019; TWC, §26.3467(a) and 30 TAC §334.8(c)(5)(A)(i), by failing to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the UST - specifically, one fuel delivery was accepted on March 29, 2019, without a valid, current TCEQ delivery certificate; TWC, §26.3475(d) and 30 TAC §334.49(c)(2)(C), by failing to inspect the impressed current cathodic protection system at least once every 60 days to ensure the rectifier and other system components are operating properly; TWC, §26.3475(a) and 30 TAC §334.50(b)(2), by failing to provide release detection for the pressurized piping associated with the UST system at the facility - specifically, respondent did not conduct the annual line leak detector and piping tightness test; TWC, §26.3475(c)(2) and 30 TAC §334.51(a)(6), by failing to ensure that

all installed spill and overflow prevention devices are maintained in good operating condition - specifically, the spill bucket for the regular unleaded UST was damaged; and 30 TAC §334.602(a), by failing to designate, train, and certify one named individual for each class of operator - Class A - C for the facility; PENALTY: \$15,390; STAFF ATTORNEY: Taylor Pearson, Litigation, MC 175, (512) 239-5937; REGIONAL OFFICE: El Paso Regional Office, 401 East Franklin Avenue, Suite 560, El Paso, Texas 79901-1212, (915) 834-4949.

(4) COMPANY: Texas Material Group, Inc. fka Oldcastle Materials Texas, Inc.; DOCKET NUMBER: 2018-1115-AIR-E; TCEQ ID NUMBER: RN104992276; LOCATION: 14900 State Highway 121, Frisco, Collin County; TYPE OF FACILITY: hot mix asphalt plant; RULES VIOLATED: Texas Health and Safety Code (THSC), §382.085(b), 30 TAC §116.115(c), and New Source Review (NSR) Permit Number 8597, Special Condition (SC) Number 6.B, by failing to maintain the mix temperature of the asphalt concrete below 325 degrees Fahrenheit; THSC, §382.085(b), 30 TAC §116.115(b)(2)(E)(i) and (c), and NSR Permit Number 8597, SC Number 14, by failing to maintain records containing information and data sufficient to demonstrate compliance with the permit; and THSC, §382.085(a) and (b) and 30 TAC §101.4, by failing to prevent nuisance odor conditions; PENALTY: \$21,000; STAFF ATTORNEY: Jess Robinson, Litigation, MC 175, (512) 239-0455; REGIONAL OFFICE: Dallas-Fort Worth Regional Office, 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(5) COMPANY: West Real Estate, LLC; DOCKET NUMBER: 2019-0912-MSW-E; TCEQ ID NUMBER: RN110588936; LOCATION: 3402 County Road 1200, Lubbock, Lubbock County; TYPE OF FACILITY: unauthorized municipal solid waste (MSW) site; RULE VIOLATED: 30 TAC §330.15(a) and (c), by causing, suffering, allowing, or permitting the unauthorized disposal of MSW - specifically, approximately 137,192 cubic yards of MSW consisting of construction/demolition waste, asphalt shingles, wood, paper, cardboard, plastic, and ground track waste were disposed of at the site; PENALTY: \$5,812; STAFF ATTORNEY: Vas Manthos, Litigation, MC 175, (512) 239-0181; REGIONAL OFFICE: Lubbock Regional Office, 5012 50th Street, Suite 100, Lubbock, Texas 79414-3426, (806) 796-7092.

TRD-202100057
Charmaine Backens
Deputy Director, Litigation
Texas Commission on Environmental Quality
Filed: January 5, 2021

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Notice of Water Quality Application

The following notices were issued between December 02, 2020 thru December 18, 2020.

The following does not require publication in a newspaper. Written comments or requests for a public meeting may be submitted to the Office of the Chief Clerk, Mail Code 105, P.O. Box 13087, Austin Texas 78711-3087 WITHIN 30 DAYS OF THIS NOTICE ISSUED IN THE *Texas Register*.

INFORMATION SECTION

Fort Bend County Municipal Utility District No. 142 has applied for a minor amendment to Texas Pollutant Discharge Elimination System Permit No. WQ0015308001 to authorize the removal of the existing Interim I phase at a daily average flow not to exceed 100,000 gallons per day and addition of an Interim II phase at a daily average flow not to exceed 600,000 gallons per day. The existing permit authorizes the

discharge of treated domestic wastewater at an annual average flow not to exceed, 1,200,000 gallons per day. The facility is located 0.80 mile southeast of the intersection of Farm-to-Market Road 359 and Fulshear Gaston Road, in Fort Bend County, Texas 77406.

The following does not require publication in a newspaper. Written comments or requests for a public meeting may be submitted to the Office of the Chief Clerk, Mail Code 105, P.O. Box 13087, Austin Texas 78711-3087 WITHIN 30 DAYS OF THE ISSUED DATE OF THE NOTICE.

INFORMATION SECTION

Harris County Municipal Utility District No. 149 has applied for a minor amendment to the Texas Pollutant Discharge Elimination System Permit No. WQ0011836001 to authorize a decrease in the discharge of treated domestic wastewater from a daily average flow not to exceed 645,000 gallons per day to a daily average flow not to exceed 450,000 gallons per day. The facility is at 16427 Sky Blue Lane, in Harris County, Texas 77095.

The following does not require publication in a newspaper. Written comments or requests for a public meeting may be submitted to the Office of the Chief Clerk, Mail Code 105,

P.O. Box 13087, Austin Texas 78711-3087 WITHIN 10 DAYS OF THE ISSUED DATE OF THE NOTICE.

INFORMATION SECTION

The Texas Commission on Environmental Quality (TCEQ) has initiated a minor amendment of TCEQ Permit No. WQ0012147001 issued to the City of Sterling City, P.O. Box 1022, Sterling City, Texas 76951, to authorize the correction of typographical errors in the effluent limits for five-day biochemical oxygen demand in the permit. The existing permit authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 116,000 gallons per day. The wastewater treatment facility and disposal site are located approximately 650 feet southeast of the intersection of State Highway 158 and U.S. Highway 87, in Sterling County, Texas 79651.

Arrowhead Ranch Utility Company LLC has applied for a minor amendment to the TCEQ permit to authorize a decrease in the permitted flow for Interim II phase from a daily average flow not to exceed 60,000 gallons per day via public access subsurface area drip dispersal system (SADDS) with a minimum area of 14 acres to a daily average flow not to exceed 55,000 gallons per day via public access SADDS with a minimum area of 14 acres. The draft permit also authorizes an Interim I phase for the disposal of treated domestic wastewater at a daily average flow not to exceed 35,000 gallons per day via public access SADDS with a minimum area of 8 acres, and a Final phase for the disposal of daily average flow not to exceed 125,000 gallons per day via public access SADDS with a minimum area of 29 acres. This permit will not authorize a discharge of pollutants into water in the state. The wastewater treatment facility and disposal site are located at 2303 West Highway 290, Dripping Springs, in Hays County, Texas 78620.

If you need more information about these permit applications or the permitting process, please call the TCEQ Public Education Program, Toll Free, at (800) 687-4040. General information about the TCEQ can be found at our web site at www.TCEQ.texas.gov. Si desea información en español, puede llamar al (800) 687-4040.

TRD-202100087

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: January 6, 2021

Office of the Governor

Notice of Available Funding Opportunities

Office of the Governor, Public Safety Office (PSO)

The Public Safety Office is announcing the following funding opportunities for State Fiscal Year 2022. Details for these opportunities, including the open and close date for the solicitation, can be found on the eGrants Calendar (<https://eGrants.gov.texas.gov/fundopp.aspx>).

- Border Prosecution Unit (BPU) Program - The purpose of this solicitation is to provide prosecution resources for District and County Attorneys along the Texas-Mexico border and for counties that are significantly affected by border crime.

- Local Border Security Program (LBSP) - The purpose of the program is to sustain interagency law enforcement operations and enhance local law enforcement patrols to facilitate directed actions to deter and interdict criminal activity.

- National Incident-Based Reporting System (NIBRS) Program - The Public Safety Office (PSO) is soliciting grant applications for projects that enable local law enforcement agencies to upgrade their technology infrastructure to support the submission of data to the Uniform Crime Reporting (UCR) National Incident-Based Reporting System (NIBRS).

- Nonprofit Security Grant Program (NSGP) - The Public Safety Office (PSO) is soliciting applications for projects that support physical security enhancements and other security activities to nonprofit organizations that are at high risk of a terrorist attack based on the nonprofit organization's ideology, beliefs or mission.

- Texas Anti-Gang (TAG) Program - The Public Safety Office (PSO) is soliciting applications for preselected projects that support regional, multidisciplinary approaches to combat gang violence through the coordination of gang prevention, intervention, and suppression activities.

TRD-202100054

Aimee Snoddy

Executive Director, PSO

Office of the Governor

Filed: January 4, 2021

Texas Health and Human Services Commission

Notice of Public Hearing on Proposed Medicaid Payment Rates for the 2021 Annual Healthcare Common Procedure Coding System (HCPCS) Updates

Hearing. The Texas Health and Human Services Commission (HHSC) will conduct a public hearing on February 5, 2021, at 9:00 a.m., to receive comment on proposed Medicaid payment rates for the Annual Healthcare Common Procedure Coding System (HCPCS) Updates.

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 the Annual Healthcare Common Procedure Coding System (HCPCS) updates to be held on February 5, 2021, 9:00 a.m. CST at:

<https://attendee.gotowebinar.com/register/8996719121083795470>

After registering, you will receive a confirmation email containing information about joining the webinar.

The meeting will be archived and can be accessed on demand at <https://hhs.texas.gov/about-hhs/communications-events/live-archived-meetings>. 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.

Due to a delay in publication of necessary information by CMS, HHSC has delayed the Annual HCPCS Rate Hearing until February 2021.

Proposal. The payment rates for the 2021 Annual HCPCS Updates are proposed to be effective January 1, 2021, for the following services:

Physician Administered Drugs - TOS 1 (Medical Services);

Medical Services - TOS 1 (Medical Services);

Surgery and Assistant Surgery Services - TOS 2 (Surgery Services) and TOS 8 (Assistant Surgery);

Hospital Diagnostic Imaging - TOS 4 (Radiology);

Radiological Services - TOS 4 (Radiology), TOS I (Professional Component), and TOS T (Technical Component);

Clinical Diagnostic Laboratory Services - TOS 5 (Laboratory);

Nonclinical Laboratory Services - TOS 5, TOS I, and TOS T;

Ambulatory Surgical Center and Hospital Ambulatory Surgical Center - TOS F (Ambulatory Surgical Center); and

Dental Services - TOS W (Texas Health Steps Dental/Orthodontia).

Methodology and Justification. The proposed payment rates were calculated in accordance with Title 1 of the Texas Administrative Code:

§355.8021, which addresses the reimbursement methodology for home health services;

§355.8061, which addresses outpatient hospital reimbursement;

§355.8085, which addresses the reimbursement methodology for physicians and other practitioners;

§355.8097, which addresses the reimbursement methodology for physical, occupational, and speech therapy services;

§355.8121, which addresses the reimbursement for ambulatory surgical centers;

§355.8441, which addresses reimbursement methodologies for Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) services (known in Texas as Texas Health Steps) and the THSteps Comprehensive Care Program (CCP); and §355.8610, which addresses the reimbursement for clinical laboratory services.

Briefing Packets. Briefing packets describing the proposed payment rates for each topic will be available at <http://rad.hhs.texas.gov/rate-packets> on or after January 26, 2021. Packets will be posted separately by topic as soon as they are complete. Interested parties may obtain copies of the briefing packets prior to the hearing by contacting Rate Analysis by telephone at (512) 730-7401; by fax at (512) 730-7475; or by e-mail at 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: Rate Analysis, Mail Code H-400, P.O. Box 149030, Austin, Texas 78714-9030; by fax to Rate Analysis at (512) 730-7475; or by e-mail to RADAcuteCare@hhsc.state.tx.us. In addition, written comments may be sent by overnight mail or hand delivered to Texas Health and Human Services Commission, Attention: Rate Analysis, 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 Rate Analysis at (512) 730-7401 at least 72 hours in advance, so appropriate arrangements can be made.

TRD-202100086

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Filed: January 6, 2021

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Department of State Health Services

Correction of Error

The Department of State Health Services proposed a new rule to 25 TAC §289.233 in the January 1, 2021, issue of the *Texas Register* (46 TexReg 51).

Due to a publishing error by the Texas Register, the text in 25 TAC §289.233(d)(33) was published incorrectly. The text should be published as follows:

(33) Effective dose equivalent (H_e)--The sum of the products of the dose equivalent to the organ or tissue (H_t) and the weighting factors (W_t) applicable to each of the body organs or tissues that are irradiated ($H_e = \sum W_t H_t$).

TRD-202100064

Barbara L. Klein

General Counsel

Department of State Health Services

Filed: January 5, 2021

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Licensing Actions for Radioactive Materials

NEW LICENSES ISSUED:

Location of Use/Possession of Material	Name of Licensed Entity	License Number	City of Licensed Entity	Amendment Number	Date of Action
SOUTHLAKE	METSL LLC DBA METHODIST SOUTHLAKE HOSPITAL	L07093	SOUTHLAKE	00	12/02/20
THROUGHOUT TX	TEX-RAY NDT INC	L07092	BIG SPRING	00	12/02/20
THROUGHOUT TX	STEP ENERGY SERVICES HOLDINGS LTD	L07095	SPRING	00	12/10/20

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
BENBROOK	WEATHERFORD INTERNATIONAL LLC	L04286	BENBROOK	129	12/14/20
BRENHAM	CHAPPELL HILL LOGGING SYSTEMS INC	L05522	BRENHAM	07	12/04/20
DALLAS	TEXAS HEALTH PHYSICIANS GROUP	L05412	DALLAS	14	12/09/20
FREEPORT	SOLVAY USA INC	L02807	FREEPORT	46	12/14/20
FT WORTH	TARRANT COUNTY HOSPITAL DISTRICT DBA JPS HEALTH NETWORK	L02208	FT WORTH	94	12/02/20
HARLINGEN	VHS HARLINGEN HOSPITAL COMPANY LLC DBA VALLEY BAPTIST MEDICAL CENTER HARLINGEN	L06499	HARLINGEN	19	12/14/20
HOUSTON	TEXAS HEART MEDICAL GROUP	L05229	HOUSTON	17	12/09/20

AMENDMENTS TO EXISTING LICENSES ISSUED (Continued):

HOUSTON	MEMORIAL HERMANN HEALTH SYSTEM DBA MEMORIAL HERMANN TEXAS MEDICAL CENTER	L04655	HOUSTON	59	12/01/20
HOUSTON	SHELL CHEMICAL LP	L02116	HOUSTON	61	12/11/20
IRVING	BAYLOR MEDICAL CENTER AT IRVING DBA BAYLOR SCOTT & WHITE MEDICAL CENTER - IRVING	L02444	IRVING	115	12/11/20
LONGVIEW	USFS LLC	L06795	LONGVIEW	02	12/02/20
MIDLAND	MIDLAND COUNTY HOSPITAL DISTRICT DBA MIDLAND MEMORIAL HOSPITAL	L00728	MIDLAND	112	12/11/20
NEW BRAUNFELS	TXI OPERATIONS LP	L01421	NEW BRAUNFELS	60	12/10/20
PLANO	BAYLOR REGIONAL MEDICAL CENTER AT PLANO DBA BAYLOR SCOTT & WHITE MEDICAL CENTER - PLANO	L05844	PLANO	23	12/14/20
ROBSTOWN	US ECOLOGY TEXAS INC	L05518	ROBSTOWN	15	12/10/20
SAN ANTONIO	UROLOGY SAN ANTONIO PA	L06047	SAN ANTONIO	04	12/04/20
THE WOODLANDS	MEMORIAL HERMANN HEALTH SYSTEM	L03772	THE WOODLANDS	163	12/04/20
THROUGHOUT TX	TEXAS ONCOLOGY PA	L05550	BEDFORD	42	12/11/20
THROUGHOUT TX	SOUTHWESTERN TESTING LABORATORIES LLC DBA STL ENGINEERS	L06100	DALLAS	15	12/14/20
THROUGHOUT TX	ALS MAVERICK TESTING LABORATORIES INC	L06608	DEER PARK	12	12/09/20
THROUGHOUT TX	EYNCON LLC	L07070	ENNIS	02	12/02/20
THROUGHOUT TX	HVJ ASSOCIATES INC	L03813	HOUSTON	67	12/03/20

AMENDMENTS TO EXISTING LICENSES ISSUED (Continued):

THROUGHOUT TX	SCOTT & WHITE HOSPITAL – ROUND ROCK DBA BAYLOR SCOTT & WHITE MEDICAL CENTER – LAKEWAY	L06849	LAKEWAY	08	12/07/20
THROUGHOUT TX	PREMIER ENERGY SERVICES LLC	L06959	MIDLAND	01	12/08/20
THROUGHOUT TX	NCS MULTISTAGE LLC	L06361	ODESSA	18	12/02/20
THROUGHOUT TX	JOHNSON MATTHEY INC DBA TRACERCO	L03096	PASADENA	103	12/03/20
THROUGHOUT TX	TECHCORR USA MANAGEMENT LLC	L05972	PASADENA	130	12/04/20
THROUGHOUT TX	HEALTHTEXAS PROVIDER NETWORK DBA BAYLOR SCOTT & WHITE THE HEART GROUP	L06501	PLANO	18	12/04/20
THROUGHOUT TX	HUNTER INDUSTRIES LTD	L04175	SAN MARCOS	15	12/03/20
THROUGHOUT TX	PIONEER INSPECTION SERVICES INC	L06553	SPRING	05	12/08/20
TOMBALL	ARVIND M PAI MD PA	L06008	TOMBALL	12	12/14/20
TYLER	DELEK REFINING LTD	L02289	TYLER	32	12/14/20
VICTORIA	VICTORIA OF TEXAS LP DBA DETAR HEALTHCARE SYSTEM	L01630	VICTORIA	52	12/09/20
WACO	HILLCREST BAPTIST MEDICAL CENTER DBA BAYLOR SCOTT & WHITE	L00845	WACO	127	12/11/20

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
FORT WORTH	GORRONDONA & ASSOCIATES INC	L06359	FORT WORTH	11	12/14/20
NEW BRAUNFELS	CHRISTUS SANTA ROSA HEALTH CARE CORPORATION	L05995	NEW BRAUNFELS	05	12/09/20
VERNON	AMERICAN ELECTRIC POWER-PUBLIC SVC OF OK	L03481	VERNON	30	12/02/20

TRD-202005749
 Barbara L. Klein
 General Counsel
 Department of State Health Services
 Filed: December 31, 2020

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Texas Lottery Commission

Scratch Ticket Game Number 2289 "50X SPEEDWAY RICHES"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 2289 is "50X SPEEDWAY RICHES". The play style is "other".

1.1 Price of Scratch Ticket Game.

A. Tickets for Scratch Ticket Game No. 2289 shall be \$5.00 per Scratch Ticket.

1.2 Definitions in Scratch Ticket Game No. 2289.

A. Display Printing - That area of the Scratch Ticket outside of the area where the overprint and Play Symbols appear.

B. Latex Overprint - The removable scratch-off covering over the Play Symbols on the front of the Scratch Ticket.

C. Play Symbol - The printed data under the latex on the front of the Scratch Ticket that is used to determine eligibility for a prize. Each Play Symbol is printed in Symbol font in black ink in positive except for dual-image games. The possible black Play Symbols are: 10 SYMBOL, 11 SYMBOL, 12 SYMBOL, 13 SYMBOL, 14 SYMBOL, 15 SYMBOL, 16 SYMBOL, 17 SYMBOL, 18 SYMBOL, 19 SYMBOL, 20 SYMBOL, 21 SYMBOL, 22 SYMBOL, 23 SYMBOL, 24 SYMBOL, 25 SYMBOL, 26 SYMBOL, 27 SYMBOL, 28 SYMBOL, 29 SYMBOL, 30 SYMBOL, \$5.00, \$10.00, \$20.00, \$25.00, \$50.00, \$100, \$500, \$1,000 and \$50,000. The possible green Play Symbols are: 10 SYMBOL, 11 SYMBOL, 12 SYMBOL, 13 SYMBOL, 14 SYMBOL, 15 SYMBOL, 16 SYMBOL, 17 SYMBOL, 18 SYMBOL, 19 SYMBOL, 20 SYMBOL, 21 SYMBOL, 22 SYMBOL, 23 SYMBOL, 24 SYMBOL, 25 SYMBOL, 26 SYMBOL, 27 SYMBOL, 28 SYMBOL, 29 SYMBOL and 30 SYMBOL.

D. Play Symbol Caption - The printed material appearing below each Play Symbol which explains the Play Symbol. One caption appears under each Play Symbol and is printed in caption font in black ink in positive. The Play Symbol Caption which corresponds with and verifies each Play Symbol is as follows:

Figure 1: GAME NO. 2289 - 1.2D

PLAY SYMBOL	CAPTION
10 SYMBOL (BLACK)	TEN (BLACK)
11 SYMBOL (BLACK)	ELV (BLACK)
12 SYMBOL (BLACK)	TLV (BLACK)
13 SYMBOL (BLACK)	TRN (BLACK)
14 SYMBOL (BLACK)	FTN (BLACK)
15 SYMBOL (BLACK)	FFN (BLACK)
16 SYMBOL (BLACK)	SXN (BLACK)
17 SYMBOL (BLACK)	SVT (BLACK)
18 SYMBOL (BLACK)	ETN (BLACK)
19 SYMBOL (BLACK)	NTN (BLACK)
20 SYMBOL (BLACK)	TWY (BLACK)
21 SYMBOL (BLACK)	TWON (BLACK)
22 SYMBOL (BLACK)	TWTO (BLACK)
23 SYMBOL (BLACK)	TWTH (BLACK)
24 SYMBOL (BLACK)	TWFR (BLACK)
25 SYMBOL (BLACK)	TWV (BLACK)
26 SYMBOL (BLACK)	TWSX (BLACK)
27 SYMBOL (BLACK)	TWSV (BLACK)
28 SYMBOL (BLACK)	TWET (BLACK)
29 SYMBOL (BLACK)	TWNI (BLACK)
30 SYMBOL (BLACK)	TRTY (BLACK)
10 SYMBOL (GREEN)	TEN (GREEN)
11 SYMBOL (GREEN)	ELV (GREEN)
12 SYMBOL (GREEN)	TLV (GREEN)

13 SYMBOL (GREEN)	TRN (GREEN)
14 SYMBOL (GREEN)	FTN (GREEN)
15 SYMBOL (GREEN)	FFN (GREEN)
16 SYMBOL (GREEN)	SXN (GREEN)
17 SYMBOL (GREEN)	SVT (GREEN)
18 SYMBOL (GREEN)	ETN (GREEN)
19 SYMBOL (GREEN)	NTN (GREEN)
20 SYMBOL (GREEN)	TWY (GREEN)
21 SYMBOL (GREEN)	TWON (GREEN)
22 SYMBOL (GREEN)	TWTO (GREEN)
23 SYMBOL (GREEN)	TWTH (GREEN)
24 SYMBOL (GREEN)	TWFR (GREEN)
25 SYMBOL (GREEN)	TWV (GREEN)
26 SYMBOL (GREEN)	TWSX (GREEN)
27 SYMBOL (GREEN)	TWSV (GREEN)
28 SYMBOL (GREEN)	TWET (GREEN)
29 SYMBOL (GREEN)	TWNI (GREEN)
30 SYMBOL (GREEN)	TRTY (GREEN)
\$5.00 (BLACK)	FIV\$ (BLACK)
\$10.00 (BLACK)	TEN\$ (BLACK)
\$20.00 (BLACK)	TWY\$ (BLACK)
\$25.00 (BLACK)	TWV\$ (BLACK)
\$50.00 (BLACK)	FFTY\$ (BLACK)
\$100 (BLACK)	ONHN (BLACK)
\$500 (BLACK)	FVHN (BLACK)
\$1,000 (BLACK)	ONTH (BLACK)
\$50,000 (BLACK)	50TH (BLACK)

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 (2289), 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: 2289-0000001-001.

H. Pack - A Pack of "50X SPEEDWAY RICHES" Scratch Ticket Game contains 075 Scratch Tickets, packed in plastic shrink-wrapping and fanfolded 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 Ticket - A Scratch Ticket which is not programmed to be a winning Scratch Ticket or a Scratch Ticket that does not meet all of the requirements of these Game Procedures, the State Lottery Act (Texas Government Code, Chapter 466), and applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401.

J. Scratch Ticket Game, Scratch Ticket or Ticket - A Texas Lottery "50X SPEEDWAY RICHES" Scratch Ticket Game No. 2289.

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 "50X SPEEDWAY RICHES" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose nineteen (19) Play Symbols. If a player's YOUR CAR NUMBER Play Symbol is closer to the FINISH LINE than the other car in that RACE, the player wins the PRIZE for that RACE. If the player's YOUR CAR NUMBER Play Symbol wins and has a GREEN number, the player wins 50 TIMES the PRIZE for that RACE. 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 nineteen (19) 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 nineteen (19) 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 nineteen (19) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the nineteen (19) 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. YOURS BEAT THEIRS: A non-winning Prize Symbol will never match a winning Prize Symbol.

D. YOURS BEAT THEIRS: A Ticket may have up to two (2) matching non-winning Prize Symbols, unless restricted by other parameters, play action or prize structure.

E. YOURS BEAT THEIRS: The YOUR CAR NUMBER Play Symbol will appear in every RACE, regardless of color, on a Ticket.

F. YOURS BEAT THEIRS: The opponent's car number Play Symbols will never match the YOUR CAR NUMBER Play Symbol, regardless of color, in any RACE.

G. YOURS BEAT THEIRS: The YOUR CAR NUMBER Play Symbol and the opponent's car number Play Symbol will never be the same distance from the finish line. There will not be any ties.

H. YOURS BEAT THEIRS: Non-Winning Tickets will contain at least three (3) RACEs with a GREEN RACEs 1 - 6 Play Symbol.

I. YOURS BEAT THEIRS: No matching opponent's car number Play Symbols, regardless of color, on a Ticket.

J. YOURS BEAT THEIRS: The YOUR CAR NUMBER Play Symbol will always be BLACK. The Play Symbols in RACEs 1 - 6 can be BLACK or GREEN.

2.3 Procedure for Claiming Prizes.

A. To claim a "50X SPEEDWAY RICHES" Scratch Ticket Game prize of \$5.00, \$10.00, \$20.00, \$25.00, \$50.00, \$100 or \$500, a claimant shall sign the back of the Scratch Ticket in the space designated on the Scratch Ticket and may present the winning Scratch Ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, if appropriate, make payment of the amount due the claimant and physically void the Scratch Ticket; provided that the Texas Lottery Retailer may, but is not required, to pay a \$25.00, \$50.00, \$100 or \$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 "50X SPEEDWAY RICHES" Scratch Ticket Game prize of \$1,000 or \$50,000, 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 "50X SPEEDWAY RICHES" 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.

F. If a person is indebted or owes delinquent taxes to the State, and is selected as a winner in a promotional second-chance drawing, the debt to the State must be paid within 14 days of notification or the prize will be awarded to an Alternate.

2.4 Allowance for Delay of Payment. The Texas Lottery may delay payment of the prize pending a final determination by the Executive Director, under any of the following circumstances:

A. if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize;

B. if there is any question regarding the identity of the claimant;

C. if there is any question regarding the validity of the Scratch Ticket presented for payment; or

D. if the claim is subject to any deduction from the payment otherwise due, as described in Section 2.3.D of these Game Procedures. No liability for interest for any delay shall accrue to the benefit of the claimant pending payment of the claim.

2.5 Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a cash prize under \$600 from the "50X SPEEDWAY RICHES" 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 "50X SPEEDWAY RICHES" Scratch Ticket Game, the Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.7 Scratch Ticket Claim Period. All Scratch Ticket Game prizes must be claimed within 180 days following the end of the Scratch Ticket Game or within the applicable time period for certain eligible military personnel as set forth in Texas Government Code §466.408. Any rights to a prize that is not claimed within that period, and in the manner specified in these Game Procedures and on the back of each Scratch Ticket, shall be forfeited.

2.8 Disclaimer. The number of prizes in a game is approximate based on the number of Scratch Tickets ordered. The number of actual prizes available in a game may vary based on number of Scratch Tickets manufactured, testing, distribution, sales and number of prizes claimed. A Scratch Ticket Game may continue to be sold even when all the top prizes have been claimed.

2.9 Promotional Second-Chance Drawings. Any Non-Winning "50X SPEEDWAY RICHES" Scratch Ticket may be entered into one (1) of four (4) promotional drawings for a chance to win a promotional sec-

ond-chance drawing prize. See instructions on the back of the Scratch Ticket for information on eligibility and entry requirements.

3.0 Scratch Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of a Scratch Ticket in the space designated, a Scratch Ticket shall be owned by the physical possessor of said Scratch Ticket. When a signature is placed on the back of the Scratch Ticket in the space designated, the player whose signature appears in that area shall be the owner of the Scratch Ticket and shall be entitled to any prize attributable thereto. Notwithstanding any name or names submitted on a claim form, the Executive Director shall make payment to the player whose signature appears on the back of the Scratch Ticket in the space designated. If

more than one name appears on the back of the Scratch Ticket, the Executive Director will require that one of those players whose name appears thereon be designated by such players to receive payment.

B. The Texas Lottery shall not be responsible for lost or stolen Scratch Tickets and shall not be required to pay on a lost or stolen Scratch Ticket.

4.0 Number and Value of Scratch Ticket Prizes. There will be approximately 6,000,000 Scratch Tickets in the Scratch Ticket Game No. 2289. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 2289 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$5.00	680,000	8.82
\$10.00	540,000	11.11
\$20.00	160,000	37.50
\$25.00	50,000	120.00
\$50.00	50,000	120.00
\$100	22,050	272.11
\$500	3,000	2,000.00
\$1,000	20	300,000.00
\$50,000	4	1,500,000.00

*The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed.

**The overall odds of winning a prize are 1 in 3.99. 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. 2289 without advance notice, at which point no further Scratch Tickets in that game may be sold. The determination of the closing date and reasons for closing will be made in accordance with the Scratch Ticket Game closing procedures and the Scratch Ticket Game Rules. See 16 TAC §401.302(j).

6.0 Governing Law. In purchasing a Scratch Ticket, the player agrees to comply with, and abide by, these Game Procedures for Scratch Ticket

Game No. 2289, 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-202100060
 Bob Biard
 General Counsel
 Texas Lottery Commission
 Filed: January 5, 2021

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Public Utility Commission of Texas

Notice of Application for Designation as an Eligible Telecommunications Carrier

Notice is given to the public of an application filed with the Public Utility Commission of Texas on December 10, 2020, for designation as an eligible telecommunications carrier (ETC) in the State of Texas under 47 U.S.C. § 214(e) and 16 Texas Administrative Code §26.418.

Docket Title and Number: Application of Net Ops Communications, LLC for Designation as an Eligible Telecommunications Carrier, Docket Number 51609.

The Application: Net Ops seeks designation as an eligible telecommunications carrier (ETC) under 47 U.S.C. § 214(e) and 16 Texas Administrative Code §26.418.

Net Ops seeks an ETC designation for purposes providing competitive telecommunications and broadband services, including voice, data, and video services, to business and residential customers in certain census block groups. Net Ops' census blocks are included in attachment A of the application.

Persons wishing to file a motion to intervene or comments on the application should contact the commission no later than January 25, 2021, by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll-free at (888) 782-8477. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission through Relay Texas by dialing 7-1-1. All comments should reference Docket Number 51609.

TRD-202100053

Andrea Gonzalez

Rules Coordinator

Public Utility Commission of Texas

Filed: January 4, 2021

Department of Savings and Mortgage Lending

Notice of Application for Rebuttal of Control of a Savings Bank

Notice is hereby given that on December 23, 2020, application was filed with the Savings and Mortgage Lending Commissioner of Texas for rebuttal of control of Charles Schwab Corporation, including its wholly owned subsidiary state savings banks, Charles Schwab Bank, SSB, 3000 Schwab Way, Westlake, Texas 76262, and Charles Schwab Premier Bank, SSB, 3000 Schwab Way, Westlake, Texas 76262, by The Vanguard Group, Inc., Malvern, Pennsylvania, on behalf of itself, its subsidiaries and affiliates (together with The Vanguard Group, Inc., "Vanguard"), and the investment companies registered under the Investment Company Act of 1940, other pooled investment vehicles, and institutional accounts that are sponsored, managed, or advised by Vanguard (the "Vanguard funds"), for permission to increase the aggregate ownership position of the Vanguard funds to more than 15% of the common stock of The Charles Schwab Corporation, 211 Main Street, San Francisco, California 94105. The Vanguard funds will acquire common stock of The Charles Schwab Corporation solely for investment purposes.

This application is filed pursuant to 7 TAC §§75.121 - 75.127 of the Rules and Regulations Applicable to Texas Savings Banks. These Rules are on file with the Secretary of State, Texas Register Division.

ISSUED the 4th Day of January, 2021, at Austin, Travis County, Texas.

TRD-202100051

Caroline C. Jones

Commissioner

Department of Savings and Mortgage Lending

Filed: January 4, 2021

Texas Department of Transportation

Notice of Call for Projects - Transportation Alternatives Set-Aside

The Texas Department of Transportation (department) announces a Call for Projects for Transportation Alternatives Set-Aside (TA) Program funding.

The TA Program was created by the Fixing America's Surface Transportation Act (also known as FAST Act) and is contained in 23 USC §133(h). Through the 2021 TA Call for Projects, the department will select projects for recommendation to the Texas Transportation Commission (commission) for current TA funds associated with available FY 2021 and anticipated FY 2022 federal appropriations under FAST Act or subsequent federal transportation bill. Nonurban areas are defined as population areas of 5,000 or less located outside Transportation Management Areas (TMAs), which are Census Urbanized Areas of 200,000 or greater. In addition, the department will develop a Conditional Project List composed of TA projects in small urban areas (population areas between 5,001 and 200,000 outside TMAs) and nonurban areas for future federal TA funds, representing anticipated FY 2023 - FY 2024 allocations. The Conditional Project List is a prioritized list of projects to be recommended to the commission when future funding becomes available.

Purpose: The TA Program, as administered by the department, provides funding for construction of a variety of alternative transportation projects, including ADA/pedestrian infrastructure, on- and off-street bikeways, shared use paths, infrastructure for non-driver access to public transportation, and improvements that enhance mobility, safety, and access for non-motorized roadway users, including safe routes to schools.

Procedures Applicable to this Call for Projects: The department's administrative rules governing implementation and administration of the TA Program are located at 43 TAC §§11.400 - 11.418 and §§16.153 - 16.154. The 2021 TA Call for Projects involves a two-step application process. Project sponsors must complete both steps for each project to be considered for funding under this program call. The 2021 TA Program Guide and Preliminary Application (Step 1) are available on the department's website at: <http://www.txdot.gov/inside-txdot/division/public-transportation/bicycle-pedestrian.html>. The 2021 TA Program Guide includes detailed information about eligibility requirements of each funding program, specific procedures applicable to this Call for Projects, a map of the department's district boundaries, a list of the district TA Coordinators, and a list of the project sponsor workshop locations and dates. The Detailed Application (Step 2) will be posted at the same webpage on or about April 12, 2021. Please contact the local TA Coordinator in your area for additional program information.

Content of Application: Step 1: The Preliminary Application package must include the following: (1) a completed 2021 TA Preliminary Application delivered to the department in its original Adobe Portable Document Format (PDF) format; and (2) a PDF copy of a planning-level cost estimate (if available). Step 2: The Detailed Application package must include: (1) a completed 2021 TA Detailed Application delivered to the department in its original Microsoft Windows Excel 2010 (.xlsm) format; and (2) a copy of the completed 2021 TA Detailed Application, including attachments, provided in a single,

color PDF. The Detailed Application package must present persuasive evidence of support for the proposed project from the communities in which the project would be implemented. For projects located in population areas greater than 50,000, the Detailed Application must include a commitment from the project sponsor to provide a minimum 20% local funding match for construction and direct state costs for oversight, subject to any eligible adjustments for projects located in economically disadvantaged counties. For projects in population areas of 50,000 or less, the Detailed Application must include a commitment from the project sponsor to provide a minimum 20% local funding match for preliminary engineering and design, environmental documentation, construction, and direct state costs for oversight, subject to eligibility requirements outlined in the 2021 TA Program Guide for the use of Transportation Development Credits (TDCs) associated with this call for projects. A Detailed Application package that fails to include any of the required information specified in the Program Guide or application instructions is considered to be incomplete and may not be considered for funding.

Project Screening and Evaluation: A department evaluation committee will oversee a competitive evaluation process that will result in a recommended list of projects submitted during this Call for Projects. Department staff will screen each project to determine whether it is eligible for TA funding under applicable federal and state law and whether it meets technical standards established by applicable law and accepted professional practice. The department will evaluate the benefits of each eligible project based on criteria established for the program:

- (1) Safety
- (2) Project Readiness
- (3) Geographic Equity
- (4) Connectivity and Accessibility
- (5) Community Support and Planning
- (6) Demand (Small Urban Only)

Project Selection: A list of recommended projects will be provided to the commission for consideration. The commission will select projects

for funding under the TA Program based on: (1) recommendations from the director of the division responsible for administering the TA Program; (2) the potential benefit to the state of the project; (3) whether the project enhances the surface transportation system; and (4) funding availability. The commission is not bound by project selection recommendations provided by the department.

In addition, at the end of the 2021 TA Program call, the department will develop a Conditional Project List for anticipated future federal TA allocations for FY 2023 and FY 2024. Once future federal funds become available, projects on the list will be recommended to the commission for consideration for project award. Recommendations from the Conditional Project List will be prioritized based on initial project ranking, project readiness, and funds available.

Key Dates and Deadlines:

January 15, 2021: Statewide Call for Projects issued

January 21 - 27, 2021: TA Project Sponsor Workshops

February 2, 2021: Responses to workshop questions posted

March 1, 2021, 5:00 p.m., CDT: Preliminary Application deadline

March 2 - April 9, 2021: Project screening

June 14, 2021, 5:00 p.m., CDT: Detailed Application deadline

Summer 2021: Project evaluation

October 2021: Project selection by the commission (available nonurban TA funds) and department develops Conditional Project List (anticipated future small urban and nonurban TA funds)

TRD-202005744

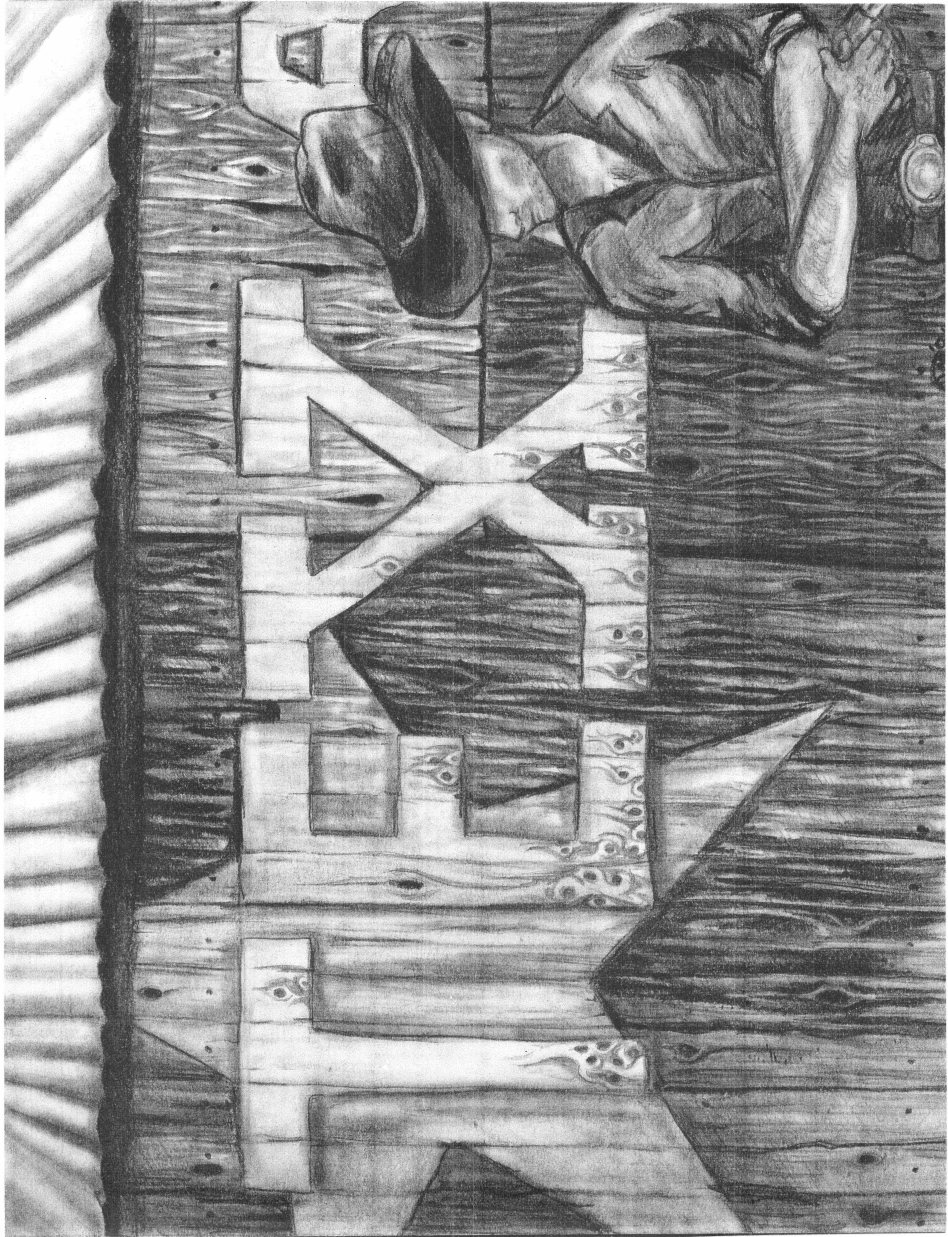
Becky Blewett

Deputy General Counsel

Texas Department of Transportation

Filed: December 30, 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)

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