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IN THIS ISSUE

GOVERNOR

Appointments	2867
Proclamation 41-3814	2867

ATTORNEY GENERAL

Requests for Opinions	2869
Opinions	2869

EMERGENCY RULES

HEALTH AND HUMAN SERVICES COMMISSION

COVID-19 EMERGENCY HEALTH CARE FACILITY LICENSING

26 TAC §§500.41 - 500.44	2871
26 TAC §500.51	2873

PROPOSED RULES

FINANCE COMMISSION OF TEXAS

STATE BANK REGULATION

7 TAC §3.36	2875
-------------------	------

TEXAS STATE LIBRARY AND ARCHIVES COMMISSION

LOCAL RECORDS

13 TAC §§7.71 - 7.78	2876
13 TAC §§7.73, 7.74, 7.77, 7.79	2882

STATE BOARD OF DENTAL EXAMINERS

DENTAL LICENSURE

22 TAC §101.2	2882
---------------------	------

DENTAL HYGIENE LICENSURE

22 TAC §103.2	2884
---------------------	------

HEALTH AND HUMAN SERVICES COMMISSION

LICENSING

26 TAC §745.601	2886
26 TAC §745.607, §745.609	2887
26 TAC §745.669	2888

TEXAS BOARD OF PARDONS AND PAROLES

EXECUTIVE CLEMENCY

37 TAC §143.43	2888
37 TAC §143.57	2889

ADOPTED RULES

STATE OFFICE OF ADMINISTRATIVE HEARINGS

RULES OF PROCEDURE

1 TAC §155.503	2891
----------------------	------

TABLES AND GRAPHICS

.....	2893
-------	------

IN ADDITION

Comptroller of Public Accounts

Certification of the Average Closing Price of Gas and Oil March 2021	2897
--	------

Office of Consumer Credit Commissioner

Notice of Rate Ceilings	2897
-------------------------------	------

Credit Union Department

Application for a Merger or Consolidation	2897
---	------

Texas Commission on Environmental Quality

Agreed Orders	2897
Cancellation of Public Meeting - Bell Concrete, Inc., Proposed Registration No. 164044	2901
Enforcement Orders	2901

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 81298	2901
---	------

Notice of District Petition	2902
-----------------------------------	------

Notice of Hearing El Paso Electric Company: SOAH Docket No. 582-21-1740; TCEQ Docket No. 2021-0314-AIR; Proposed Permit Nos. 1467, PSDTX1090M1, N284, and GHGPSDTX199	2902
---	------

Notice of Opportunity to Comment on Agreed Orders of Administrative Enforcement Actions	2904
---	------

Notice of Opportunity to Comment on Default Orders of Administrative Enforcement Actions	2905
--	------

Notice of Water Quality Application	2906
---	------

General Land Office

Notice and Opportunity to Comment on Requests for Consistency Agreement/Concurrence Under the Texas Coastal Management Program	2906
--	------

Official Notice to Vessel Owner/Operator	2907
--	------

Official Notice to Vessel Owner/Operator	2907
--	------

Department of State Health Services

Licensing Actions for Radioactive Materials	2908
---	------

Licensing Actions for Radioactive Materials	2912
---	------

Texas Department of Insurance

Company Licensing	2919
-------------------------	------

Texas Department of Licensing and Regulation

Course of Organized Instruction (COI) for Driving Safety	2919
--	------

Course of Organized Instruction (COI) for Specialized Driving Safety	2919
--	------

Program of Organized Instruction (POI) for Driver Education and Traffic Safety	2919
--	------

Program of Organized Instruction (POI) for Driver Education and Traffic Safety (Adult Six-Hour).....	2919	Legal Notice.....	2933
Program of Organized Instruction (POI) for Drug and Alcohol Driving Awareness Programs (DADAP).....	2920	Permian Basin Regional Planning Commission	
Texas Lottery Commission		Request for Proposals - Permian Basin Economic Resiliency Plan	2933
Scratch Ticket Game Number 2294 "LUCKY 3".....	2920	Public Utility Commission of Texas	
Scratch Ticket Game Number 2349 "500X".....	2925	Notice of Application for Designation as an Eligible Telecommunications Carrier	2933
North Central Texas Council of Governments		Red River Authority of Texas	
Notice of Contract Award - Regional Rail Integration and Analytics System.....	2932	Request for Statement of Qualifications to Prepare a Regional Water Plan for the Regional Water Planning Group - Area B.....	2933
Panhandle Regional Planning Commission			

THE GOVERNOR

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

Appointments

Appointments for April 13, 2021

Appointed to the Texas A&M University System Board of Regents, for a term to expire February 1, 2027, Robert L. "Bob" Albritton of Fort Worth, Texas (Mr. Albritton is being reappointed).

Appointed to the Texas A&M University System Board of Regents, for a term to expire February 1, 2027, James R. "Randy" Brooks of San Angelo, Texas (replacing Phillip D. "Phil" Adams of Bryan, whose term expired).

Appointed to the Texas A&M University System Board of Regents, for a term to expire February 1, 2027, William "Bill" Mahomes, Jr. of Dallas, Texas (Mr. Mahomes is being reappointed).

Appointed to the Texas Tech University System Board of Regents, for a term to expire January 31, 2027, Arcilia C. Acosta of Colleyville, Texas (replacing Mickey Long of Midland, whose term expired).

Appointed to the Texas Tech University System Board of Regents, for a term to expire January 31, 2027, Cody C. Campbell of Fort Worth, Texas (replacing Christopher M. "Chris" Huckabee of Fort Worth, whose term expired).

Appointed to the Texas Tech University System Board of Regents, for a term to expire January 31, 2027, Patrick R. "Pat" Gordon of El Paso, Texas (replacing Ronnie D. "Ron" Hammonds of Houston, whose term expired).

Appointed to the University of Texas System Board of Regents, for a term to expire February 1, 2027, Kevin P. Eltife of Tyler, Texas (replacing David J. Beck of Houston, whose term expired).

Appointments for April 14, 2021

Appointed to the Board of the Texas Department of Motor Vehicles, for a term to expire February 1, 2027, Manuel R. "Manny" Ramirez of Fort Worth, Texas (Mr. Ramirez is being reappointed).

Appointed to the Parks and Wildlife Commission, for a term to expire February 1, 2027, Paul L. Foster of El Paso, Texas (replacing Jeanne W. Latimer of San Antonio, whose term expired).

Appointed to the Parks and Wildlife Commission, for a term to expire February 1, 2027, Travis B. "Blake" Rowling of Dallas, Texas (replacing Anna Benavides Galo of Laredo, whose term expired).

Appointed to the Rio Grande Compact Commission for a term to expire June 9, 2025, Robert S. "Bobby" Skov of Fabens, Texas (replacing Patrick R. "Pat" Gordon of El Paso, who resigned).

Appointed to Texas Municipal Retirement System Board of Trustees, for a term to expire February 1, 2027, Anali Alanis of Pharr, Texas (Ms. Alanis is being reappointed).

Appointments for April 15, 2021

Appointed to the State Securities Board, for a term to expire January 20, 2027, E. Edward "EE" Okpa of Dallas, Texas (replacing Miguel Romano, Jr. of Austin, whose term expired).

Appointments for April 16, 2021

Appointed to the Governing Board of the Texas Civil Commitment Office, for a term to expire February 1, 2027, Rona K. Stratton Gouyton of Lakeside, Texas (Ms. Gouyton is being reappointed).

Appointed to the Governing Board of the Texas Civil Commitment Office, for a term to expire February 1, 2027, Kathryn E. "Katie" McClure of Kingwood, Texas (Ms. McClure is being reappointed).

Appointments for April 19, 2021

Appointed to the Radiation Advisory Board, for a term to expire April 16, 2025, Michael W. Britt of New Braunfels, Texas (replacing Thierno S. Barry of Austin, who resigned).

Appointed to the Radiation Advisory Board, for a term to expire April 16, 2027, Roland Benke, Ph.D. of Austin, Texas (replacing Kenneth V. "Ken" Krieger of Lacy Lakeview, whose term expired).

Appointed to the Radiation Advisory Board, for a term to expire April 16, 2027, Mark C. Harvey, Ph.D. of Pearland, Texas (Dr. Harvey is being reappointed).

Appointed to the Radiation Advisory Board, for a term to expire April 16, 2027, Lisa B. Masters, D.D.S. of Shavano Park, Texas (replacing Frank M "Neal" Leavell, D.D.S. of Lampasas, whose term expired).

Appointed to the Radiation Advisory Board, for a term to expire April 16, 2027, Sanjay Narayan of Dallas, Texas (Mr. Narayan is being reappointed).

Appointed to the Radiation Advisory Board, for a term to expire April 16, 2027, Gerald "Tim" Powell of Bay City, Texas (Mr. Powell is being reappointed).

Appointed to the Radiation Advisory Board, for a term to expire April 16, 2027, Simon Trubek, M.D. of Houston, Texas (Dr. Trubek is being reappointed).

Appointments for April 20, 2021

Appointed to the Texas Board of Occupational Therapy Examiners, for a term to expire February 1, 2027, Jacob W. Boggus of Harlingen, Texas (Mr. Boggus is being reappointed).

Appointed to the Texas Board of Occupational Therapy Examiners, for a term to expire February 1, 2027, Stephanie D. Johnston, O.T.D. of Magnolia, Texas (Ms. Johnston is being reappointed).

Appointed to the Texas Board of Occupational Therapy Examiners, for a term to expire February 1, 2027, Sally Harris King of Houston, Texas (Ms. King is being reappointed).

Greg Abbott, Governor
TRD-202101596



Proclamation 41-3814

TO ALL TO WHOM THESE PRESENTS SHALL COME:

I, GREG ABBOTT, Governor of the State of Texas, do hereby certify that exceptional drought conditions pose a threat of imminent disaster in Andrews, Bailey, Bandera, Bee, Bexar, Brazoria, Brewster, Briscoe, Brooks, Cameron, Castro, Cochran, Comal, Coryell, Crane, Culberson, Dawson, DeWitt, Dimmit, Deaf Smith, Duval, Ector, El Paso, Fayette, Floyd, Frio, Gaines, Goliad, Gonzales, Hale, Hidalgo, Hockley, Hudspeth, Jeff Davis, Jim Hogg, Jim Wells, Karnes, Kendall, Kenedy, Kleberg, Lamb, La Salle, Live Oak, Loving, Lubbock, Lynn, Martin, Matagorda, McLennan, McMullen, Medina, Midland, Montague, Nueces, Oldham, Parmer, Presidio, Randall, Reeves, San Patricio, Starr, Swisher, Terry, Upton, Victoria, Ward, Webb, Willacy, Winkler, Wise, Yoakum, Zapata, and Zavala.

WHEREAS, significantly low rainfall and prolonged dry conditions continue to increase the threat of wildfire across these portions of the state; and

WHEREAS, these drought conditions pose an imminent threat to public health, property, and the economy;

THEREFORE, in accordance with the authority vested in me by Section 418.014 of the Texas Government Code, I do hereby declare a state of disaster in the previously listed counties based on the existence of such threat.

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 15th day of April, 2021.

Greg Abbott, Governor

TRD-202101597



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-0403-KP

Requestor:

The Honorable Dee Hobbs

Williamson County Attorney

405 M.L.K. Street, #7

Georgetown, Texas 78626

Re: Authority of a county attorney to file suit to enjoin a violation of a restriction contained in a properly recorded plat of property within the county (RQ 0403 KP)

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

TRD-202101570

Austin Kinghorn

General Counsel

Office of the Attorney General

Filed: April 20, 2021



Opinions

Opinion No. KP-0366

The Honorable Dee Hobbs

Williamson County Attorney

405 M.L.K. Street #7

Georgetown, Texas 78626

Re: Whether public improvement district assessments may be used in specific circumstances (RQ-0384-KP)

S U M M A R Y

Local Government Code chapter 372 governs public improvement districts and provides for special assessments to be levied against property benefiting from improvements made under the chapter. The question regarding the use of public improvement district assessments in particular circumstances requires a construction of numerous contracts and the application of facts to those contracts, which tasks are outside the purview of an Attorney General opinion.

Subsection 372.023(h) authorizes the inclusion of issuance costs of general obligation bonds to pay improvement costs in a public improvement district. Yet, pursuant to section 372.024 and its reference to subtitle A, Title 9 of the Government Code, the issuer of such bonds must be an issuer from within the State.

Subsection 372.026(f)'s phrase "indebtedness issued to pay a corporation's costs of issuance" generally could be construed to include a promissory note that is issued.

Opinion No. KP-0367

The Honorable Tamara L. Cochran-May

San Patricio County Attorney

400 West Sinton, Room 108

Sinton, Texas 78387

Re: Whether subsection 20.05(a)(5) of the Business and Commerce Code prohibits a consumer reporting agency from reporting certain information if the consumer is covered by a self-funded plan with a reference-based-pricing program (RQ-0385-KP)

S U M M A R Y

Subsection 20.05(a)(5) of the Business and Commerce Code prohibits a consumer reporting agency from furnishing a consumer report containing information about certain collection accounts for an outstanding balance owed to an emergency care provider or a facility-based provider for an out-of-network benefit claim. A court would likely conclude that subsection 20.05(a)(5) does not apply to a self-funded plan that does not utilize a network of providers. The subsection does not preclude Texas hospitals' collection agencies from furnishing to a credit bureau information about an individual's outstanding balance for medical bills when the employer has adopted a reference-based-pricing program that does not utilize a provider network.

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

TRD-202101569

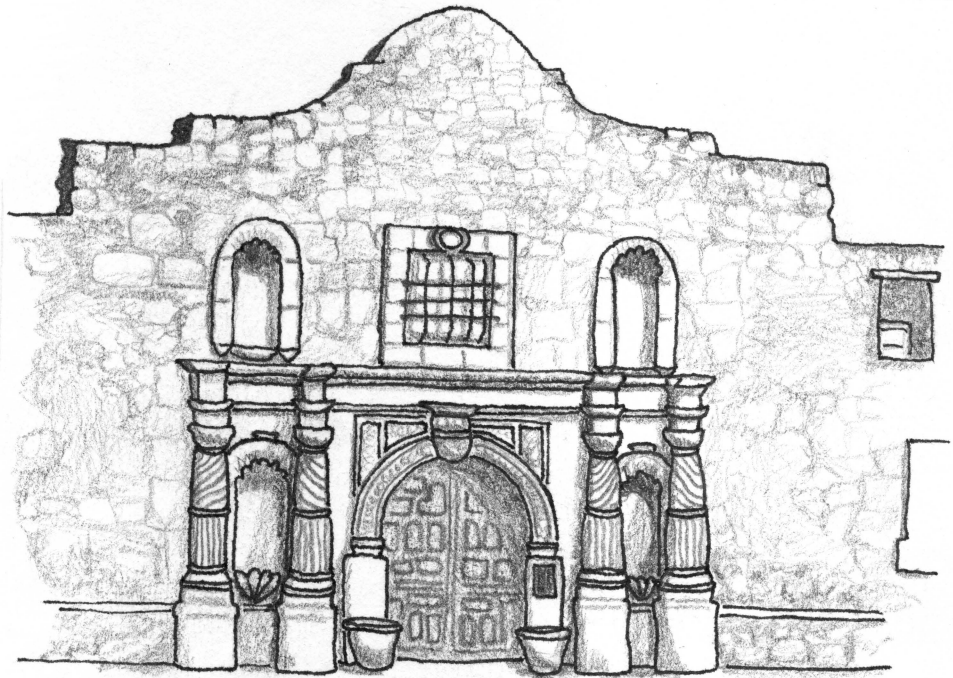
Austin Kinghorn

General Counsel

Office of the Attorney General

Filed: April 20, 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 26. HEALTH AND HUMAN SERVICES

PART 1. HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 500. COVID-19 EMERGENCY

HEALTH CARE FACILITY LICENSING

SUBCHAPTER D. CHEMICAL DEPENDENCY TREATMENT FACILITIES

26 TAC §§500.41 - 500.44

The Executive Commissioner of the Texas Health and Human Services Commission (HHSC) adopts on an emergency basis in Title 26 Texas Administrative Code, Chapter 500 COVID-19 Emergency Health Care Facility Licensing, new §500.41, concerning an emergency rule on telemedicine and telehealth in order to reduce the risk of transmission of COVID-19; new §500.42, concerning an emergency rule on maximum caseloads in order to permit an intensive residential program in a chemical dependency treatment facility (CDTF) to temporarily increase counselor caseloads to 20 clients per counselor; new §500.43, concerning an emergency rule on service delivery via two-way, real-time internet or telephone communications in order to reduce the risk of transmission of COVID-19; and new §500.44, concerning an emergency rule on treatment planning and service provision documentation deadlines in order to provide CDTFs additional time to document service delivery, as counselor caseloads may have increased in intensive residential treatment programs in response to the COVID-19 pandemic. As authorized by Texas Government Code §2001.034, the Commission may adopt an emergency rule without prior notice or hearing upon finding that an imminent peril to the public health, safety, or welfare requires adoption on fewer than 30 days' notice. Emergency rules adopted under Texas Government Code §2001.034 may be effective for not longer than 120 days and may be renewed for not longer than 60 days.

BACKGROUND AND PURPOSE

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

To protect patients and the public health, safety, and welfare of the state during the COVID-19 pandemic, HHSC is adopt-

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

STATUTORY AUTHORITY

The emergency rulemaking is adopted under Texas Government Code §2001.034 and §531.0055 and Health and Safety Code §464.009. Texas Government Code §2001.034 authorizes the adoption of emergency rules without prior notice and hearing, if an agency finds that an imminent peril to the public health, safety, or welfare requires adoption of a rule on fewer than 30 days' notice. Texas Government Code §531.0055 authorizes the Executive Commissioner of HHSC to adopt rules and policies necessary for the operation and provision of health and human services by the health and human services system. Health and Safety Code §464.009 authorizes the Executive Commissioner of HHSC to adopt rules governing organization and structure, policies and procedures, staffing requirements, services, client rights, records, physical plant requirements, and standards for licensed CDTFs.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Filed with the Office of the Secretary of State on April 14, 2021.

TRD-202101551

Karen Ray

Chief Counsel

Health and Human Services Commission

Effective date: April 15, 2021

Expiration date: August 12, 2021

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



SUBCHAPTER E. LICENSED CHEMICAL DEPENDENCY COUNSELORS

26 TAC §500.51

The Executive Commissioner of the Texas Health and Human Services Commission (HHSC) adopts on an emergency basis in Title 26 Texas Administrative Code, Chapter 500 COVID-19 Emergency Health Care Facility Licensing, new §500.51, concerning an emergency rule for supervision of licensed chemical dependency counselor (LCDC) interns in response to COVID-19 in order to permit supervisors of interns to provide required supervision through the use of two-way, real-time internet or telephone communications to reduce the risk of transmission of COVID-19. As authorized by Texas Government Code §2001.034, the Commission may adopt an emergency rule without prior notice or hearing upon finding that an imminent peril to the public health, safety, or welfare requires adoption on fewer than 30 days' notice. Emergency rules adopted under Texas Government Code §2001.034 may be effective for not longer than 120 days and may be renewed for not longer than 60 days.

BACKGROUND AND PURPOSE

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

To protect patients and the public health, safety, and welfare of the state during the COVID-19 pandemic, HHSC is adopting an emergency rule to temporarily permit: (1) counselor interns with more than 1,000 hours of supervised work experience to provide services in person or through two-way, real-time internet or telephone communications; (2) supervisors of LCDC interns with less than 2,000 hours of supervised work experience to provide supervision in person or through two-way, real-time internet or telephone communications; and (3) a certified clinical supervisor, or the clinical training institution coordinator or intern's supervising qualified credentialed counselor at a clinical training institution, to provide supervision to a counselor intern using two-way,

real-time internet or telephone communications to observe and document the intern performing assigned activities and to provide and document one hour of face-to-face individual or group supervision. This emergency rule will address staff shortages, reduce the risk of transmission of COVID-19, and reduce barriers to treatment for patients seeking treatment for substance use disorders and chemical dependency.

STATUTORY AUTHORITY

The emergency rulemaking is adopted under Texas Government Code §2001.034 and §531.0055 and Occupations Code §504.051. Texas Government Code §2001.034 authorizes the adoption of emergency rules without prior notice and hearing, if an agency finds that an imminent peril to the public health, safety, or welfare requires adoption of a rule on fewer than 30 days' notice. Texas Government Code §531.0055 authorizes the Executive Commissioner of HHSC to adopt rules and policies necessary for the operation and provision of health and human services by the health and human services system. Occupations Code §504.051 authorizes the Executive Commissioner of HHSC to adopt rules as necessary for the performance of its duties under that chapter, establish standards of conduct and ethics for persons licensed under that chapter, and establish any additional criteria for peer assistance programs for chemical dependency counselors that the Executive Commissioner of HHSC determines necessary.

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

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

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

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

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

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

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

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

Filed with the Office of the Secretary of State on April 14, 2021.

TRD-202101552

Karen Ray

Chief Counsel

Health and Human Services Commission

Effective date: April 15, 2021

Expiration date: August 12, 2021

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



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 7. BANKING AND SECURITIES

PART 1. FINANCE COMMISSION OF TEXAS

CHAPTER 3. STATE BANK REGULATION SUBCHAPTER B. GENERAL

7 TAC §3.36

The Finance Commission of Texas (the commission), on behalf of the Texas Department of Banking (the department), proposes to amend §3.36, concerning annual assessments and specialty examination fees. The amended rule is proposed to mitigate the assessment effects of participating in the Paycheck Protection Program (PPP) by decreasing a state bank's assessment base by the amount attributable to PPP loans reflected in the bank's financial statements.

Recent events have significantly and adversely impacted the global economy and financial markets. The spread of the Coronavirus Disease (COVID-19) has slowed economic activity in many countries, including the United States. Small businesses have experienced liquidity difficulties and a collapse in revenue streams as millions of Americans have been ordered to stay home, severely reducing their ability to engage in normal commerce. Many small businesses have been forced to close temporarily or furlough employees. Continued access to financing is crucial for small businesses to weather economic disruptions caused by COVID-19 and, ultimately, to help restore economic activity.

As part of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), Public Law 116-136 (Mar. 27, 2020), and in recognition of the exigent circumstances faced by small businesses, the United States Congress created the PPP. PPP loans are fully guaranteed as to principal and accrued interest by the Small Business Administration (SBA), the amount of each being determined at the time the guarantee is exercised. As a general matter, SBA guarantees are backed by the full faith and credit of the U.S. Government. PPP loans also afford borrowers forgiveness up to the principal amount of the PPP loan if the proceeds of the PPP loan are used for certain expenses. The SBA reimburses PPP lenders for any amount of a PPP loan that is forgiven. PPP lenders are not held liable for any representations made by PPP borrowers in connection with a borrower's request for PPP loan forgiveness. The program has since been renewed and extended several times and, unless further extended, new applications will not be accepted after May 31, 2021.

The annual assessment chargeable to a state bank for the 12-month period beginning each September 1 is calculated based in part on the institution's total assets as reported in its

most recent March 31st call report. An institution that assists economic stability and recovery during the COVID-19 crisis by making PPP loans to customers will increase its total loan portfolio, all else being equal, which will increase the total assets on its balance sheet by an amount equal to the outstanding balance of PPP loans. Absent a change to the assessment rule, this increase in total assets will result in an increase to the institution's annual assessment.

In recognition of the important role Texas state banks have played in providing liquidity to small businesses and helping to stabilize the broader economy in the midst of the economic disruption caused by COVID-19, the agency proposes to mitigate the increased assessment by excluding the quarter-end outstanding balance of all PPP loans from the institution's total assets for purposes of calculating the institution's assessment.

Specifically, the definition of "on-book assets" in §3.36(b)(6) is proposed to be amended to subtract the outstanding balance of PPP loans included on "Schedule RC-M - Memoranda" in the institution's March 31st call report from total assets. In a conforming change, a definition for "PPP" is proposed to be added as new §3.36(b)(7).

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

Mr. Purdom also has determined that, for each year of the first five years the rule as proposed is in effect, the public benefit anticipated as a result of enforcing the rule is the mitigation of the assessment effects of state bank participation in the PPP.

For each year of the first five years that the rule will be in effect, there will be no economic costs to persons required to comply with the rule as proposed.

For each year of the first five years that the rule will be in effect, the rule will limit the effect of the existing rule by decreasing the amount of assessment fees paid to the agency that might otherwise be payable under the unamended rule, but will not, within the meaning and intent of Government Code, §2001.0221:

- create or eliminate a government program;
- require the creation of new employee positions or the elimination of existing employee positions;
- require an increase or decrease in future legislative appropriations to the agency;
- require an increase in fees paid to the agency;
- create a new regulation;
- expand or repeal an existing regulation;

-- increase or decrease the number of individuals subject to the rule's applicability; or

-- positively or adversely affect this state's economy.

There will be no adverse economic effect on small businesses, micro-businesses, or rural communities. There will be no difference in the cost of compliance for these entities.

To be considered, comments on the proposed amendment must be submitted no later than 5:00 p.m. on May 31, 2021. Comments should be addressed to General Counsel, Texas Department of Banking, Legal Division, 2601 North Lamar Boulevard, Suite 300, Austin, Texas 78705-4294. Comments may also be submitted by email to legal@dob.texas.gov.

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

Finance Code, §31.106, is affected by the proposed amendment.

§3.36. *Annual Assessments and Specialty Examination Fees.*

(a) (No change.)

(b) Definitions. The following words and terms, when used in this section, §3.37 of this title (relating to Calculation of Annual Assessment for Banks), or §3.38 of this title (relating to Calculation of Annual Assessment for Foreign Bank Branches and Agencies), shall have the following meanings, unless the context clearly indicates otherwise.

(1) - (5) (No change.)

(6) On-book assets--The total assets reported by a bank, foreign bank branch, or foreign bank agency on the balance sheet contained in its most recent March 31st call report, minus the outstanding balance of PPP loans included on "Schedule RC-M - Memoranda."[⁻]

(7) PPP--The Paycheck Protection Program administered by the Small Business Administration.

(c) - (i) (No change.)

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

Filed with the Office of the Secretary of State on April 16, 2021.

TRD-202101560

Catherine Reyer

General Counsel

Finance Commission of Texas

Earliest possible date of adoption: May 30, 2021

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



TITLE 13. CULTURAL RESOURCES

PART 1. TEXAS STATE LIBRARY AND ARCHIVES COMMISSION

CHAPTER 7. LOCAL RECORDS SUBCHAPTER C. STANDARDS AND PROCEDURES FOR MANAGEMENT OF ELECTRONIC RECORDS

13 TAC §§7.71 - 7.78

The Texas State Library and Archives Commission (Commission) proposes amendments to 13 TAC §7.71, Definitions; §7.72, General; §7.75, Security of Electronic Records; §7.76, Maintenance of Electronic Records Storage Media; and §7.78, Destruction of Electronic Records; and new 13 TAC §7.73, Policies and Procedures; §7.74, Minimum Requirements for all Electronic Local Government Records; and §7.77, Minimum Requirements for all Electronic Records Systems.

Local Government Code, §205.003 requires the Commission to adopt rules establishing standards and procedures for the electronic storage of any local government record data of permanent value. The statute also authorizes the Commission to adopt rules establishing standards and procedures for the electronic storage of any local government record data whose retention period is at least 10 years on a records retention schedule issued by the commission. The rules may require or prescribe the following:

1. Standards and procedures for the generation of backup or preservation copies of the local government record data on paper, microfilm, electronic, or other approved media;
2. Standards and procedures for the recopying or duplication of the magnetic tape, optical disk, or similar machine-readable medium on which the local government record data are stored;
3. Standards and procedures for the physical storage and maintenance of magnetic tapes, optical disks, or similar machine-readable media;
4. Standards and procedures for providing access by members of the public to electronically stored local government record data to which they are entitled under law; and
5. Other standards and procedures that the commission considers necessary to ensure the availability, readability, or integrity of the local government record data.

The proposed amendments and new rules are necessary to implement Local Government Code, §205.003 and update the Commission's existing rules previously adopted under this statutory authority.

The proposed amendments and new rules include changes to update the requirements to reflect best practices and standards of records management. Amendments are also necessary to improve readability and clarity of the rules. Other amendments include removing specific standards and requirements when those specific standards or requirements are unnecessary, combining sections with related goals and requirements, and updating and standardizing language and terms throughout the rules.

Simultaneous with this proposal, the Commission is also proposing the repeals of §7.73, Creation and Use of Data Files; §7.74, Creation and Use of Text Documents; §7.77, Retention of Electronic Records; and §7.79, Public Access to Electronic Records. Some of the repealed rule language is unnecessary, as certain

specific requirements impose expectations that are stricter than necessary to fulfill minimum requirements. Other repealed rule language has been updated and moved into these proposed new rules and amendments.

SUMMARY. The proposed amendments to §7.71 delete the definitions for the Association for Information and Image Management (AIIM), American National Standards Institute (ANSI), and Records Custodian, as those terms are no longer used within the chapter. Other amendments add definitions for authenticity, disposition, essential record, integrity, metadata, migration, reliability, third party custodian, and usability as those terms are used in the chapter. Amendments to existing definitions refine existing language for clarity and brevity. The amendments and new definitions will improve Local Governments' ability to comply with the rules within this chapter and aid in the maintenance, retention, and preservation of records. Lastly, amendments delete an unnecessary statutory citation and renumber the definitions accordingly.

The proposed amendments to §7.72 update the language to improve clarity and readability. Added language clarifies that the requirements are recommended as best practices for electronic records with retention periods of less than ten years.

Proposed new §7.73 would require local governments to approve and institute written policies and procedures that communicate an enterprise-wide approach for electronic records management practices and establishes required minimum components of these policies and procedures. These policies and procedures will ensure the availability, readability, usability, and integrity of local government electronic records and local government electronic records systems. The creation and development of policies and procedures is already a requirement for establishing a records management program under Local Government Code, §203.023. The policy and procedure requirements in the proposed new section are broad requirements that allow local governments the latitude to maintain local government data and systems to their discretion.

Proposed new §7.74 would establish the minimum requirements for the maintenance and storage of electronic records.

The proposed amendments to §7.75 amend rule language for clarity and delete the requirement that local governments must implement and maintain an electronic records security program for office and storage areas that documents that similar kinds of records generated and stored electronically are created by the same processes each time and have a standardized retrieval approach.

The proposed amendments to §7.76 update and simplify rule language for clarity and understandability and remove many requirements specific only to certain specialized types of media. New rule language ensures the requirements are applicable to electronic records regardless of the type of media in which the record exists.

Proposed new §7.77 would establish the minimum requirements for all electronic records systems, to ensure a continuing ability of local governments to access, use, preserve, and dispose of the records contained within those systems, among other requirements.

The proposed amendments to §7.78 would update and simplify rule language regarding court-ordered expungement of information recorded on Write Once Read Many (WORM) electronic storage media by removing specific mention of WORM systems

and disks and broadening the applicability to all types of WORM electronic storage media.

FISCAL NOTE. Craig Kelso, Director, State & Local Records Management Division, has determined that for each of the first five years the proposed amendments are in effect, there will not be a fiscal impact on state or local government as a result of enforcing or administering these amendments and new rules, as proposed.

PUBLIC BENEFIT/COST NOTE. Mr. Kelso has also determined that for the first five-year period the amended and new rules are in effect, the public benefit will be consistency and clarity in the management of electronic records, which will help to provide better management of records across the state. Better management of electronic records will improve retention of public records and increase access to those records by the public.

ECONOMIC COSTS TO PERSONS AND IMPACT ON LOCAL EMPLOYMENT. There are no anticipated economic costs to persons who are required to comply with the amendments and new rules, as proposed. There is no effect on local economy for the first five years that the proposed amendments and new sections are in effect; therefore, no local employment impact statement is required under Texas Government Code §2001.022 and 2001.024(a)(6).

ENVIRONMENTAL IMPACT STATEMENT. The Commission has determined that the proposed amendments do not require an environmental impact analysis because these amendments and new rules are not major environmental rules under the Texas Government Code §2001.0225.

COSTS TO REGULATED PERSONS. The proposed amendments and new sections do not impose a cost on regulated persons, including another state agency, a special district, or a local government and, therefore, is not subject to Texas Government Code §2001.0045. Local governments are required to manage electronic records under the Local Government Code and existing Commission rules adopted under this authority.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS FOR SMALL BUSINESSES, MICROBUSINESSES, AND RURAL COMMUNITIES. Mr. Kelso has also determined that there will be no impact on rural communities, small businesses, or micro-businesses as a result of implementing these amendments and new rules and, therefore, no regulatory flexibility analysis, as specified in Texas Government Code §2006.002, is required.

GOVERNMENT GROWTH IMPACT STATEMENT. Commission staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking, as specific in Texas Government Code §2006.0221. During the first five years that the amendments and new rules would be in effect, the proposed amendments: will not create or eliminate a government program; will not result in the addition or reduction of employees; will not require an increase or decrease in future legislative appropriations; will not lead to an increase or decrease in fees paid to a state agency; will create new regulations as specifically authorized under Local Government Code, §205.003; will repeal existing regulations; and will not result in an increase or decrease in the number of individuals subject to the rule. During the first five years that the amendments and new rules would be in effect, the proposed amendments will not positively or adversely affect the Texas economy.

TAKINGS IMPACT ASSESSMENT. The Commission has determined that no private real property interests are affected by this proposal and the proposal does not restrict or limit an owner's right to his or her property that would otherwise exist in the absence of government action and, therefore, does not constitute a taking under Texas Government Code §2007.043.

REQUEST FOR PUBLIC COMMENT. Written comments on the proposed amendments and new rules may be directed to Megan Carey, Manager, Records Management Assistance, via email rules@tsl.texas.gov, or mail, P.O. Box 12927, Austin, Texas 78711-2927. Comments will be accepted for 30 days after publication in the *Texas Register*.

STATUTORY AUTHORITY. The amendments and new rules are proposed under Local Government Code, §205.003, which requires the Texas State Library and Archives Commission to adopt rules establishing standards and procedures for the electronic storage of permanent records and permits the adoption of rules establishing standards and procedures for the electronic storage of any electronic record with a retention of 10 years or more on a records retention schedule issued by the commission.

CROSS REFERENCE TO STATUTE. Local Government Code, Chapter 205; Government Code, Chapter 441.

§7.71. Definitions.

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise. Terms not defined in these sections shall have the meanings defined in the Local Government Code, Title 6, Subtitle C, Chapter 201.

(1) Authenticity--The quality of a record as being what it purports to be by establishing the origin, reliability, trustworthiness, and correctness of its content. [~~AIIIM--The Association for Information and Image Management.~~]

(2) [~~ANSI--The American National Standards Institute.~~]

~~[(3)] Database--An organized collection of structured information or data which makes up records within files that have relationships with other records within other files.~~

~~[(A) collection of digitally stored data records;]~~

~~[(B) collection of data elements within records within files that have relationships with other records within other files.]~~

(3) ~~[(4)] Database management system (DBMS)--Software [Set of] programs designed to organize, store, and retrieve machine-readable information from within databases [a computer-maintained database or data bank].~~

(4) ~~[(5)] Data file--Related numeric, textual, sound, or graphic information that is organized in a strictly prescribed form and format.~~

(5) Disposition--Final processing of local government records by archival transfer under Local Government Code, §203.049 or destruction under Local Government Code, §202.001 or Government Code, §441.0945.

~~[(6) Electronic media--All media capable of being read by a computer including computer hard disks, magnetic tapes, optical disks, or similar machine-readable media.]~~

(6) ~~[(7)] Electronic record--Any information that is recorded in a form for computer processing and that satisfies the definition of local government record data in the Local Government Code, §201.003(8) [§205.001].~~

~~(7) [(8)] Electronic records system--Any information system that produces, manipulates, and stores local government records by using a computer.~~

~~(8) Electronic storage media--All physical media capable of being read by a computer including computer hard disks, magnetic tapes, optical disks, or similar machine-readable media.~~

(9) Essential record--A record as defined in Local Government Code, §201.003(5). [~~Records custodian--The appointed or elected public officer who by the state constitution, state law, ordinance, or administrative policy is in charge of an office that creates or receives local government records.~~]

~~(10) Integrity--The quality of a record as complete and free from unauthorized alteration.~~

~~(11) Metadata--Data that summarizes basic information about a record, and which can facilitate tracking, locating, verifying authenticity, or working with specific records or data. Examples include, but are not limited to, author, date created, date modified, file extension, and file size.~~

~~(12) Migration--The act of moving data or records from one hardware or software system or configuration to another so that records may continue to be understandable and usable for as long as they are needed.~~

~~(13) [(10)] Records Management Officer--Each elected county officer or the person designated by the governing body of each local government pursuant to the Local Government Code, §203.025.~~

~~(14) Reliability--The quality of a record as a full and accurate representation of the activity or transaction it captures.~~

~~(15) [(11)] Text documents--Narrative or tabular documents, such as letters, memorandums, and reports, in loosely prescribed form and format.~~

~~(16) Third Party Custodians--Parties with which a local government entity may contract for services who are temporarily responsible for the maintenance of local government records.~~

~~(17) Usability--The quality of a record as related to the producing activity or that can be accessed, identified, and readily retrieved, and interpreted or read within the broader context.~~

§7.72. General.

(a) This subchapter establishes [~~These sections establish~~] the minimum requirements for the maintenance, use, retention, and storage of any electronic record of a local government whose retention period is ten years or more on a records retention schedule adopted under §7.125 of this title (relating to Records Retention Schedules). ~~These requirements are recommended as best practices for~~ [~~These sections do not apply to~~] electronic records with retention periods of less than ten years. ~~All electronic records [; but they]~~ are subject to the applicable provisions of the Local Government Code, Chapter 205.

(b) Unless otherwise noted, these requirements apply to all electronic records systems and electronic storage media [~~storage systems, whether on microcomputers, minicomputers, or mainframe computers, regardless of storage media.~~].

(c) [~~An electronic storage authorization request certifying that the requirements of these sections will be followed must be submitted to and approved by the director and librarian for all existing electronic storage, and before any new electronic storage, of records subject to this section. The authorization request must be submitted in a form and manner to be determined by the director and librarian and must be signed by the records management officer.~~]

[(d)] The governing body of a local government and its records management officer, in cooperation with other employees of the local government, [records eustodians] must:

(1) administer a program for the management of records created, received, maintained, used, or stored on electronic media;

(2) integrate the management of electronic records with other records and information resources management programs;

(3) incorporate electronic records management objectives, responsibilities, and authorities in pertinent directives;

(4) establish procedures for addressing records management requirements, including recordkeeping requirements and disposition;

(5) make training available [ensure that training is provided] for users of electronic records systems that addresses: [in]

(A) the operation, care, and handling of the equipment, software, [and] media, and information contained [used] in the system; and

(B) records management concepts and applicable requirements, including any records management issues as they relate to subparagraph (A) of this paragraph;

(6) develop and maintain [ensure the development and maintenance of] up-to-date documentation about all electronic records systems that is adequate to specify all technical characteristics necessary for reading or processing the records and the timely, authorized disposition of records; and

(7) specify the location and media on which electronic records are maintained to meet retention requirements and maintain inventories of electronic records systems to facilitate disposition.

(d) [(e)] An [Any] electronic records [recordkeeping] system not meeting the provisions of this subchapter [these sections] may be utilized for records subject to this section provided the source document, if any, or a paper copy of the record is maintained, or the record is microfilmed in accordance with the provisions of Local Government Code, Chapter 204, and the rules adopted under it.

§7.73. Policies and Procedures.

(a) Local government records management officers, in conjunction with the governing body, shall approve and institute written policies and procedures that communicate an enterprise-wide approach for electronic records management practices, and ensure electronic records maintain and retain reliability, usability, integrity, and authenticity.

(b) A local government's policies and procedures must:

(1) establish a component of the local government's active and continuing records management program to address the management of electronic records created, received, retained, used, transmitted, or disposed of electronically, including electronic records maintained or managed by third-party custodians or other external entities;

(2) integrate the management of electronic records into existing records and information resources management programs;

(3) incorporate electronic records management objectives, responsibilities, and authorities;

(4) address electronic records management requirements, including retention requirements and final disposition;

(5) address the use of new technologies through regular media and format conversion, recopying, reformatting, and other necessary maintenance to ensure the retention and usability of electronic

records until the expiration of their retention periods and final disposition; and

(6) ensure transparency by documenting, in an open and verifiable manner, the processes and activities carried out in the management of electronic records.

(c) A local government's policies and procedures must ensure information that must be protected from unauthorized use or disclosure is appropriately protected as required by applicable law, regulation, or other applicable requirement.

§7.74. Minimum Requirements for all Electronic Records.

(a) Each local government must:

(1) manage electronic records according to the local government's records management program and records retention schedule regardless of format, system, or storage location;

(2) maintain ownership and responsibility for electronic records regardless of where the record originates or resides, including, but not limited to, external electronic records systems, third-party custodians, and social media platforms;

(3) develop and maintain up-to-date documentation about electronic records systems and storage media adequate to identify, retain, read, process, or migrate electronic records and ensure the timely, authorized final disposition of electronic records;

(4) ensure that electronic records remain readily retrievable and readable for as long as they are maintained by the local government through migration or by maintaining any software, hardware, and documentation required to retrieve and read the electronic records;

(5) maintain descriptive and technical metadata required for electronic records to maintain and retain reliability, including metadata necessary to adequately support the usability, authenticity, or integrity as well as the preservation of a record;

(6) preserve the authenticity, integrity, reliability, and usability of the records;

(7) ensure that electronic records are readily retrievable and readable independently of other records in the electronic records system or storage media;

(8) ensure that system backups that are required for disaster recovery are not used to satisfy records retention requirements unless indexed to ensure usability and are tested on a regular basis; and

(9) require all third-party custodians of records to provide the local government with descriptions of their business continuity and/or disaster recovery plans pertaining to the protection of the local government's essential records.

(b) Any technology for electronic records developed, used, or acquired by a local government must support the local government's ability to meet the minimum requirements in subsection (a) of this section to preserve and make readily retrievable and readable any electronic record or to extract or migrate the record in as complete a form as possible for its full retention period.

§7.75. Security of Electronic Records.

(a) Local governments must implement and maintain an electronic records security program for office and storage areas that:

(1) ensures that only authorized local government employees [personnel] have access to electronic records;

(2) provides for backup and recovery of records to protect against information loss;

(3) ensures that authorized local government employees [personnel] are trained to safeguard confidential electronic records; and

(4) minimizes the risk of unauthorized alteration or erasure of electronic records. [; and]

[(5) documents that similar kinds of records generated and stored electronically are created by the same processes each time and have a standardized retrieval approach.]

(b) A duplicate copy of essential records and any software or documentation required to retrieve and read the records must be maintained in a separate storage area [located in a separate building from the building where the records that have been copied are maintained].

(c) For records stored on rewritable electronic storage media, local governments [the system] must ensure that read/write privileges are controlled and that an audit trail of rewrites is maintained.

§7.76. *Maintenance of Electronic [Records] Storage Media.*

(a) Local governments must ensure that the reliability, integrity, and usability [accuracy, completeness, and accessibility] of information is [are] not lost prior to its authorized destruction date because of changing technology or media deterioration through periodic checking and maintaining the state of electronic storage media, [by] converting electronic storage media or file format, and taking other action as required to provide compatibility with current hardware and software. The migration strategy for upgrading equipment as technology evolves must be documented and include:

(1) periodically recopying to the same electronic media as required, and/or transferring of data from an obsolete technology to a supportable technology; and

(2) providing backward [system] compatibility to the data in [the] old systems [system], and/or converting data to media that the system upgrade and/or replacement can support.

(b) The storage areas for electronic storage media must be maintained in environments without high levels of airborne particulates and within the following temperatures and relative humidities: [Paragraphs (1)-(3) of this section outline the maintenance of backup electronic media stored offsite.]

(1) For magnetic media--65 degrees Fahrenheit to 75 degrees Fahrenheit, and 30% to 50% relative humidity; [Magnetic computer tapes must be tested and verified no more than six months prior to using them to store electronic records. Pretesting of tapes is not required if an automated system is used that monitors read/write errors and there is a procedure in place for correcting errors.]

(2) For optical disks--14 degrees Fahrenheit to 74 degrees Fahrenheit, and 20% to 50% relative humidity. [The storage areas for electronic media must be maintained within the following temperatures and relative humidities:]

[(A) for magnetic media--65 degrees Fahrenheit to 75 degrees Fahrenheit, and 30% to 50% relative humidity;]

[(B) for optical disks--14 degrees Fahrenheit to 122 degrees Fahrenheit, and 10% to 90% relative humidity.]

[(3) A random sample of all magnetic computer tapes must be read annually to identify any loss of data and to discover and correct the causes of data loss. At least a 10% sample or a sample size of 50 magnetic tapes, whichever is less, must be read. Tapes with unrecoverable errors must be replaced and, when possible, lost data must be restored. All other tapes which might have been affected by the same cause (i.e., poor quality tape, high usage, poor environment, improper handling) must be read and corrected.]

(c) Electronic storage media that cannot meet the requirements of subsection (a) of this section may not be used for the exclusive storage of electronic records subject to this subchapter. [Local governments must recopy data maintained on electronic media according to the following schedule.]

[(1) Data maintained on magnetic tape must be recopied onto new or used tape a minimum of once every three years.]

[(2) An alternative option for recopying magnetic tape is for the data to be recopied onto new tape a minimum of once every 10 years, provided the tape is rewound under controlled tension every 3 1/2 years. The requirement for rewinding does not apply to 3480-type tape cartridges.]

[(3) Data maintained on optical disks must be recopied a minimum of once every 10 years.]

[(d) Floppy disks (diskettes) or any type of flexible disk system may not be used for the exclusive storage of records subject to these sections.]

[(e) External labels, or an eye-readable index relating to unique identifiers, for electronic media used to process or store electronic records must include the following information]

[(1) name or other identifier of the organizational unit responsible for the records;]

[(2) descriptive title of the contents;]

[(3) dates of creation and authorized disposition date;]

[(4) security classification;]

[(5) identification of the software (to include specific application if appropriate) and hardware used; and]

[(6) system title, including the version number of the application.]

(d) [(f)] Additionally, if [the following information must be maintained for] electronic storage media is used to store permanent electronic records, local governments must maintain any metadata and media-specific information necessary to access the records. [;]

[(1) file title(s);]

[(2) dates of coverage;]

[(3) the recording density;]

[(4) type of internal labels;]

[(5) volume serial number, if applicable;]

[(6) the number of tracks;]

[(7) character code/software dependency;]

[(8) information about block size;]

[(9) sequence number, if the file is part of a multi-media set; and]

[(10) relative starting position of data, if applicable.]

(e) [(g)] The following standards must be met for electronic records stored as digital images on electronic storage[optical] media:[;]

(1) A visual quality control evaluation must be performed on a representative sample of scanned images and related index data. A representative sample must be at least 10% of the total scanned images. [A non-proprietary image file header label must be used, or the system developer must provide a bridge to a non-proprietary image file

header label, or the system developer must supply a detailed definition of image file header label structure.]

{(2) The system hardware and/or software must provide a quality assurance capability that verifies information that is written to the optical media.}]

{(3) Periodic maintenance of optical data storage systems is required, including an annual recalibration of the optical drives.}]

{(4) Scanner quality must be evaluated based on the standard procedures in American National Standard for Information and Image Management—Recommended Practice for Quality Control of Image Scanners (ANSI/AIIM MS44-1988) and American National Standard for Information and Image Management—Recommended Practice for Monitoring Image Quality of Roll Microfilm and Microfiche Scanners (ANSI/AIIM MS49-1993).}]

{(5) A visual quality control evaluation must be performed for each scanned image and related index data.}]

(2) [(6)] A scanning density with a minimum of 200 dots per inch is required for recording text documents that contain no type font smaller than six point.

(3) [(7)] A scanning density with a minimum of 300 dots per inch is required for engineering drawings, maps, and other text documents with background detail.

(4) [(8)] The selected scanning density must be validated with tests on actual text documents.

{(9) The use of the Consultative Committee on International Telegraphy and Telephony (CCITT) Group 3 or Group 4 compression techniques is required for document images without continuous tonal qualities. If use of a proprietary compression technique is unavoidable, the vendor must provide a gateway to either Group 3 or Group 4 compression techniques.}]

{(10) Optical drive systems must not be operated in environments with high levels of airborne particulates.}]

{(11) All aspects of the design and use of the imaging system must be documented, including administrative procedures for digital imaging, retrieval, and storage; technical system specifications; problems encountered; and measures taken to address them, including hardware and software modifications.}]

(f) [(h)] A local government must prohibit smoking [Smoking], drinking, and eating [must be prohibited] in areas containing electronic [media] storage media [areas].

§7.77. Minimum Requirements for all Electronic Records Systems.

(a) Local governments must maintain up-to-date technical documentation for each electronic records system that produces, uses, and stores data files. Documentation must:

(1) include a narrative description of the system;

(2) describe the physical and technical characteristics of the records, including, but not limited to, each field associated with a record; its name, size, starting or relative position; and the form of the data;

(3) outline steps to ensure the electronic records system remains usable for as long as the system is maintained by the local government, including maintaining any software, hardware, and documentation required to retrieve and read the electronic records;

(4) describe the required descriptive and technical metadata the electronic records system must maintain for electronic records

to have reliability, including metadata necessary to adequately support the usability, authenticity, integrity, and preservation of a record; and

(5) incorporate instructions for carrying out disposition of records into electronic records systems.

(b) Local governments must ensure electronic records systems using electronic storage media to maintain the record copy, or data used to generate the record copy, allow for:

(1) all authorized users of the system to retrieve desired records, such as an indexing or text search system;

(2) security to ensure integrity of the records;

(3) exchanging records using an established standard format amongst the departments of the local government using different software/operating systems; and

(4) disposition of the records.

(c) An electronic records system must not create an impediment to access to public records.

(d) Local governments must ensure that records created or maintained in electronic records systems can be:

(1) identified sufficiently to enable authorized personnel to retrieve, protect, and carry out disposition of the records in the system; and

(2) associated with related records in other formats.

(e) A local government must prohibit smoking, drinking, and eating in areas containing electronic records systems that maintain the record copy.

§7.78. Destruction of Electronic Records.

(a) Electronic records may be destroyed only in accordance with the Local Government Code, §202.001.

(b) Each local government must ensure that:

(1) electronic records eligible [scheduled] for destruction are disposed of in a manner that ensures protection of any confidential information; and

(2) electronic [magnetic] storage media [previously] used for electronic records containing confidential information is [are] not reused if the previously recorded information can be compromised in any way through [by] reuse [in any way].

(c) For [The following requirements must be met for] the court-ordered expungement of information recorded on [an optical] Write-Once-Read-Many (WORM) electronic storage media, all copies of the information must be destroyed wherever it exists, including any record, index, or reference to the expunged information on other electronic storage media. Methods for expunging information from WORM electronic storage media include: [system.]

{(1) Two methods are allowed for expunging information from a WORM disk:}]

(1) [(A)] overwriting the information [may be overwritten] to obliterate the original data [image], leaving no evidence of the original information; or

(2) [(B)] rewriting all of the indices, pages, or documents [on a disk], other than the expunged information, onto new electronic storage media and physically destroying the old electronic storage media [document(s), must be rewritten to a new disk and the old disk must be physically destroyed].

[(2) In cases where a complete page or record is expunged, all reference to the page or record must be removed from the index. If the index has been copied, the index must be recopied after the reference to the page or record has been removed.]

[(3) Copies of the original WORM disk and copies of the information removed by expungement must be destroyed or changed to reflect the court order. All copies of the record, index, or reference to the original unrevised information on WORM disk copies or copies in any other media must be destroyed.]

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

Filed with the Office of the Secretary of State on April 15, 2021.

TRD-202101556

Sarah Swanson

General Counsel

Texas State Library and Archives Commission

Earliest possible date of adoption: May 30, 2021

For further information, please call: (512) 463-5591



13 TAC §§7.73, 7.74, 7.77, 7.79

The Texas State Library and Archives Commission (Commission) proposes the repeal of existing rules at 13 TAC §7.73, Creation and Use of Data Files; §7.74, Creation and Use of Text Documents; §7.77, Retention of Electronic Records; and §7.79, Public Access to Electronic Records.

The proposed repeals are necessary because some of the repealed rule language is unnecessary, as certain specific requirements impose expectations that are stricter than necessary to fulfill minimum requirements. Other repealed rule language has been updated and moved into proposed new rules and amendments. The proposed repeals coincide with proposed amendments and new rules to 13 TAC Chapter 7, Subchapter C also published in this edition of the *Texas Register*.

FISCAL NOTE. Craig Kelso, Director, State and Local Records Management Division, has determined that for each of the first five years the proposed repeals are in effect, there will not be a fiscal impact on state, or local government as a result of enforcing or administering these repeals, as proposed. There will not be any effect on small businesses, microbusinesses or rural communities.

PUBLIC BENEFIT/COST NOTE. Mr. Kelso has also determined that for the first five-year period the repeals are in effect, the public benefit will be consistency and clarity in the management of electronic records, which will help to provide better management of records across the state. Better management of electronic records will improve retention of public records and increase access to those records by the public.

GOVERNMENT GROWTH IMPACT STATEMENT. Pursuant to Government Code, §2001.0221, the commission provides the following Government Growth Impact Statement for the proposed repeals. During the first five years that the proposed repeals would be in effect, the proposed repeals: will not create or eliminate a government program; will not result in the addition or reduction of employees; will not require an increase or decrease in future legislative appropriations; will not lead to an increase or decrease in fees paid to a state agency; will

repeal existing regulations; and will not result in an increase or decrease in the number of individuals subject to the rule. During the first five years that the proposed repeals will be in effect, the proposed amendments will not positively or adversely affect the Texas economy.

REQUEST FOR PUBLIC COMMENT. Written comments on the proposed repeals may be submitted to Megan Carey, Manager, Records Management Assistance, State and Local Records Management Division, Texas State Library and Archives Commission, P.O. Box 12927, Austin, Texas 78711, or via email at rules@tsl.texas.gov. To be considered, a written comment must be received no later than 30 days from the date of publication in the *Texas Register*.

STATUTORY AUTHORITY. The repeals are proposed under Local Government Code, §205.003, which requires the Texas State Library and Archives Commission to adopt rules establishing standards and procedures for the electronic storage of permanent records and permits the adoption of rules establishing standards and procedures for the electronic storage of any electronic record with a retention of 10 years or more on a records retention schedule issued by the commission.

CROSS REFERENCE TO STATUTE. Local Government Code, Chapter 205; Government Code, Chapter 441.

§7.73. *Creation and Use of Data Files.*

§7.74. *Creation and Use of Text Documents.*

§7.77. *Retention of Electronic Records.*

§7.79. *Public Access to Electronic Records.*

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

Filed with the Office of the Secretary of State on April 15, 2021.

TRD-202101557

Sarah Swanson

General Counsel

Texas State Library and Archives Commission

Earliest possible date of adoption: May 30, 2021

For further information, please call: (512) 463-5591



TITLE 22. EXAMINING BOARDS

PART 5. STATE BOARD OF DENTAL EXAMINERS

CHAPTER 101. DENTAL LICENSURE

22 TAC §101.2

The State Board of Dental Examiners (Board) proposes this amendment to 22 TAC §101.2, concerning dental licensure by examination. The proposed amendment reflects the North East Regional Board of Dental Examiners (NERB) name change to The Commission on Dental Competency Assessments (CDCA), and the effective date of the name change.

FISCAL NOTE: Casey Nichols, Executive Director, has determined that for the first five-year period the proposed rule is in effect, the proposed rule does not have foreseeable implications relating to cost or revenues of the state or local governments.

PUBLIC BENEFIT-COST NOTE: Casey Nichols has also determined that for the first five-year period the proposed rule is in effect, the public benefit anticipated as a result of this rule will be the protection of public safety and welfare.

LOCAL EMPLOYMENT IMPACT STATEMENT: Casey Nichols has also determined that the proposed rule does not affect local economies and employment.

SMALL AND MICRO-BUSINESS, RURAL COMMUNITY IMPACT STATEMENT: Casey Nichols has determined that no economic impact statement and regulatory flexibility analysis for small businesses, micro-businesses, and rural communities is necessary for this rule.

GOVERNMENT GROWTH IMPACT STATEMENT: The Board has determined that for the first five-year period the proposed rule is in effect, the following government growth effects apply: (1) the rule does not create or eliminate a government program; (2) implementation of the proposed rule does not require the creation or elimination of employee positions; (3) the implementation of the proposed rule does not require an increase or decrease in future appropriations; (4) the proposed rule does not require an increase in fees paid to the agency; (5) the proposed rule does not create a new regulation; (6) the proposed rule does not expand an existing regulation; (7) the proposed rule does not increase or decrease the number of individuals subject to it; and (8) the proposed rule does not positively or adversely affect the state's economy.

COST TO REGULATED PERSONS: This proposed rule does not impose a cost on a regulated person and, therefore, is not subject to Tex. Gov't. Code §2001.0045.

Comments on the proposed amendment may be submitted to Casey Nichols, Executive Director, 333 Guadalupe Street, Suite 3-800, Austin, Texas 78701, by fax to (512) 649-2482, or by email to official_rules_comments@tsbde.texas.gov for 30 days following the date that the proposed rule is published in the *Texas Register*. To be considered for purposes of this rulemaking, comments must be: (1) postmarked or shipped by the last day of the comment period; or (2) faxed or e-mailed by midnight on the last day of the comment period.

This rule is proposed under Texas Occupations Code §254.001(a), which gives the Board authority to adopt rules necessary to perform its duties and ensure compliance with state laws relating to the practice of dentistry to protect the public health and safety.

No statutes are implemented or affected by this proposed rule.

§101.2. Licensure by Examination.

(a) In addition to the general qualifications for licensure contained in §101.1 of this chapter (relating to General Qualifications for Licensure), an applicant for licensure by examination who is a graduate of an accredited school must present proof that the applicant:

(1) Has graduated and received either the "DDS" or "DMD" degree from a dental school accredited by the Commission on Dental Accreditation of the American Dental Association (CODA);

(2) Has taken and passed the examination for dentists given by the American Dental Association Joint Commission on National Dental Examinations; and

(3) Has taken and passed the appropriate general dentistry clinical examination administered by a regional examining board designated by the Board.

(b) In addition to the general qualifications for licensure contained in §101.1 of this chapter, an applicant for licensure by examination who is a graduate of a non-accredited school must present proof that the applicant:

(1) Has graduated from a dental school that is not CODA-accredited;

(2) Has successfully completed training in an American Dental Association-approved specialty in a CODA-accredited education program that consists of at least two years of training as specified by the Council on Dental Education;

(3) Has taken and passed the examination for dentists given by the American Dental Association Joint Commission on National Dental Examinations; and

(4) Has taken and passed the appropriate general dentistry clinical examination administered by a regional examining board designated by the Board. Many regional examining boards require prior written approval by the participating member state in order for graduates of non-accredited schools to be tested. Prior to submitting an application for regional examination, graduates of non-accredited schools must obtain such permission from the Board.

(c) Designated regional examining boards.

(1) The following regional examining boards have been designated as acceptable by the Board as of the effective dates shown:

(A) Western Regional Examining Board, January 1, 1994;

(B) Central Regional Dental Testing Service, January 1, 2002;

(C) The Commission on Dental Competency Assessments [~~Northeast Regional Board~~], January 9, 2015 [~~January 1, 2005~~];

(D) Southern Regional Testing Agency, January 1, 2005; and

(E) Council of Interstate Testing Agencies (CITA), January 1, 2009.

(2) Examination results will be accepted for five years from the date of the examination.

(d) Remediation.

(1) If an applicant for Texas dental licensure fails three general dentistry clinical examination attempts, the applicant must complete 80 hours of clinical remediation through a CODA-accredited dental school before approval will be issued to take another clinical examination.

(2) If an applicant fails four or more general dentistry clinical examination attempts, the applicant must complete one of the following before approval will be issued to take another clinical examination:

(A) the repetition of the final year of a graduate dental program from a CODA-accredited dental school; or

(B) a clinical remediation course offered by a CODA-accredited dental school, consisting of no less than 1,000 clinical hours.

(3) All programs of clinical remediation require prior approval by the Board. Applicants will be responsible for locating, identifying and obtaining approval from the Board prior to registration for any program.

(4) Re-examination must be accomplished within 18 months following the date the Board approves a remediation program for the applicant.

(e) An applicant who takes an examination after January 1, 2019, must also successfully complete the periodontics and prosthodontics sections of an exam approved under subsection (c)(1) of this section.

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

Filed with the Office of the Secretary of State on April 15, 2021.

TRD-202101553

Lauren Studdard

General Counsel

State Board of Dental Examiners

Earliest possible date of adoption: May 30, 2021

For further information, please call: (512) 305-8910



CHAPTER 103. DENTAL HYGIENE LICENSURE

22 TAC §103.2

The State Board of Dental Examiners (Board) proposes this amendment to 22 TAC §103.2, concerning dental hygiene licensure by examination. The proposed amendment reflects the North East Regional Board of Dental Examiners (NERB) is now The Commission on Dental Competency Assessments (CDCA), and the effective date of the name change.

FISCAL NOTE: Casey Nichols, Executive Director, has determined that for the first five-year period the proposed rule is in effect, the proposed rule does not have foreseeable implications relating to cost or revenues of the state or local governments.

PUBLIC BENEFIT-COST NOTE: Casey Nichols has also determined that for the first five-year period the proposed rule is in effect, the public benefit anticipated as a result of this rule will be the protection of public safety and welfare.

LOCAL EMPLOYMENT IMPACT STATEMENT: Casey Nichols has also determined that the proposed rule does not affect local economies and employment.

SMALL AND MICRO-BUSINESS, RURAL COMMUNITY IMPACT STATEMENT: Casey Nichols has determined that no economic impact statement and regulatory flexibility analysis for small businesses, micro-businesses, and rural communities is necessary for this rule.

GOVERNMENT GROWTH IMPACT STATEMENT: The Board has determined that for the first five-year period the proposed rule is in effect, the following government growth effects apply: (1) the rule does not create or eliminate a government program; (2) implementation of the proposed rule does not require the creation or elimination of employee positions; (3) the implementation of the proposed rule does not require an increase or decrease in future appropriations; (4) the proposed rule does not require an increase in fees paid to the agency; (5) the proposed rule does not create a new regulation; (6) the proposed rule does not expand an existing regulation; (7) the proposed rule does not increase or decrease the number of individuals subject to it; and

(8) the proposed rule does not positively or adversely affect the state's economy.

COST TO REGULATED PERSONS: This proposed rule does not impose a cost on a regulated person and, therefore, is not subject to Tex. Gov't. Code §2001.0045.

Comments on the proposed amendment may be submitted to Casey Nichols, Executive Director, 333 Guadalupe Street, Suite 3-800, Austin, Texas 78701, by fax to (512) 649-2482, or by email to official_rules_comments@tsbde.texas.gov for 30 days following the date that the proposed rule is published in the *Texas Register*. To be considered for purposes of this rulemaking, comments must be: (1) postmarked or shipped by the last day of the comment period; or (2) faxed or e-mailed by midnight on the last day of the comment period.

This rule is proposed under Texas Occupations Code §254.001(a), which gives the Board authority to adopt rules necessary to perform its duties and ensure compliance with state laws relating to the practice of dentistry to protect the public health and safety.

No statutes are implemented or affected by this proposed rule.

§103.2. Licensure by Examination.

(a) (No change.)

(b) Designated regional examining boards.

(1) The following regional examining boards have been designated as acceptable by the Board as of the effective dates shown:

(A) Western Regional Examining Board, January 1, 1994;

(B) Central Regional Dental Testing Service, January 1, 2002;

(C) The Commission on Dental Competency Assessments, January 9, 2015 [~~Northeast Regional Board, January 1, 2005~~];

(D) Southern Regional Testing Agency, January 1, 2005; and

(E) Council of Interstate Testing Agencies (CITA), January 1, 2009.

(2) Examination results will be accepted for five years from the date of the examination.

(c) (No change.)

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

Filed with the Office of the Secretary of State on April 15, 2021.

TRD-202101554

Lauren Studdard

General Counsel

State Board of Dental Examiners

Earliest possible date of adoption: May 30, 2021

For further information, please call: (512) 305-8910



TITLE 26. HEALTH AND HUMAN SERVICES PART 1. HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 745. LICENSING

SUBCHAPTER F. BACKGROUND CHECKS

The Executive Commissioner of the Texas Health and Human Services Commission (HHSC) proposes amendments to §§745.601, 745.607, 745.609, and 745.669, in Texas Administrative Code (TAC), Title 26, Part 1, Chapter 745, concerning Licensing.

BACKGROUND AND PURPOSE

The purpose of the proposal is to implement a portion of the federal Child Care Development Block Grant (CCDBG) Act of 2014, as it applies to 26 TAC Chapter 745, Licensing. The CCDBG Act of 2014 is codified in 42 United States Code 9858 et seq., and requirements related to the Act are codified in federal rules located in 45 Code of Federal Regulations Part 98. These federal statutes and rules contain requirements related to the Child Care and Development Fund, which is the primary federal funding source devoted to providing low-income families who are working or participating in education or training activities with help paying for child care and improving the quality of child care for all children. Texas receives this funding through the Texas Workforce Commission. The Child Care Regulation (CCR) department of HHSC is responsible for implementing certain requirements, including those related to background checks.

The CCDBG Act of 2014 requires CCR to conduct a name-based check of the National Sex Offender Registry (NSOR) for any person requiring a fingerprint-based check at a child day care operation covered by the Act. Currently, as part of an overall background check, a Texas Sex Offender Registry search is conducted as part of a name-based Texas criminal history check or a fingerprint-based criminal history check. A sex offender registry check is also conducted in another state or territory if there is reason to believe the subject of the background check is registered as a sex offender outside Texas or has lived outside Texas within the past five years. The NSOR check will add another layer to the overall background check process in an effort to enhance child safety.

SECTION-BY-SECTION SUMMARY

The proposed amendment to §745.601 (1) adds a definition for the NSOR; (2) renumbers the subsections that follow the added subsection for the NSOR definition; and (3) updates the rule to improve readability and understanding.

The proposed amendment to §745.607 (1) adds the NSOR check to the types of background checks; (2) updates the title number of the figure; and (3) corrects a capitalization error.

The proposed amendment to §745.609 requires the NSOR check for any person who requires a fingerprint-based check at a child day care operation covered by §745.611(a)(1).

The proposed amendment to §745.669 prohibits a person registered as a sex offender with the NSOR from being present at an operation.

FISCAL NOTE

Trey Wood, Chief Financial Officer, has determined that for each year of the first five years that the rules will be in effect, enforcing or administering the rules does not have foreseeable implications relating to costs or revenues of state or local governments.

GOVERNMENT GROWTH IMPACT STATEMENT

HHSC has determined that during the first five years that the rules will be in effect:

- (1) the proposed rules will not create or eliminate a government program;
- (2) implementation of the proposed rules will not affect the number of HHSC employee positions;
- (3) implementation of the proposed rules will result in no assumed change in future legislative appropriations;
- (4) the proposed rules will not affect fees paid to HHSC;
- (5) the proposed rules will not create new rules;
- (6) the proposed rules will expand existing rules;
- (7) the proposed rules will not change the number of individuals subject to the rules; and
- (8) the proposed rules will not affect the state's economy.

SMALL BUSINESS, MICRO-BUSINESS, AND RURAL COMMUNITY IMPACT ANALYSIS

Trey Wood has also determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities. The rules do not impose any costs on these entities, there will be no fee for the NSOR check, and CCR does not anticipate any actions required of providers that would incur a cost.

LOCAL EMPLOYMENT IMPACT

The proposed rules will not affect a local economy.

COSTS TO REGULATED PERSONS

Texas Government Code §2001.0045 does not apply to these rules because the rules are necessary to protect the health, safety, and welfare of the residents of Texas; do not impose a cost on regulated persons; and are necessary to receive a source of federal funds or comply with federal law.

PUBLIC BENEFIT AND COSTS

Jean Shaw, Associate Commissioner for Child Care Regulation, has determined that for each year of the first five years the rules are in effect, the public benefit will be to improve the safety of children in care and compliance with statutory requirements.

Trey Wood has also determined that for the first five years the rules are in effect, there are no anticipated economic costs to persons who are required to comply with the proposed rules because the rules do not impose any additional costs or fees on those required to comply.

TAKINGS IMPACT ASSESSMENT

HHSC has determined that the proposal does not restrict or limit an owner's right to his or her property that would otherwise exist in the absence of government action and, therefore, does not constitute a taking under Texas Government Code §2007.043.

PUBLIC COMMENT

Questions about the content of this proposal may be directed to Ryan Malsbary by email at Ryan.Malsbary@hhsc.state.tx.us.

Written comments on the proposal may be submitted to Ryan Malsbary, Rules Writer, Child Care Regulation, Texas Health and Human Services Commission, E-550, P.O. Box 149030, Austin, Texas 78714-9030; or by email to CCLrules@hhsc.state.tx.us.

To be considered, comments must be submitted no later than 31 days after the date of this issue of the *Texas Register*. Comments must be: (1) postmarked or shipped before the last day of the comment period; (2) hand-delivered before 5:00 p.m. on the last working day of the comment period; or (3) emailed before midnight on the last day of the comment period. If the last day to submit comments falls on a holiday, comments must be postmarked, shipped, or emailed before midnight on the following business day to be accepted. When emailing comments, please indicate "Comments on Proposed Rule 20R129" in the subject line.

DIVISION 1. DEFINITIONS

26 TAC §745.601

STATUTORY AUTHORITY

The amendment is 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 §531.02011, which transferred the regulatory functions of the Department of Family and Protective Services to HHSC.

The amendment implements Texas Human Resources Code §§42.042 and 42.056, as well as the requirement for NSOR checks in 45 Code of Federal Regulations §98.43(b)(2).

§745.601. *What words must I know to understand this subchapter?*

These words have the following meanings:

(1) **CBCU**--The Centralized Background Check Unit is a subdivision of Licensing that conducts background checks and risk evaluations.

(2) **Central Registry**--A Texas Department of Family and Protective Services (DFPS) [~~DFPS~~] database of persons who have been found by Licensing or an investigations division within DFPS to have abused or neglected a child.

(3) **Client in care**--A child, young adult, or adult in the care of your operation, including foster children or young adults for whom your operation is receiving foster care payments, adults in care through the Health and Human Services System, court-ordered placements, and kinship care. A biological or adopted child is not a client in care.

(4) **Criminal history**--Includes arrests, dispositions, and deferred adjudication community supervision. Criminal history does not include expunged criminal history or non-disclosure history. It does not include juvenile history, although the CBCU may determine that the subject of a background check poses an immediate threat or danger to the health or safety of children based on a juvenile adjudication that the CBCU receives with the subject's criminal history.

(5) **Days**--Calendar days.

(6) **Designated finding**--A finding in the Central Registry against a person (also known as a designated perpetrator) who has not exhausted the person's due process rights, including an administrative review, a due process hearing, and any subsequent rights of appeal. See Subchapter M of this chapter (relating to Administrative Reviews and Due Process Hearings).

(7) **DFPS**--Texas Department of Family and Protective Services.

(8) **DPS**--Texas Department of Public Safety.

(9) **Direct access**--Being counted in the **child to caregiver** [~~child/caregiver~~] ratio or having any responsibility that requires contact with children in care.

(10) **FBI**--Federal Bureau of Investigation.

(11) **HHSC**--Texas Health and Human Services Commission.

(12) **Initial background check**--The first background check that your operation submits for a person required to have a background check, as specified in §745.605 of this subchapter (relating to For whom must I submit requests for background checks?).

(13) **Licensing**--The Child Care Regulation department [~~Licensing Department~~] of HHSC.

(14) **National Sex Offender Registry**--A National Crime Information Center file that contains records on persons who are required to register in a jurisdiction's sex offender registry.

(15) [(14)] **Present at an operation**--A person is present at an operation if the person has or may have contact with children in care as follows:

(A) The person is physically present at an operation while any child is in care, unless the person is present for the sole purpose of attending orientation or pre-service training and does not have contact with children in care;

(B) The person has responsibilities that may require the person to be present at an operation while any child is in care;

(C) The person resides at an operation or is present at an operation on a regular or frequent basis; or

(D) The person has direct access to any child in care, including supervised or unsupervised direct access to any child.

(16) [(15)] **Regularly or frequently present at an operation**--The definition means:

(A) A person is regularly or frequently present at an operation if the person:

(i) Is present at an operation on a scheduled basis;

(ii) Visits the operation three or more times in a 30-day period, with each visit being a period of time of less than 24 hours, and with multiple or periodic visits to an operation within the same day counting as one visit;

(iii) Stays or resides at the operation for more than seven consecutive days; or

(iv) Stays or resides at the operation three or more times per year, and the duration of each stay exceeds 48 hours.

(B) For foster homes, the following persons are not considered to be regularly or frequently present at a foster home:

(i) A child unrelated to a foster parent who visits the foster home unless:

(I) The child is responsible for the care of a foster child; or

(II) There is a reason to believe that the child has a criminal history or previously abused or neglected a child; and

(ii) An adult unrelated to a foster parent who visits the foster home unless:

(I) The adult has unsupervised access to children in care; or

(II) There is a reason to believe that the adult has a criminal history or previously abused or neglected a child.

(C) For a child day-care operation, parents are not regularly or frequently present at an operation solely because they are visiting their child, which may include dropping off or picking up their child, eating lunch with their child, visiting or observing their child, or consoling their child. However, a parent may be regularly or frequently present at an operation if he or she volunteers at an operation or is otherwise present at an operation for a reason other than visiting his or her child.

(17) [(16)] Renewal background check--A subsequent background check that your operation submits for a person who has already had an initial background check at your operation as specified in §745.605 of this subchapter.

(18) [(17)] Risk evaluation--A process conducted by the CBCU that is initiated by the subject of a background check with a criminal history or child abuse and neglect history. During this process the CBCU reviews information and determines whether the subject with a criminal conviction or child abuse or neglect finding or the subject who has been arrested or charged with a crime poses a risk to the health or safety of children in a particular operation.

(19) [(18)] Subject or subject of a background check--A person on whom the operation submits a request for a background check.

(20) [(19)] Substitute employee--A person present at an operation usually for the purpose of fulfilling an absent employee or caregiver role.

(21) [(20)] Sustained finding--A finding in the Central Registry against a person who has already been offered due process rights to an administrative review and a due process hearing, and:

(A) The person has waived all of the person's due process rights by not timely requesting an administrative review and a due process hearing or by waiving those rights in writing as specified in §745.8817 of this chapter (relating to Can I waive my right to an administrative review?) and §745.8855 of this chapter (relating to Can I waive my right to a due process hearing?); or

(B) The child abuse or neglect finding was upheld in the due process hearing and any subsequent appeals.

(22) [(21)] Unsupervised access--The person is allowed to be with children without the presence of a caregiver that is counted in the child to caregiver [child/caregiver] ratio and meets the minimum education requirements, work experience, training qualifications, and background check requirements.

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

Filed with the Office of the Secretary of State on April 14, 2021.

TRD-202101548

Karen Ray

Chief Counsel

Health and Human Services Commission

Earliest possible date of adoption: May 30, 2021

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



DIVISION 2. REQUESTING BACKGROUND CHECKS

26 TAC §745.607, §745.609

STATUTORY AUTHORITY

The amendments 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 §531.02011, which transferred the regulatory functions of the Department of Family and Protective Services to HHSC.

The amendments implement Texas Human Resources Code §§42.042 and 42.056, as well as the requirement for NSOR checks in 45 Code of Federal Regulations §98.43(b)(2).

§745.607. *What are the different types of background checks?*

The different [There are six] types of background checks are described in the following table:

Figure: 26 TAC §745.607

[Figure: 40 TAC §745.607]

§745.609. *What types of background checks are required for persons at my operation?*

(a) Except as described in subsection (b) of this section, persons required to have a background check under §745.605 of this division (relating to For whom must I submit requests for background checks?) must have the following types of background checks:

(1) As further described in §745.611 of this division (relating to Which persons at my operation require either a fingerprint-based criminal history check or a name-based Texas criminal history check?), either a:

(A) Fingerprint-based criminal history check; or

(B) Name-based Texas criminal history check;

(2) A Central Registry check; [and]

(3) If your operation is a child day-care operation, a National Sex Offender Registry check for persons who require a fingerprint-based criminal history check under §745.611(a)(1) of this division; and

(4) [(3)] As further described in §745.613 of this division (relating to Which persons at my operation must have an out-of-state criminal history check, an out-of-state child abuse and neglect registry check, and an out-of-state sex offender registry check?), for certain persons, an:

(A) Out-of-state criminal history check;

(B) Out-of-state child abuse and neglect registry check; and

(C) Out-of-state sex offender registry check.

(b) This rule does not apply to listed family homes that only provide care to related children, employer-based child care operations, and shelter care operations. See §745.615 of this division (relating to What types of background checks are required for persons at listed family homes that only provide care to related children, employer-based child care operations, and shelter care operations?).

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

Filed with the Office of the Secretary of State on April 14, 2021.

TRD-202101549

Karen Ray
Chief Counsel
Health and Human Services Commission
Earliest possible date of adoption: May 30, 2021
For further information, please call: (512) 438-3269



DIVISION 4. CRIMINAL HISTORY, SEX OFFENDER REGISTRY, AND CHILD ABUSE OR NEGLECT FINDINGS

26 TAC §745.669

STATUTORY AUTHORITY

The amendments 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 §531.02011, which transferred the regulatory functions of the Department of Family and Protective Services to HHSC.

The amendments implement Texas Human Resources Code §§42.042 and 42.056, as well as the requirement for NSOR checks in 45 Code of Federal Regulations §98.43(b)(2).

§745.669. Will [a requirement that] a subject who is registered or required to register with the Texas Sex Offender Registry, [or] an out-of-state sex offender registry, or the National Sex Offender Registry be allowed [affect the subject's ability] to be present at an operation?

No [Yes], a subject who is registered or required to register as a sex offender with the Texas Sex Offender Registry, an out-of-state sex offender registry, or the National Sex Offender Registry [in Texas or any other state or territory] may not be present at an operation.

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

Filed with the Office of the Secretary of State on April 14, 2021.

TRD-202101550

Karen Ray
Chief Counsel

Health and Human Services Commission

Earliest possible date of adoption: May 30, 2021

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



TITLE 37. PUBLIC SAFETY AND CORRECTIONS

PART 5. TEXAS BOARD OF PARDONS AND PAROLES

CHAPTER 143. EXECUTIVE CLEMENCY

SUBCHAPTER D. REPRIEVE FROM EXECUTION

37 TAC §143.43

The Texas Board of Pardons and Paroles proposes amendments to 37 TAC Chapter 143, Subchapter D, §143.43, concerning procedure in capital reprieve cases. The amendments proposed

delete the number of copies of an application and supporting documents that must be provided by an applicant seeking a reprieve and authorize the Presiding Officer to make that determination.

David Gutiérrez, Chair of the Board, determined that for each year of the first five-year period the proposed amendments are in effect, no fiscal implications exist for state or local government as a result of enforcing or administering this section.

Mr. Gutiérrez has also determined that during the first five years that the proposed amendments are in effect, the public benefit anticipated as a result of enforcing the amendments to this section will be to bring the rule into compliance with current board practice and provide clarification for the application process.

Mr. Gutiérrez has also determined that during the first five years the proposed amendments are in effect, the amendments: will not create or eliminate a government program; will not require the creation or elimination of employee positions; will not require an increase or decrease in future legislative appropriations to the agency; will not require an increase or decrease in fees paid to the agency; do not create a new regulation; do not expand, limit or repeal an existing regulation; will not increase or decrease the number of individuals subject to the rule's applicability; and will not positively or adversely affect this state's economy.

An Economic Impact Statement and Regulatory Flexibility Analysis is not required because the proposed amendments will not have an economic effect on micro-businesses, small businesses, or rural communities as defined in Texas Government Code Section 2006.001.

Comments should be directed to Bettie Wells, General Counsel, Texas Board of Pardons and Paroles, 209 W. 14th Street, Suite 500, Austin, Texas 78701, or by e-mail to bettie.wells@tdcj.texas.gov. Written comments from the general public should be received within 30 days of the publication of this proposal.

The amended rule is proposed under the Texas Constitution, Article 4, Section 11, and Code of Criminal Procedure, Article 48.01. Both Article 4, Section 11, Texas Constitution and Article 48.01, Code of Criminal Procedure, authorize the Board to make clemency recommendations to the Governor.

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

§143.43. Procedure in Capital Reprieve Cases.

(a) The written application in behalf of an offender seeking a Board recommendation to the Governor or a reprieve from execution must be delivered to the Texas Board of Pardons and Paroles, Clemency Section, 8610 Shoal Creek Boulevard, Austin, Texas 78757, not later than the twenty-first calendar day before the execution is scheduled. If the twenty-first calendar day before the execution is scheduled falls on a weekend or state observed holiday, the application shall be delivered not later than the next business day.

(b) All supplemental information, including but not limited to amendments, addenda, supplements, or exhibits, must be submitted in writing and delivered to the Texas Board of Pardons and Paroles, Clemency Section, 8610 Shoal Creek Boulevard, Austin, Texas 78757, not later than the fifteenth calendar day before the execution is scheduled. If the fifteenth calendar day before the execution is scheduled falls on a weekend or state observed holiday, all additional information including but not limited to amendments, addenda, supplements, or exhibits shall be delivered not later than the next business day.

(c) The application and any [Any] information filed with the application, including but not limited to amendments, addenda, supplements, or exhibits, must be provided by the applicant in an amount determined by the Presiding Officer [sufficient to allow review by all members of the Board. An amount sufficient shall mean not less than 12 and not more than 20 copies of the duplicate item].

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

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

Filed with the Office of the Secretary of State on April 16, 2021.

TRD-202101558

Bettie Wells

General Counsel

Texas Board of Pardons and Paroles

Earliest possible date of adoption: May 30, 2021

For further information, please call: (512) 406-5478



SUBCHAPTER E. COMMUTATION OF SENTENCE

37 TAC §143.57

The Texas Board of Pardons and Paroles proposes amendments to 37 TAC Chapter 143, Subchapter D, §143.57 concerning commutation of sentence. The amendments proposed delete the number of copies of an application and supporting documents that must be provided by an applicant seeking a reprieve and authorize the Presiding Officer to make that determination.

David Gutiérrez, Chair of the Board, determined that for each year of the first five-year period the proposed amendments are in effect, no fiscal implications exist for state or local government as a result of enforcing or administering this section.

Mr. Gutiérrez has also determined that during the first five years that the proposed amendments are in effect, the public benefit anticipated as a result of enforcing the amendments to this section will be to bring the rule into compliance with current board practice and provide clarification for the application process.

Mr. Gutiérrez has also determined that during the first five years the proposed amendments are in effect, the amendments will not create or eliminate a government program; will not require the creation or elimination of employee positions; will not require an increase or decrease in future legislative appropriations to the agency; will not require an increase or decrease in fees paid to the agency; does not create a new regulation; does not expand, limit or repeal an existing regulation; will not increase or decrease the number of individuals subject to the rule's applicability; and will not positively or adversely affect this state's economy.

An Economic Impact Statement and Regulatory Flexibility Analysis is not required because the proposed amendments will not have an economic effect on micro-businesses, small businesses, or rural communities as defined in Texas Government Code Section 2006.001.

Comments should be directed to Bettie Wells, General Counsel, Texas Board of Pardons and Paroles, 209 W. 14th Street, Suite 500, Austin, TX 78701, or by e-mail to bet-

tie.wells@tdcj.texas.gov. Written comments from the general public should be received within 30 days of the publication of this proposal.

The amended rule is proposed under the Texas Constitution, Article 4, Section 11, and Code of Criminal Procedure, Article 48.01. Both Article 4, Section 11, Texas Constitution and Article 48.01, Code of Criminal Procedure, authorize the Board to make clemency recommendations to the Governor.

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

§143.57. *Commutation of Death Sentence to Lesser Penalty.*

(a) The Board will consider recommending to the Governor a commutation of death sentence to a sentence of life imprisonment or the appropriate maximum penalty that can be imposed upon receipt of:

(1) a request from the majority of the trial officials of the court of conviction; or

(2) a written request of the offender or representative setting forth all grounds upon which the application is based, stating the full name of the offender, the county of conviction, the execution date, and contain the information outlined in §143.42(1) - (6) of this chapter (relating to Reprieve Recommended by the Board).

(b) The written application in behalf of an offender seeking a Board recommendation to the Governor of commutation of the death sentence to a lesser penalty shall be addressed to the Texas Board of Pardons and Paroles and must be delivered to the Texas Board of Pardons and Paroles, Clemency Section, 8610 Shoal Creek Boulevard, Austin, Texas 78757, not later than the twenty-first calendar day before the day the execution is scheduled. If the twenty-first calendar day before the execution is scheduled falls on a weekend or state observed holiday, the application shall be delivered not later than the next business day.

(c) All supplemental information not filed with the application, including but not limited to amendments, addenda, supplements, or exhibits, must be submitted in writing and delivered to the Texas Board of Pardons and Paroles, Clemency Section, 8610 Shoal Creek Boulevard, Austin, Texas 78757, not later than the fifteenth calendar day before the execution is scheduled. If the fifteenth calendar day before the execution is scheduled falls on a weekend or state observed holiday, all additional information including but not limited to amendments, addenda, supplements, or exhibits shall be delivered not later than the next business day.

(d) The application and any [Any] information filed with the application, including but not limited to amendments, addenda, supplements, or exhibits, must be provided by the applicant in an amount determined by the Presiding Officer. [sufficient to allow review by all members of the Board. An amount sufficient shall mean not less than 12 and not more than 20 copies of the duplicate item.]

(e) An offender seeking a Board recommendation to the Governor of commutation of the death sentence to a lesser penalty may request an interview with a member of the Board. Such request shall be included in the written application or any supplement filed therewith in accordance with this section.

(f) Upon receipt of a request for an interview, the Presiding Officer (Chair) shall designate at least one member of the Board to conduct the requested interview. Such interview shall occur at the confining unit of TDCJ-CID. Attendance at such interviews shall be limited to the offender, the designated Board Member(s), Board staff, and TDCJ-CID staff. The Board may consider statements made by the offender at such interviews and any other materials the offender delivers

to the Board Member during the interview when considering the offender's application for commutation of the death sentence to a lesser penalty.

(g) The Board shall consider and decide applications for commutation of the death sentence to a lesser penalty. Upon review, a majority of the Board, or a majority thereof, in written and signed form, may:

(1) recommend to the Governor the commutation of the death sentence to a lesser penalty;

(2) not recommend commutation of the death sentence to a lesser penalty; or

(3) set the matter for a hearing pursuant to §143.43 of this chapter (relating to Procedure in Capital Reprieve Cases).

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

Filed with the Office of the Secretary of State on April 16, 2021.

TRD-202101559

Bettie Wells

General Counsel

Texas Board of Pardons and Paroles

Earliest possible date of adoption: May 30, 2021

For further information, please call: (512) 406-5478



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 7. STATE OFFICE OF ADMINISTRATIVE HEARINGS

CHAPTER 155. RULES OF PROCEDURE SUBCHAPTER J. DISPOSITION OF CASE

1 TAC §155.503

The State Office of Administrative Hearings (SOAH) adopts amendments to Texas Administrative Code, Title 1, Part 7, Chapter 155, Rules of Procedure, Subchapter J, §155.503, concerning Dismissal Proceedings. The amendments are adopted without changes to the proposed text as published in the March 12, 2021, issue of the *Texas Register* (46 TexReg 1577) and will not be republished.

Reasoned Justification

Effective November 29, 2020, SOAH amended its Rules of Procedure in Chapter 155, including amendments to §155.503 regarding the dismissal of contested case proceedings. Section 155.503(c)(3) provides that when a case is dismissed for a failure to prosecute a matter, the case will be remanded to the referring agency, unless the case is reinstated by order of the presiding judge in response to a timely motion for reinstatement.

While the procedure described in §155.503(c)(3) is suitable for most cases in which one or more parties fail to prosecute their case, SOAH's administrative law judges recommend that the rule should be clarified to address the procedure to be followed where SOAH is authorized by law to render a final decision. The adopted amendments to §155.503(c)(3) clarify that: (A) if SOAH is not authorized to render a final decision, then the case will be remanded to the referring agency; and (B) if SOAH is authorized to render a final decision, then SOAH will conclude its involve-

ment in the matter and surrender jurisdiction. Both of these outcomes are supported by Texas Government Code §2003.051.

Public Comments

No comments were received regarding the proposed rule.

Statutory Authority

The amendments are adopted under: (i) Texas Government Code §2003.050, which provides that the Chief Administrative Law Judge shall adopt rules that govern procedures that relate to hearings conducted by SOAH; and (ii) Texas Government Code §2003.051, which provides that a state agency that has referred a matter to the office in which the office will conduct a hearing may not take any adjudicative action relating to the matter until the office has issued its proposal for decision or otherwise concluded its involvement in the matter.

Cross Reference to Statute

The adopted rule affects Chapters 2001 and 2003 of the Texas Government Code.

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

Filed with the Office of the Secretary of State on April 16, 2021.

TRD-202101561

Shane Linkous

General Counsel

State Office of Administrative Hearings

Effective date: May 6, 2021

Proposal publication date: March 12, 2021

For further information, please call: (512) 936-6624





TABLES & GRAPHICS

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

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

Figure: 26 TAC §745.607 [~~40 TAC §745.607~~]

Type of Background Check	Description of Background Check
(1) Fingerprint-based criminal history check	<p>A comparative search between the fingerprints of the subject of the background check and the:</p> <p>(A) DPS database of arrests for alleged crimes committed in Texas and dispositions;</p> <p>(B) FBI database of arrests for alleged crimes committed anywhere in the United States and Territories and dispositions;</p> <p>(C) DPS database of the Texas sex offender registry; and</p> <p>(D) FBI database of the <u>National Sex Offender Registry</u> [national sex offender registry].</p>
(2) Name-based Texas criminal history check	<p>A comparative search between the subject's name and the:</p> <p>(A) DPS database of arrests for alleged crimes committed in Texas and dispositions; and</p> <p>(B) DPS database for the Texas sex offender registry.</p>
(3) Central Registry check	<p>A comparative search between the subject's name and the Central Registry.</p>
(4) Out-of-state criminal history check	<p>A comparative search between the subject's name or fingerprints and another state's or territory's database of arrests for alleged crimes committed in the other state or territory and dispositions.</p>
(5) Out-of-state child abuse and neglect registry check	<p>A comparative search between the subject's name and another state's or territory's database of persons who have been found to have abused or neglected a child.</p>

(6) Out-of-state sex offender registry check	A comparative search between the subject's name and another state's or territory's sex offender registry.
(7) <u>National Sex Offender Registry check</u>	A comparative search between the subject's name and the <u>National Sex Offender Registry</u> . <u>This name-based check is separate from the check of the National Sex Offender Registry that is included in the fingerprint-based criminal history check.</u>



IN

ADDITION

The *Texas Register* is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings issued by the Office of Consumer Credit Commissioner, and consultant proposal requests and awards. State agencies also may publish other notices of general interest as space permits.

Comptroller of Public Accounts

Certification of the Average Closing Price of Gas and Oil March 2021

The Comptroller of Public Accounts, administering agency for the collection of the Oil Production Tax, has determined, as required by Tax Code, §202.058, that the average taxable price of oil for reporting period March 2021 is \$37.78 per barrel for the three-month period beginning on December 1, 2020, and ending February 28, 2021. Therefore, pursuant to Tax Code, §202.058, oil produced during the month of March 2021, from a qualified low-producing oil lease, is not eligible for credit on the oil production tax imposed by Tax Code, Chapter 202.

The Comptroller of Public Accounts, administering agency for the collection of the Natural Gas Production Tax, has determined, as required by Tax Code, §201.059, that the average taxable price of gas for reporting period March 2021 is \$1.58 per mcf for the three-month period beginning on December 1, 2020, and ending February 28, 2021. Therefore, pursuant to Tax Code, §201.059, gas produced during the month of March 2021, from a qualified low-producing well, is eligible for a 100% credit on the natural gas production tax imposed by Tax Code, Chapter 201.

The Comptroller of Public Accounts, administering agency for the collection of the Franchise Tax, has determined, as required by Tax Code, §171.1011(s), that the average closing price of West Texas Intermediate crude oil for the month of March 2021 is \$62.36 per barrel. Therefore, pursuant to Tax Code, §171.1011(r), a taxable entity shall not exclude total revenue received from oil produced during the month of March 2021, from a qualified low-producing oil well.

The Comptroller of Public Accounts, administering agency for the collection of the Franchise Tax, has determined, as required by Tax Code, §171.1011(s), that the average closing price of gas for the month of March 2021 is \$2.62 per MMBtu. Therefore, pursuant to Tax Code, §171.1011(r), a taxable entity shall exclude total revenue received from gas produced during the month of March 2021, from a qualified low-producing gas well.

TRD-202101547

William Hamner

Special Counsel for Tax Administration

Comptroller of Public Accounts

Filed: April 14, 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, 303.009 and 304.003, Texas Finance Code.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 04/26/21 - 05/02/21 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 04/26/21 - 05/02/21 is 18% for Commercial over \$250,000.

The judgment ceiling as prescribed by §304.003 for the period of 05/01/21 - 05/31/21 is 5.00% for Consumer/Agricultural/Commercial credit through \$250,000.

The judgment ceiling as prescribed by §304.003 for the period of 05/01/21 - 05/31/21 is 5.00% for commercial over \$250,000.

¹ Credit for personal, family or household use.

² Credit for business, commercial, investment or other similar purpose.

TRD-202101568

Leslie L Pettijohn

Commissioner

Office of Consumer Credit Commissioner

Filed: April 20, 2021

Credit Union Department

Application for a Merger or Consolidation

Notice is given that the following application has been filed with the Credit Union Department (Department) and is under consideration.

An application was received from Texas Trust Credit Union (Mansfield) seeking approval to merge with Texas Federal Credit Union (Dallas), with Texas Trust Credit Union being the surviving credit union.

Comments or a request for a meeting by any interested party relating to an application must be submitted in writing within 30 days from the date of this publication. Any written comments must provide all information that the interested party wishes the Department to consider in evaluating the application. All information received will be weighed during consideration of the merits of an application. Comments or a request for a meeting should be addressed to the Credit Union Department, 914 East Anderson Lane, Austin, Texas 78752-1699.

TRD-202101582

John J. Kolhoff

Commissioner

Credit Union Department

Filed: April 21, 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 **June 1, 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 C, 1st Floor, Austin, Texas 78753, (512) 239-2545 and at the applicable regional office listed as follows. Written comments about an AO should be sent to the enforcement coordinator designated for each AO at the commission's central office at P.O. Box 13087, Austin, Texas 78711-3087 and must be received by 5:00 p.m. on **June 1, 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: Abubaker Yusuf dba Texaco Station; DOCKET NUMBER: 2020-1383-PST-E; IDENTIFIER: RN102339405; LOCATION: Dallas, Dallas County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.50(b)(1)(A) and TWC, §26.3475(c)(1), by failing to monitor the underground storage tanks in a manner which will detect a release at a frequency of at least once every 30 days; and 30 TAC §334.606, by failing to maintain required operator training certification documentation on-site and make them available for inspection upon request by agency personnel; PENALTY: \$4,375; ENFORCEMENT COORDINATOR: Hailey Johnson, (512) 239-1756; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(2) COMPANY: Agrium U.S. Incorporated; DOCKET NUMBER: 2020-1379-AIR-E; IDENTIFIER: RN101865715; LOCATION: Borger, Hutchinson County; TYPE OF FACILITY: fertilizer manufacturing plant; RULES VIOLATED: 30 TAC §§101.20(3), 116.115(b)(2)(F) and (c), and 122.143(4), New Source Review Permit Numbers 19778 and PSDTX1326, Special Conditions Number 1, Federal Operating Permit Number O1689, General Terms and Conditions and Special Terms and Conditions Numbers 8 and 10, and Texas Health and Safety Code, §382.085(b), by failing to comply with the maximum allowable emissions rate; PENALTY: \$94,125; ENFORCEMENT COORDINATOR: Danielle Porras, (713) 767-3682; REGIONAL OFFICE: 3918 Canyon Drive, Amarillo, Texas 79109-4933, (806) 353-9251.

(3) COMPANY: Air Tractor, Incorporated; DOCKET NUMBER: 2020-1360-WQ-E; IDENTIFIER: RN101290682; LOCATION: Olney, Young County; TYPE OF FACILITY: small aircraft manufacturer; RULES VIOLATED: 30 TAC §315.1 and 40 Code of Federal Regulations (CFR) §403.12(e)(1), by failing to submit periodic compliance reports to the TCEQ; 30 TAC §315.1 and 40 CFR §403.12(g)(1), by failing to collect and analyze pretreatment samples; 30 TAC §315.1 and 40 CFR §403.12(g)(2), by failing to notify the TCEQ within 24 hours of becoming aware of a sampling violation, and failing to conduct resampling within 30 days of becoming aware of an exceedance; 30 TAC §315.1 and 40 CFR §433.12(a), by failing to conduct required monitoring to measure compliance with the Total Toxic Organics effluent standard; and 30 TAC §315.1 and 40 CFR §433.15(a), by failing to comply with categorical pretreatment

standards; PENALTY: \$71,925; ENFORCEMENT COORDINATOR: Steven Van Landingham, (512) 239-5717; REGIONAL OFFICE: 1977 Industrial Boulevard, Abilene, Texas 79602-7833, (325) 698-9674.

(4) COMPANY: ANUALI CORPORATION INC dba Mr Kwik; DOCKET NUMBER: 2020-1196-PST-E; IDENTIFIER: RN101737203; LOCATION: Longview, Gregg County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.49(c)(2)(C) and (4)(C) and TWC, §26.3475(d), 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, and failing to inspect and test the corrosion protection system for operability and adequacy of protection at a frequency of at least once every three years; and 30 TAC §334.50(b)(1)(A) and (2)(B)(i)(I) and TWC, §26.3475(b) and (c)(1), by failing to monitor the underground storage tanks (USTs) for releases in a manner which will detect a release at a frequency of at least once every 30 days, and failing to provide release detection for the suction piping associated with the UST system; PENALTY: \$6,989; ENFORCEMENT COORDINATOR: Karolyn Kent, (512) 239-2536; REGIONAL OFFICE: 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

(5) COMPANY: AZINO PROPERTY MANAGEMENT LLC dba Payless Food Mart; DOCKET NUMBER: 2019-1498-PST-E; IDENTIFIER: RN103026241; LOCATION: Frankston, Anderson County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.50(b)(1)(A) and TWC, §26.3475(c)(1), by failing to monitor the underground storage tanks in a manner which will detect a release at a frequency of at least once every 30 days; 30 TAC §334.72, by failing to report suspected releases within 24 hours of discovery; and 30 TAC §334.74, by failing to investigate suspected release within 30 days of discovery; PENALTY: \$57,454; ENFORCEMENT COORDINATOR: Berenice Munoz, (915) 834-4976; REGIONAL OFFICE: 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

(6) COMPANY: City of Lacy Lakeview; DOCKET NUMBER: 2020-1420-PWS-E; IDENTIFIER: RN101388650; LOCATION: Lacy Lakeview, McLennan County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.46(z), by failing to create a nitrification action plan for all systems distributing chloraminated water; and 30 TAC §290.110(c)(5), by failing to conduct chloramine effectiveness sampling to ensure that monochloramine is the prevailing chloramine species and that nitrification is controlled; PENALTY: \$1,080; ENFORCEMENT COORDINATOR: Samantha Salas, (512) 239-1543; REGIONAL OFFICE: 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

(7) COMPANY: Enterprise Products Operating LLC; DOCKET NUMBER: 2020-1050-AIR-E; IDENTIFIER: RN100543107; LOCATION: Mont Belvieu, Chambers County; TYPE OF FACILITY: natural gas liquid storage facility; RULES VIOLATED: 30 TAC §106.6(b), Permit by Rule Registration Number 110027, and Texas Health and Safety Code, §382.085(b), by failing to prevent unauthorized emissions; PENALTY: \$1,313; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$525; ENFORCEMENT COORDINATOR: Amanda Diaz, (713) 422-8912; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(8) COMPANY: F. & H. Water Service, L.L.C.; DOCKET NUMBER: 2020-1322-PWS-E; IDENTIFIER: RN106320989; LOCATION: Oakville, Live Oak County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.106(c) and (e), by failing to collect and report the results of nitrate sampling to the executive director for the January 1, 2019 - December 31, 2019, monitoring period; and 30 TAC §312.9 and TWC, §5.702, by failing to pay TCEQ

Waste Management Sludge Haulers fee and/or any associated late fees for the TCEQ Financial Administration Account Number 0804331H for Fiscal Year 2020; PENALTY: \$825; ENFORCEMENT COORDINATOR: Samantha Duncan, (512) 239-2511; REGIONAL OFFICE: 6300 Ocean Drive, Suite 1200, Corpus Christi, Texas 78412-5839, (361) 825-3100.

(9) COMPANY: Freeport LNG Development, L.P.; DOCKET NUMBER: 2020-1417-AIR-E; IDENTIFIER: RN106481500; LOCATION: Freeport, Brazoria County; TYPE OF FACILITY: natural gas treating plant; RULES VIOLATED: 30 TAC §116.115(c) and §122.143(4), New Source Review (NSR) Permit Numbers 104840 and N170, Special Conditions (SC) Number 1, Federal Operating Permit (FOP) Number O3958, General Terms and Conditions (GTC) and Special Terms and Conditions (STC) Number 8, and Texas Health and Safety Code (THSC), §382.085(b), by failing to prevent unauthorized emissions; and 30 TAC §116.115(c) and §122.143(4), NSR Permit Numbers 104840 and N170, SC Number 7.H, FOP Number O3958, GTC and STC Number 8, and THSC, §382.085(b), by failing to maintain the net heating value of the flare vent gas combustion zone greater than or equal to 800 British thermal units per standard cubic foot or the combustion zone gas lower flammability limit less than or equal to 6.5% by volume; PENALTY: \$12,375; ENFORCEMENT COORDINATOR: Toni Red, (512) 239-1704; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(10) COMPANY: Harris County Municipal Utility District 304; DOCKET NUMBER: 2020-1419-PWS-E; IDENTIFIER: RN102975877; LOCATION: Houston, Harris County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.42(l), by failing to maintain a thorough and up-to-date plant operations manual for operator review and reference; 30 TAC §290.46(l), by failing to flush all dead-end mains at monthly intervals; and 30 TAC §290.46(n)(2), by failing to make available an accurate and up-to-date map of the distribution system so that valves and mains can be easily located during emergencies; PENALTY: \$573; ENFORCEMENT COORDINATOR: Epifanio Villarreal, (361) 825-3421; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(11) COMPANY: HINESCLIFF, INCORPORATED dba Arena Mart; DOCKET NUMBER: 2020-1404-PST-E; IDENTIFIER: RN103025078; LOCATION: Dallas, Dallas County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.50(b)(1)(A) and (d)(1)(B)(ii) and TWC, §26.3475(c)(1), by failing to monitor the underground storage tanks in a manner which will detect a release at a frequency of at least once every 30 days, and failing to conduct reconciliation of detailed inventory control records at least once every 30 days in a manner sufficiently accurate to detect a release as small as the sum of 1.0% of the total substance flow-through period plus 130 gallons; PENALTY: \$3,375; ENFORCEMENT COORDINATOR: Courtney Atkins, (512) 534-6862; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(12) COMPANY: Lone Star NGL Fractionators LLC; DOCKET NUMBER: 2020-1416-AIR-E; IDENTIFIER: RN109902494; LOCATION: Mont Belvieu, Chambers County; TYPE OF FACILITY: natural gas processing plant; RULES VIOLATED: 30 TAC §101.201(a)(1)(B) and Texas Health and Safety Code (THSC), §382.085(b), by failing to submit an initial notification for a reportable emissions event no later than 24 hours after the discovery of an emissions event; and 30 TAC §116.115(c) and §116.615(2), Standard Permit Registration Number 148115, and THSC, §382.085(b), by failing to prevent unauthorized emissions; PENALTY: \$5,188; ENFORCEMENT COORDINATOR:

Danielle Porras, (713) 767-3682; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(13) COMPANY: Lyondell Chemical Company; DOCKET NUMBER: 2020-1432-AIR-E; IDENTIFIER: RN100633650; LOCATION: Channelview, Harris County; TYPE OF FACILITY: petrochemical plant; RULES VIOLATED: 30 TAC §116.115(c) and §122.143(4), New Source Review Permit Number 3346, Special Conditions Number 1, Federal Operating Permit Number O1387, General Terms and Conditions and Special Terms and Conditions Number 25, and Texas Health and Safety Code, §382.085(b), by failing to prevent unauthorized emissions; PENALTY: \$7,500; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$3,000; ENFORCEMENT COORDINATOR: Johnnie Wu, (512) 239-2524; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(14) COMPANY: M - COMPANY TRANSPORT INCORPORATED; DOCKET NUMBER: 2020-1406-MSW-E; IDENTIFIER: RN111058566; LOCATION: Floresville, Wilson County; TYPE OF FACILITY: freight shipping and trucking company; RULES VIOLATED: 30 TAC §327.5(a) and TWC, §26.266(a), by failing to immediately abate and contain a discharge or spill of municipal solid waste and begin reasonable response actions; PENALTY: \$3,750; ENFORCEMENT COORDINATOR: Alain Elegbe, (512) 239-6924; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

(15) COMPANY: Navarro Midstream Services, LLC; DOCKET NUMBER: 2020-1238-AIR-E; IDENTIFIER: RN106484413; LOCATION: Laredo, Webb County; TYPE OF FACILITY: oil and gas compressor station; RULES VIOLATED: 30 TAC §122.143(4) and §122.145(2)(A), (B), and (C), Federal Operating Permit (FOP) Number O3870/General Operating Permit (GOP) Number 514, Site-wide Requirements (b)(3), and Texas Health and Safety Code (THSC), §382.085(b), by failing to report all instances of deviations, failing to submit a deviation report for at least each six-month period after permit issuance, and failing to submit the deviation report no later than 30 days after the end of each reporting period; and 30 TAC §122.143(4) and §122.146(1) and (2), FOP Number O3870/GOP Number 514, Site-wide Requirements (b)(2) and (3), and THSC, §382.085(b), by failing to certify compliance with the terms and conditions of the permit for at least each 12-month period following initial permit issuance, and failing to submit a permit compliance certification within 30 days of any certification period; PENALTY: \$7,650; ENFORCEMENT COORDINATOR: Toni Red, (512) 239-1704; REGIONAL OFFICE: 707 East Calton Road, Suite 304, Laredo, Texas 78041-3887, (956) 791-6611.

(16) COMPANY: Patriot Rental & Investment LLC; DOCKET NUMBER: 2020-1386-PWS-E; IDENTIFIER: RN109935031; LOCATION: Hallsville, Harrison County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.107(e), by failing to provide the results of synthetic organic chemical contaminants sampling and volatile organic chemical contaminants sampling to the executive director (ED) for the April 1, 2020 - June 30, 2020, monitoring period; and 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 first and second quarters of 2020; PENALTY: \$2,337; ENFORCEMENT COORDINATOR: Samantha Salas, (512) 239-1543; REGIONAL OFFICE: 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

(17) COMPANY: Renda Environmental, Incorporated and the Trinity River Authority of Texas; DOCKET NUMBER: 2020-0631-WQ-E; IDENTIFIER: RN110743671; LOCATION: Paradise, Wise County;

TYPE OF FACILITY: biosolids application field; RULES VIOLATED: 30 TAC §312.44(h) and TWC, §26.121(a)(2) and (c), by failing to prevent an unauthorized discharge of waste into or adjacent to any water in the state; PENALTY: \$11,250; ENFORCEMENT COORDINATOR: Caleb Olson, (817) 588-5856; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(18) COMPANY: River Magic Inc dba Quality Mart 1; DOCKET NUMBER: 2020-1393-PST-E; IDENTIFIER: RN104524343; LOCATION: Garland, Dallas County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.50(b)(1)(A) and (2) and TWC, §26.3475(a) and (c)(1), by failing to monitor the underground storage tanks (USTs) in a manner which will detect a release at a frequency of at least once every 30 days, and failing to provide release detection for the pressurized piping associated with the UST system; PENALTY: \$2,438; ENFORCEMENT COORDINATOR: John Fennell, (512) 239-2616; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(19) COMPANY: Riviera Water Control and Improvement District; DOCKET NUMBER: 2019-1494-MWD-E; IDENTIFIER: RN105377535; LOCATION: Riviera, Kleberg County; TYPE OF FACILITY: wastewater treatment facility; RULES VIOLATED: 30 TAC §30.350(j) and §305.125(1) and Texas Pollutant Discharge Elimination System (TPDES) Permit Number WQ0013374002, Other Requirements Number 1, by failing to operate a domestic wastewater treatment facility a minimum of five days a week by the licensed chief operator or an operator holding the required level of license or higher; 30 TAC §305.125(1), TWC, §26.121(a)(1), and TPDES Permit Number WQ0013374002, Effluent Limitations and Monitoring Requirements Number 2, by failing to comply with permitted effluent limitations; 30 TAC §305.125(1) and (5) and TPDES Permit Number WQ0013374002, Operational Requirements Number 1, by failing to ensure the facility and all of its systems of collection, treatment, and disposal are properly operated and maintained; 30 TAC §305.125(1) and (4), TWC, §26.121(a)(1), and TPDES Permit Number WQ0013374002, Permit Conditions Number 2.d, by failing to take all reasonable steps to minimize or prevent any discharge or sludge use or disposal or other permit violation that has a reasonable likelihood of adversely affecting human health or the environment; and 30 TAC §305.125(1) and (5) and §317.4(g)(4)(A), and TPDES Permit Number WQ0013374002, Operational Requirements Number 1, by failing to ensure the facility and all of its systems of collection, treatment, and disposal are properly operated and maintained; PENALTY: \$38,688; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$38,688; ENFORCEMENT COORDINATOR: Steven Van Landingham, (512) 239-5717; REGIONAL OFFICE: 6300 Ocean Drive, Suite 1200, Corpus Christi, Texas 78412-5839, (361) 825-3100.

(20) COMPANY: S-Cow-10 Dairy, LLC; Nova Darlene Schouten; and Peter Henry Schouten, Sr.; DOCKET NUMBER: 2020-0869-AGR-E; IDENTIFIER: RN102362647; LOCATION: Stephenville, Erath County; TYPE OF FACILITY: dairy farm; RULES VIOLATED: 30 TAC §305.125(1) and §321.36(b) and Texas Pollutant Discharge Elimination System (TPDES) General Permit Number TXG920755, Part III.A(6)(c)(1) and (2), by failing to minimize entry of uncontaminated runoff and stormwater runoff into the retention control structures (RCSs); 30 TAC §§305.125(1), 321.39(b)(5), and 321.46(d)(5) and TPDES General Permit Number TXG920755, Part III.A(10)(f)(3), by failing to remove any tree such that the root zone would intrude or compromise the structure of the liner or embankment of the RCS 1; 30 TAC §305.125(1) and §321.39(c)(1) and TPDES General Permit Number TXG920755, Part III.A(10)(e), by failing to remove sludge from the RCS in accordance with the 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) and §321.39(g)(3) and TPDES General Permit Number TXG920755, Part III.A(11)(c), by failing to collect carcasses within 24 hours of death and properly dispose of them within three days of death; PENALTY: \$7,250; ENFORCEMENT COORDINATOR: Caleb Olson, (817) 588-5856; REGIONAL OFFICE: 580-D West Lingleville Road, Stephenville, Texas 76401-2209, (817) 588-5800.

(21) COMPANY: Spade Water Supply Corporation; DOCKET NUMBER: 2020-1421-PWS-E; IDENTIFIER: RN101458578; LOCATION: Spade, Lamb County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.42(m), by failing to provide an intruder-resistant fence around each water treatment plant and related appurtenances that remains locked during periods of darkness and when the facility is unattended, or a locked building in the fence line which may satisfy this requirement or serve as a gate; 30 TAC §290.43(d)(3), by failing to equip air injection lines with filters or other devices to prevent compressor lubricants and other contaminants from entering the facility's pressure tank; 30 TAC §290.46(f)(2) and (3)(A)(ii)(III), by failing to maintain water works operation and maintenance records and make them readily available for review by the executive director upon request; and 30 TAC §290.46(s)(1), by failing to calibrate the facility's two well meters at least once every three years; PENALTY: \$2,940; ENFORCEMENT COORDINATOR: Steven Hall, (512) 239-2569; REGIONAL OFFICE: 5012 50th Street, Suite 100, Lubbock, Texas 79414-3426, (806) 796-7092.

(22) COMPANY: Total Petrochemicals & Refining USA, Incorporated; DOCKET NUMBER: 2020-1414-IWD-E; IDENTIFIER: RN102457520; LOCATION: Port Arthur, Jefferson County; TYPE OF FACILITY: a petroleum refinery; RULES VIOLATED: 30 TAC §305.125(1), TWC, §26.121(a)(1), and Texas Pollutant Discharge Elimination System (TPDES) Permit Number WQ0000491000, Effluent Limitations and Monitoring Requirements Number 1, Outfall Numbers 004 and 007, by failing to comply with permitted effluent limitations; and 30 TAC §305.125(1) and (5) and §319.5(b), and TPDES Permit Number WQ0000491000, Effluent Limitations and Monitoring Requirements Number 1, Outfall 001, by failing to collect and analyze effluent samples at the intervals specified in the permit; PENALTY: \$21,669; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$8,668; ENFORCEMENT COORDINATOR: Stephanie Frederick, (512) 239-1001; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1830, (409) 898-3838.

(23) COMPANY: University of Texas Medical Branch at Galveston; DOCKET NUMBER: 2020-1217-AIR-E; IDENTIFIER: RN101921138; LOCATION: Galveston, Galveston County; TYPE OF FACILITY: medical research facility and hospital; RULES VIOLATED: 30 TAC §§101.20(3), 116.115(c), and 122.143(4), New Source Review Permit Numbers 56653 and PSDTX1376, Special Conditions Numbers 5 and 33, Federal Operating Permit Number O1531, General Terms and Conditions and Special Terms and Conditions Number 11, and Texas Health and Safety Code, §382.085(b), by failing to comply with the concentration limit; PENALTY: \$9,676; ENFORCEMENT COORDINATOR: Yuliya Dunaway, (210) 403-4077; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(24) COMPANY: Victoria County Water Control and Improvement District Number 1; DOCKET NUMBER: 2019-0979-MWD-E; IDENTIFIER: RN101516714; LOCATION: Bloomington, Victoria County; TYPE OF FACILITY: wastewater treatment facility; RULES VIOLATED: 30 TAC §305.125(1) and (5), TWC, §26.121(a)(1), and Texas Pollutant Discharge Elimination System Permit Number

WQ0010513002, Effluent Limitations and Monitoring Requirements Numbers 1 and 6, by failing to comply with permitted effluent limitations; PENALTY: \$33,000; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$33,000; ENFORCEMENT COORDINATOR: Harley Hobson, (512) 239-1337; REGIONAL OFFICE: 6300 Ocean Drive, Suite 1200, Corpus Christi, Texas 78412-5839, (361) 825-3100.

TRD-202101565
Charmaine Backens
Deputy Director, Litigation
Texas Commission on Environmental Quality
Filed: April 20, 2021



Cancellation of Public Meeting - Bell Concrete, Inc., Proposed Registration No. 164044

The public meeting previously scheduled for May 4, 2021, has been cancelled. This application has been withdrawn by the applicant. If you have any questions, please contact Mr. Brad Patterson, Section Manager, Office of the Chief Clerk, at (512) 239-1201.

TRD-202101587
Laurie Gharis
Chief Clerk
Texas Commission on Environmental Quality
Filed: April 21, 2021



Enforcement Orders

An agreed order was adopted regarding ANNAPURNA BUSINESS LLC dba Huntington Travel Center, Docket No. 2018-1001-PST-E on April 20, 2021, assessing \$4,120 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Jess Robinson, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding Alice Duncan, Docket No. 2019-0433-PST-E on April 20, 2021, assessing \$3,375 in administrative penalties with \$2,175 deferred. Information concerning any aspect of this order may be obtained by contacting Jess Robinson, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

TRD-202101580
Laurie Gharis
Chief Clerk
Texas Commission on Environmental Quality
Filed: April 21, 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 81298

APPLICATION. Ratliff Ready-Mix LP 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 81298 to authorize the operation of a permanent concrete batch plant with enhanced controls. The facility is proposed to be located at 1900 Taylors Valley Drive, Belton, Bell County, Texas 76513. This application is being processed in an expedited manner, as allowed by the commission's rules in 30 Texas Administrative Code, Chapter 101, Subchapter J. 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. <https://tceq.maps.arcgis.com/apps/webappviewer/index.html?id=db5bac44afbc468bbddd360f8168250f&marker=-97.442694%2C31.053996&level=12>. This application was submitted to the TCEQ on April 1, 2021. 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 April 16, 2021.

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 www14.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, May 26, 2021, at 6:00 p.m.

Members of the public who would like to ask questions or provide comments during the hearing may access the hearing via webcast by following this link: <https://www.gotomeeting.com/webinar/join-webinar> and entering Webinar ID 415-905-603. It is recommended that you join the webinar and register for the public hearing at least 15 minutes before the hearing 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 hearing for assistance in accessing the hearing and participating telephonically. Members of the public who wish to only listen to the hearing may call, toll free, (562) 247-8422 and enter access code 582-763-562.

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 com-

ments 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 Waco Regional Office, located at 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, 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 Ratliff Ready-Mix, LP, 1503 LBJ Freeway, Suite 400, Dallas, Texas 75234-6007, or by calling Ms. Shannon Bennett, Environmental Engineer at (254) 227-2773.

Notice Issuance Date: April 19, 2021

TRD-202101578

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: April 20, 2021



Notice of District Petition

Notice issued April 20, 2021

TCEQ Internal Control No. D-11132020-024; Rasor Family Ranch LP, a Texas limited partnership (Petitioner) filed a petition for creation of Grayson County Municipal Utility District No. 6 (District) with the Texas Commission on Environmental Quality (TCEQ). The petition was filed pursuant to Article XVI, §59 of the Constitution of the State of Texas; Chapters 49 and 54 of the Texas Water Code; 30 Texas Administrative Code Chapter 293; and the procedural rules of the TCEQ. The petition states that: (1) the Petitioner holds title to a majority in value of the land to be included in the proposed District; (2) there are no lienholders on the property to be included in the proposed District; (3) the proposed District will contain approximately 273.7 acres located within Grayson County, Texas; and (4) all of the land within the proposed District is within the extraterritorial jurisdiction of the City of Gunter, Texas. By Resolution No. 2020-10-15-1, passed and adopted on October 15, 2020, the City of Gunter, Texas, gave its consent to the creation of the proposed District, pursuant to Texas Water Code §54.016. The petition further states that the proposed District will: (1) purchase, design, construct, acquire, maintain, own, operate, repair, improve, and extend a waterworks and sanitary sewer system for residential and commercial purposes; (2) construct, acquire, improve, extend, maintain, and operate works, improvements, facilities, plants, equipment, and appliances helpful or necessary to provide more adequate drainage for the proposed District; (3) control, abate, and amend local storm waters or other harmful excesses of water; and (4) purchase, construct, acquire, maintain, own, operate, repair, improve, and extend such additional facilities, including roads, systems, plants, and enterprises as shall be consonant with all of the purposes for which the proposed District is created.

According to the petition, a preliminary investigation has been made to determine the cost of the project, and it is estimated by the Petitioners that the cost of said project will be approximately \$48,475,000 (\$33,050,000 for water, wastewater, and drainage plus \$15,425,000 for roads).

INFORMATION SECTION

To view the complete issued notice, view the notice on our web site at www.tceq.texas.gov/agency/cc/pub_notice.html or call the Office of the Chief Clerk at (512) 239-3300 to obtain a copy of the complete notice. When searching the web site, type in the issued date range shown at the top of this document to obtain search results.

The TCEQ may grant a contested case hearing on the petition if a written hearing request is filed within 30 days after the newspaper publication of the notice. To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) the name of the Petitioner and the TCEQ Internal Control Number; (3) the statement "I/we request a contested case hearing"; (4) a brief description of how you would be affected by the petition in a way not common to the general public; and (5) the location of your property relative to the proposed District's boundaries. You may also submit your proposed adjustments to the petition. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below. The Executive Director may approve the petition unless a written request for a contested case hearing is filed within 30 days after the newspaper publication of this notice. If a hearing request is filed, the Executive Director will not approve the petition and will forward the petition and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting. If a contested case hearing is held, it will be a legal proceeding similar to a civil trial in state district court. Written hearing requests should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Districts Review Team, at (512) 239-4691. Si desea información en español, puede llamar al (512) 239-0200. General information regarding TCEQ can be found at our web site at www.tceq.texas.gov.

TRD-202101577

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: April 20, 2021



Notice of Hearing El Paso Electric Company: SOAH Docket No. 582-21-1740; TCEQ Docket No. 2021-0314-AIR; Proposed Permit Nos. 1467, PSDTX1090M1, N284, and GHGPSDTX199

APPLICATION.

El Paso Electric Company, P.O. Box 982, El Paso, Texas 79960-0982, has applied to the Texas Commission on Environmental Quality (TCEQ) for amendment of Air Quality Permit 1467, modification to Prevention of Significant Deterioration (PSD) Air Quality Permit PSDTX1090M1, issuance of Nonattainment Permit Number N284, and issuance of Greenhouse Gas (GHG) PSD Air Quality Permit GHGPSDTX199 for emissions of GHGs, which would authorize modification of the Newman Power Station located at 4900 Stan Roberts Senior Avenue, El Paso, El Paso County, Texas 79934. As a public courtesy, we have provided the following Web page to an online map of the site or the facility's general location. The online map is not part of the application or the notice: <https://tceq.maps.arcgis.com/apps/webappviewer/index.html?id=db5bac44afbc468bb-ddd360f8168250f&marker=-106.430555%2C31.982222&level=12>. For the exact location, refer to the application. The existing facility

will emit the following air contaminants in a significant amount to require a Nonattainment Review: particulate matter with diameters of 10 microns or less. The facility will emit the following air contaminants in a significant amount: carbon monoxide, nitrogen oxides, organic compounds, particulate matter including particulate matter with diameters of 2.5 microns or less, and greenhouse gases. In addition, the facility will emit: ammonia, hazardous air pollutants,

sulfur dioxide and sulfuric acid mist. No other pollutant emission increase will result from this facility.

The degree of PSD increment predicted to be consumed by the proposed facility and other increment-consuming sources in the area is as follows:

Nitrogen Dioxide

Maximum Averaging Time	Maximum Increment Consumed (µg/m ³)	Allowable Increment (µg/m ³)
Annual	0.8	25

PM_{2.5}

Maximum Averaging Time	Maximum Increment Consumed (µg/m ³)	Allowable Increment (µg/m ³)
24-hour	0.3	9
Annual	0.05	4

This application was submitted to the TCEQ on November 16, 2019. The Executive Director has determined that the emissions of air contaminants from the existing facility which are subject to PSD review will not violate any state or federal air quality regulations and will not have any significant adverse impact on soils, vegetation, or visibility. All air contaminants have been evaluated, and "best available control technology" will be used for the control of these contaminants.

El Paso County has been designated nonattainment for PM10 because Continuous Ambient Air Monitoring Stations have shown that ambient concentrations of PM10 exceed the National Ambient Air Quality Standards (NAAQS) for PM10. The Federal Clean Air Act (FCAA) requires that new major stationary sources and major modifications at sources in designated nonattainment areas must satisfy nonattainment new source review prior to commencement of construction.

As required by the nonattainment review, all air contaminants have been evaluated and the "lowest achievable emission rate" has been addressed for the control of these contaminants. The emission increases from this project will be offset with emission reductions by a ratio of 1 to 1. Furthermore, the applicant has demonstrated that the benefits of the existing facility significantly outweigh the environmental and social costs imposed as a result of its location, construction, or modification. Finally, the applicant has certified that all major stationary sources owned or operated by the applicant in the state are in compliance or on a schedule for compliance with all applicable state and federal emission limitations and standards. The Executive Director, therefore, has made the preliminary determination to issue this permit.

The TCEQ Executive Director has prepared a draft permit which, if approved, would establish the conditions under which the facility must operate. The permit application, executive director's preliminary decision, draft permit, and the executive director's preliminary determination summary and executive director's air quality analysis, is available for viewing and copying at the TCEQ central office, the TCEQ El Paso regional office, and online at <https://www.epelectric.com/company/public-notice/newman-generating-station-proposed-air-quality-permit-amendment>. The facility's compliance file, if

any exists, is available for public review at the TCEQ El Paso Regional Office, 401 East Franklin Avenue Suite 560, El Paso, Texas.

DIRECT REFERRAL.

The Notice of Application and Preliminary Decision was published in English and Spanish on September 1, 2020. On February 22, 2021, the Applicant filed a request for direct referral to the State Office of Administrative Hearings (SOAH). Therefore, the chief clerk has referred this application directly to SOAH for a hearing on whether the portions of the application for Air Quality Permit Number 1467, for PSD Air Quality Permit Number PSDTX1090M1, and for Nonattainment Permit Number N284 comply with all applicable statutory and regulatory requirements. A contested case hearing is not applicable to the portion of the application for GHG PSD Air Quality Permit Number GHGPSDTX199, and the Executive Director may issue final approval of the application for the portion of the application for GHG PSD Air Quality Permit Number GHGPSDTX199.

CONTESTED CASE HEARING.

Considering directives to protect public health, the State Office of Administrative Hearings (SOAH) will conduct a preliminary hearing via Zoom videoconference. A Zoom meeting is a secure, free meeting held over the internet that allows video, audio, or audio/video conferencing.

10:00 a.m. - June 3, 2021

To join the Zoom meeting via computer:

<https://soah-texas.zoomgov.com/j/1617061786?pwd=dDBtU2hiakJzakMrMUZ3dmdCUUFZQT09>

Meeting ID: 161 706 1786

Password: PAzjv8

or

To join the Zoom meeting via telephone:

(346) 248-7799

Meeting ID: 161 706 1786

Password: 550112

Visit the SOAH website for registration at: <http://www.soah.texas.gov/> or call SOAH at (512) 475-4993.

The purpose of a preliminary hearing is to establish jurisdiction, name the parties, establish a procedural schedule for the remainder of the proceeding, and to address other matters as determined by the judge. The evidentiary hearing phase of the proceeding, which will occur at a later date, will be similar to a civil trial in state district court. The hearing will be conducted in accordance with the Chapter 2001, Texas Government Code; Chapter 382, Texas Health and Safety Code; TCEQ rules including 30 Texas Administrative Code (TAC) Chapter 116, Subchapters A and B; and the procedural rules of the TCEQ and SOAH, including 30 TAC Chapter 80 and 1 TAC Chapter 155.

To request to be a party, you must attend the hearing and show you would be affected by the application in a way not common to the general public. Any person may attend the hearing and request to be a party. Only persons named as parties may participate at the hearing.

MAILING LIST.

You may ask to be placed on a mailing list to obtain additional information on this application by sending a request to the Office of the Chief Clerk at the address below.

AGENCY CONTACTS AND INFORMATION.

Public comments and requests must be submitted either electronically at www.tceq.texas.gov/agency/decisions/cc/comments.html, or in writing to the Texas Commission on Environmental Quality, Office of the Chief Clerk, MC-105, P.O. Box 13087, Austin, Texas 78711-3087. If you communicate with the TCEQ electronically, please be aware that your email address, like your physical mailing address, will become part of the agency's public record. For more information about this permit application, the permitting process, or the contested case hearing process, please call the Public Education Program toll free at (800) 687-4040. Si desea información en español, puede llamar al (800) 687-4040. General information regarding the TCEQ may be obtained electronically at www.tceq.texas.gov

In accordance with 1 Texas Administrative Code §155.401(a), Notice of Hearing, "Parties that are not represented by an attorney may obtain information regarding contested case hearings on the public website of the State Office of Administrative Hearings at www.soah.texas.gov, or in printed format upon request to SOAH."

INFORMATION.

If you need more information about the hearing process for this application, please call the Public Education Program, toll free, at (800) 687-4040. General information regarding the TCEQ can be found at www.tceq.texas.gov.

Persons with disabilities who need special accommodations at the hearing should call the SOAH Docketing Department at (512) 475-4993, at least one week prior to the hearing.

Further information may also be obtained from El Paso Electric Company at the address stated above or by calling Mr. Daniel Perez, Supervisor - Environmental Compliance at (915) 543-4166.

Issued: April 14, 2021

TRD-202101555

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: April 15, 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 **June 1, 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 June 1, 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: MORENO'S QUICK STOP INC dba Moreno's Grocery; DOCKET NUMBER: 2019-0032-PST-E; TCEQ ID NUMBER: RN101835411; LOCATION: 4103 Commercial Avenue, San Antonio, Bexar County; TYPE OF FACILITY: underground storage tank (UST) system and a convenience store with retail sales of gasoline; RULES VIOLATED: TWC, §26.3475(c)(1) and 30 TAC §334.50(b)(1)(A), by failing to monitor the USTs for releases at a frequency of at least once every 30 days; PENALTY: \$3,375; STAFF ATTORNEY: Ben Warms, Litigation, MC 175, (512) 239-5144; REGIONAL OFFICE: San Antonio Regional Office, 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

(2) COMPANY: SASSOON PROPERTIES INVESTMENT GROUP, INC.; DOCKET NUMBER: 2020-0278-PWS-E; TCEQ ID NUMBER: RN101264174; LOCATION: 1633 Old Greens Road, Houston, Harris County; TYPE OF FACILITY: public water system; RULES VIOLATED: 30 TAC §290.43(d)(1), by failing to provide a pressure tank of 1,000 gallons capacity or larger that meets the American Society of Mechanical Engineers (ASME) Section VIII, Division I Codes and Construction Regulations - specifically, there was no ASME name plate on the pressure tank; 30 TAC §290.45(h)(1)(D), by failing to provide the use of portable generators capable of serving multiple facilities equipped with quick-connect systems in accordance with the affected utility's approved Emergency Preparedness Plan (EPP) - specifically, the necessary water plant equipment was not equipped with the quick-connect system to facilitate the implementation of the EPP; and 30 TAC §290.46(n)(3), by failing to keep on file copies of well completion data - specifically, well completion data for

Well Numbers 1 and 2 were not available; PENALTY: \$550; STAFF ATTORNEY: Casey Kurnath, Litigation, MC 175, (512) 239-5932; REGIONAL OFFICE: Houston Regional Office, 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(3) COMPANY: William Templeton; DOCKET NUMBER: 2019-0618-MSW-E; TCEQ ID NUMBER: RN110435245; LOCATION: 415 South Eye Street, Harlingen, Cameron County; TYPE OF FACILITY: unauthorized disposal site; RULE VIOLATED: 30 TAC §330.15(a) and (c), by causing, suffering, allowing, or permitting the unauthorized disposal of municipal solid waste; PENALTY: \$4,312; STAFF ATTORNEY: Clayton Smith, Litigation, MC 175, (512) 239-6224; REGIONAL OFFICE: Harlingen Regional Office, 1804 West Jefferson Avenue, Harlingen, Texas 78550-5247, (956) 425-6010.

TRD-202101566

Charmaine Backens

Deputy Director, Litigation

Texas Commission on Environmental Quality

Filed: April 20, 2021



Notice of Opportunity to Comment on Default Orders of Administrative Enforcement Actions

The Texas Commission on Environmental Quality (TCEQ or commission) staff is providing an opportunity for written public comment on the listed Default Orders (DOs). The commission staff proposes a DO when the staff has sent the Executive Director's Preliminary Report and Petition (EDPRP) to an entity outlining the alleged violations; the proposed penalty; the proposed technical requirements necessary to bring the entity back into compliance; and the entity fails to request a hearing on the matter within 20 days of its receipt of the EDPRP or requests a hearing and fails to participate at the hearing. Similar to the procedure followed with respect to Agreed Orders entered into by the executive director of the commission, in accordance with Texas Water Code (TWC), §7.075, this notice of the proposed order and the opportunity to comment is published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **June 1, 2021**. The commission will consider any written comments received, and the commission may withdraw or withhold approval of a DO if a comment discloses facts or considerations that indicate that consent to the proposed DO is inappropriate, improper, inadequate, or inconsistent with the requirements of the statutes and rules within the commission's jurisdiction, or the commission's orders and permits issued in accordance with the commission's regulatory authority. Additional notice of changes to a proposed DO is not required to be published if those changes are made in response to written comments.

A copy of each proposed DO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building A, 3rd Floor, Austin, Texas 78753, (512) 239-3400 and at the applicable regional office listed as follows. Written comments about the DO should be sent to the attorney designated for the DO at the commission's central office at P.O. Box 13087, MC 175, Austin, Texas 78711-3087 and must be **received by 5:00 p.m. on June 1, 2021**. Comments may also be sent by facsimile machine to the attorney at (512) 239-3434. The commission's attorneys are available to discuss the DOs and/or the comment procedure at the listed phone numbers; however, TWC, §7.075, provides that comments on the DOs shall be submitted to the commission in **writing**.

(1) COMPANY: Christian Wilson; DOCKET NUMBER: 2019-0999-MLM-E; TCEQ ID NUMBER: RN110776945; LOCATION: Parcel

8017, north of the end of Seashore Lane near Robert Lee, Coke County; TYPE OF FACILITY: unauthorized municipal solid waste (MSW) disposal site; RULES VIOLATED: 30 TAC §330.15(a) and (c), by causing, suffering, allowing or permitting the unauthorized disposal of MSW; Texas Health and Safety Code, §382.085(b) and 30 TAC §111.201, by causing, suffering, allowing, or permitting outdoor burning within the state of Texas; and 30 TAC §328.57(c)(1), by failing to obtain a tire transporter registration prior to transporting used and/or scrap tires; PENALTY: \$7,515; STAFF ATTORNEY: John S. Mercurief II, Litigation, MC 175, (512) 239-6944; REGIONAL OFFICE: San Angelo Regional Office, 622 South Oakes, Suite K, San Angelo, Texas 76903-7035, (325) 655-9479.

(2) COMPANY: Elizabeth K. Flores dba A & J Drive Thru; DOCKET NUMBER: 2020-0430-PST-E; TCEQ ID NUMBER: RN105834113; LOCATION: 614 Mira Flores Avenue, Zapata, Zapata County; TYPE OF FACILITY: underground storage tank (UST) system and a property that was formerly a service station; RULES VIOLATED: 30 TAC §334.602(a), by failing to identify and designate for the UST facility at least one named individual for each class of operator - Class A and B; and TWC, §26.3475(c)(1) and 30 TAC §334.50(a) and §334.54(c)(1), by failing to provide a release detection method capable of detecting any release from a temporarily out-of-service UST system that has not been emptied of all regulated substances; PENALTY: \$5,148; STAFF ATTORNEY: John S. Mercurief II, Litigation, MC 175, (512) 239-6944; REGIONAL OFFICE: Laredo Regional Office, 707 East Calton Road, Suite 304, Laredo, Texas 78041-3887, (956) 791-6611.

(3) COMPANY: Felipe Zavala, Sr. dba Legacy Customs SS; DOCKET NUMBER: 2019-0594-MLM-E; TCEQ ID NUMBER: RN110442811; LOCATION: 1017 Ritchie Road, Eagle Pass, Maverick County; TYPE OF FACILITY: auto body refinishing facility; RULES VIOLATED: Texas Health and Safety Code, §382.0518(a) and §382.085(b) and 30 TAC §116.110(a), by failing to obtain authorization prior to constructing or modifying a source of air contaminants; 30 TAC §328.56(c), by failing to use manifests, work orders, invoices, or other records to document the removal and management of all scrap tires generated on-site; 40 Code of Federal Regulations (CFR) §279.22(c)(1) and 30 TAC §324.6, by failing to clearly mark or label used oil storage containers with the words "used oil"; and 40 CFR §279.22(d) and 30 TAC §324.15, by failing to perform response actions upon detection of a release of used oil; PENALTY: \$3,675; STAFF ATTORNEY: Clayton Smith, Litigation, MC 175, (512) 239-6224; REGIONAL OFFICE: Laredo Regional Office, 707 East Calton Road, Suite 304, Laredo, Texas 78041-3887, (956) 791-6611.

(4) COMPANY: RALSTON ACRES WATER SUPPLY CORPORATION; DOCKET NUMBER: 2019-1028-PWS-E; TCEQ ID NUMBER: RN101280865; LOCATION: 7206 Heather Row Lane near Houston, Harris County; TYPE OF FACILITY: public water system; RULES VIOLATED: 30 TAC §290.45(h)(1), by failing to provide sufficient power to meet the capacity requirements; 30 TAC §290.46(n)(2), by failing to provide an accurate and up-to-date map of the distribution system, so that valves and mains can easily be located during emergencies; 30 TAC §290.46(m), by failing to initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of the system's facilities and equipment; 30 TAC §290.42(m), by failing to provide an intruder-resistant fence around each treatment plan and related appurtenances that remains locked during periods of darkness and when the facility is unattended; 30 TAC §290.44(h)(1)(A) and (B), by failing to implement an adequate internal cross-connection control program that includes annual inspection and testing by a backflow prevention assembly tester on all backflow prevention assemblies used for health hazard protection; 30 TAC §290.46(f)(2) and (3)(A)(iv), by failing to maintain water works operation and maintenance records and make

them readily available for review by the executive director (ED) upon request; 30 TAC §290.46(q)(1), by failing to provide a copy of the boil water notice (BWN) to the ED within 24 hours after issuance by the facility and a signed Certificate of Delivery to the ED within ten days after issuance of the BWN; and TWC, §5.702 and 30 TAC §291.76, by failing to pay regulatory assessment fees for TCEQ Public Utility Account regarding Certificate of Convenience and Necessity Number 13062 for the calendar year of 2018; PENALTY: \$1,622; STAFF ATTORNEY: Jim Sallans, Litigation, MC 175, (512) 239-2053; REGIONAL OFFICE: Houston Regional Office, 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

TRD-202101567

Charmaine Backens

Deputy Director, Litigation

Texas Commission on Environmental Quality

Filed: April 20, 2021



Notice of Water Quality Application

The following notices were issued on April 8, 2021 and April 14, 2021.

The following notices do 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

FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 182 has applied for a major amendment to Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0014758001 to authorize an increase in the discharge of treated domestic wastewater from a daily average flow not to exceed 600,000 gallons per day to an annual average flow not to exceed 1,500,000 gallons per day and to authorize a change in the discharge route. The facility is located at approximately 1.25 miles southwest of the intersection of Farm-to-Market Road 1463 and Fulshear Katy Road, in Fort Bend County, Texas 77441.

INFORMATION SECTION

DEER TRAIL WATER DISTRICT, LLC has applied for a minor amendment to the Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0015815001 to authorize the addition of two interim phases. The existing permit authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 112,000 gallons per day. The facility is located approximately 1.85 miles southeast of the intersection of Farm-to-Market Road 1484 and Farm-to-Market Road 2432, in Montgomery County, Texas 77303.

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-202101581

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: April 21, 2021



General Land Office

Notice and Opportunity to Comment on Requests for Consistency Agreement/Concurrence Under the Texas Coastal Management Program

On January 10, 1997, the State of Texas received federal approval of the Coastal Management Program (CMP) (62 *Federal Register* pp. 1439 - 1440). Under federal law, federal agency activities and actions affecting the Texas coastal zone must be consistent with the CMP goals and policies identified in 31 TAC Chapter 501. Requests for federal consistency review were deemed administratively complete for the following project(s) during the period of April 5, 2021 to April 16, 2021. As required by federal law, the public is given an opportunity to comment on the consistency of proposed activities in the coastal zone undertaken or authorized by federal agencies. Pursuant to 31 TAC §§506.25, 506.32, and 506.41, the public comment period extends 30 days from the date published on the Texas General Land Office web site. The notice was published on the web site on Friday, April 23, 2021. The public comment period for this project will close at 5:00 p.m. on Sunday, May 23, 2021.

FEDERAL AGENCY ACTIONS:

Applicant: Matagorda County - Palacios Seawall Commission

Location: The project site is in Tres Palacios Bay, immediately south of South Bay Boulevard at South Bay Park Beach, in Palacios, Matagorda County, Texas.

Latitude & Longitude (NAD 83): 28.698400, -96.216294

Project Description: The applicant proposes to discharge 4,800 cubic yards of clean beach sand along a 0.67-acre area of Tres Palacios Bay shoreline at South Bay Park Beach. The sand will be obtained from commercial sand sources and hauled to the site via truck. The beach nourishment is intended to increase the area available to the public for recreational activities.

Type of Application: U.S. Army Corps of Engineers permit application # SWG-2014-00870. This application will be reviewed pursuant to Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act. The consistency review for this project may be conducted by the Texas Commission on Environmental Quality as part of its certification under §401 of the Clean Water Act.

CMP Project No: 21-1267-F1

Applicant: The Kansas City Southern Railway Company

Location: The project site is located in the Sabine-Neches Canal, at DD 7 Levee Road, in Port Arthur, Jefferson County, Texas.

Latitude & Longitude (NAD 83): 29.942325, -93.876129

Project Description The applicant proposes to modify an existing permit to remove previously authorized impacts to 2.39 acres of palustrine forested (PFO) wetlands and add impacts to 0.84 acre of PFO wetlands during the construction of a track and loop facility at the Port Arthur Terminal. The rail spur located near State Highway 73 in the northwestern portion of the project site was originally included in the permit as permanent PFO impacts (2.39 acres). The original design called for this area to be cleared and filled to accommodate future track expansion options. The applicant has determined that this portion of the project design will not be constructed at this time. The 0.84-acre area of wetlands within the southwest corner of the facility, referenced as PFO 3 (sheet 4 of 4 in the attached plans), will now be adversely impacted due to grading and drainage improvements between the lead track and the loop track. This change in project design results in an overall net decrease in permanent PFO wetland impacts from 13.99 acres to 12.44 acres, but the new proposed impacts to 0.84 acres of PFO would be in an area that was to be previously avoided.

Type of Application: U.S. Army Corps of Engineers permit application # SWG-2013-00399. This application will be reviewed pursuant to Section 404 of the Clean Water Act. The consistency review for this project may be conducted by the Texas Commission on Environmental Quality as part of its certification under §401 of the Clean Water Act.

CMP Project No: 21-1266-F1

Further information on the applications listed above, including a copy of the consistency certifications or consistency determinations for inspection, may be obtained from the Texas General Land Office Public Information Officer at 1700 N. Congress Avenue, Austin, Texas 78701, or via email at pialegal@glo.texas.gov. Comments should be sent to the Texas General Land Office Coastal Management Program Coordinator at the above address or via email at federal.consistency@glo.texas.gov.

TRD-202101586

Mark A. Havens

Chief Clerk

General Land Office

Filed: April 21, 2021



Official Notice to Vessel Owner/Operator

(Pursuant to §40.254, Tex Nat. Res. Code)

PRELIMINARY REPORT

Authority

This preliminary report and notice of violation was issued by the Deputy Director, Oil Spill Prevention and Response Division (OSPR), Texas General Land Office, on April 12, 2021.

Facts

Based on an investigation conducted by Texas General Land Office-Region 2 staff on March 10, 2021, the Commissioner of the General Land Office (GLO), has determined that a 38' sailboat, vessel identified as **GLO Vessel Tracking Number 2-85207** is in a wrecked, derelict and substantially dismantled condition without the consent of the commissioner. The vessel is located at Old Brazos River at old Western Seafood Dock. There are no names, markings or identification numbers on the vessel, consequently, it is impossible to determine the vessel's owner of record. The GLO determined that pursuant to OSPRA §40.254(b)(2)(B), that the vessel does not have. Finally, the GLO determined that, because of the vessel's location and condition, the vessel poses an unreasonable threat to public health & safety and welfare.

Violation

YOU ARE HEREBY GIVEN NOTICE, pursuant to the provisions of § 40.254 of the Texas Natural Resources Code, (OSPRA) that you are in violation of OSPRA §40.108(a) that prohibits a person from leaving, abandoning, or maintaining any structure or vessel in or on coastal waters, on public or private lands, or at a public or private port or dock if the structure or vessel is in a wrecked, derelict, or substantially dismantled condition, and the Commissioner determines the vessel is involved in an actual or threatened unauthorized discharge of oil; a threat to the public health, safety, and welfare; a threat to the environment; or a navigational hazard. The Commissioner is authorized by OSPRA §40.108(b) to dispose of or contract for the disposal of any vessel described in §40.108(a).

Recommendation

The Commissioner recommends that the vessel be removed from Texas coastal waters and disposed of in accordance with OSPRA §40.108.

The owner or operator of this vessel can request a hearing to contest the violation and the removal and disposal of the vessel. If the owner or operator wants to request a hearing, a request in writing must be made within ten (10) days of this notice being posted on the vessel. The request for a hearing must be sent to: Texas General Land Office, Oil Spill Prevention and Response Division, P.O. Box 12873, Austin, Texas 78711. Failure to request a hearing may result in the removal and disposal of the vessel by the GLO. If the GLO removes and disposes of the vessel, the GLO has authority under TNRC §40.108(b) to recover the costs of removal and disposal from the vessel's owner or operator. For additional information contact our office at (512) 463-2613.

TRD-202101572

Mark A. Havens

Chief Clerk

General Land Office

Filed: April 20, 2021



Official Notice to Vessel Owner/Operator

(Pursuant to §40.254, Tex Nat. Res. Code)

PRELIMINARY REPORT

Authority

This preliminary report and notice of violation was issued by the Deputy Director, Oil Spill Prevention and Response Division (OSPR), Texas General Land Office, on April 12, 2021.

Facts

Based on an investigation conducted by Texas General Land Office-Region 2 staff on March 10, 2021, the Commissioner of the General Land Office (GLO), has determined that a 32' sailboat identified as **GLO Vessel Tracking Number 2-85208** is in a wrecked, derelict and substantially dismantled condition without the consent of the commissioner. The vessel is located at Old Brazos River and Veslasco Blvd in Brazoria County, TX.

The GLO determined that pursuant to OSPRA §40.254(b)(2)(B), that the vessel does have intrinsic value. The GLO has also determined that, because of the vessel's location and condition, the vessel poses a **THREAT TO PUBLIC HEALTH, SAFETY, OR WELFARE.**

Violation

YOU ARE HEREBY GIVEN NOTICE, pursuant to the provisions of §40.254 of the Texas Natural Resources Code, (OSPRA) that you are in violation of OSPRA §40.108(a) that prohibits a person from leaving, abandoning, or maintaining any structure or vessel in or on coastal waters, on public or private lands, or at a public or private port or dock if the structure or vessel is in a wrecked, derelict, or substantially dismantled condition, and the Commissioner determines the vessel is involved in an actual or threatened unauthorized discharge of oil; a threat to the public health, safety, and welfare; a threat to the environment; or a navigational hazard. The Commissioner is authorized by OSPRA §40.108(b) to dispose of or contract for the disposal of any vessel described in §40.108(a).

Recommendation

The Deputy Director has determined the person responsible for abandoning this vessel (GLO Tracking Number 2-85208) and recommends that the Commissioner order the abandoned vessel be disposed of in accordance with OSPRA §40.108.

The owner or operator of this vessel can request a hearing to contest the violation and the removal and disposal of the vessel. If the owner or operator wants to request a hearing, a request in writing must be made within twenty (20) days of this notice being posted on the vessel. The request for a hearing must be sent to: Texas General Land Office, Oil Spill Prevention and Response Division, P.O. Box 12873, Austin, Texas 78711. Failure to request a hearing may result in the removal and disposal of the vessel by the GLO. If the GLO removes and disposes of the vessel, the GLO has authority under TNRC §40.108(b) to recover the costs of removal and disposal from the vessel's owner or operator. For additional information contact our office at (512) 463-2613.

TRD-202101585
Mark A. Havens
Chief Clerk
General Land Office
Filed: April 21, 2021

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Department of State Health Services

Licensing Actions for Radioactive Materials

During the first half of March 2021, the Department of State Health Services (Department) has taken actions regarding Licenses for the possession and use of radioactive materials as listed in the tables (in alphabetical order by location). The subheading "Location" indicates the city in which the radioactive material may be possessed and/or used. The location listing "Throughout TX [Texas]" indicates that the radioactive material may be used on a temporary basis at locations throughout the state.

In issuing new licenses and amending and renewing existing licenses, the Department's Business Filing and Verification Section has determined that the applicant has complied with the licensing requirements in Title 25 Texas Administrative Code (TAC), Chapter 289, for the noted action. In granting termination of licenses, the Department has determined that the licensee has complied with the applicable decommissioning requirements of 25 TAC, Chapter 289. In granting exemptions to the licensing requirements of Chapter 289, the Department has determined that the exemption is not prohibited by law and will not result in a significant risk to public health and safety and the environment.

A person affected by the actions published in this notice may request a hearing within 30 days of the publication date. A "person affected" is defined as a person who demonstrates that the person has suffered or will suffer actual injury or economic damage and, if the person is not a local government, is (a) a resident of a county, or a county adjacent to the county, in which radioactive material is or will be located, or (b) doing business or has a legal interest in land in the county or adjacent county. 25 TAC §289.205(b)(15); Health and Safety Code §401.003(15). Requests must be made in writing and should contain the words "hearing request," the name and address of the person affected by the agency action, the name and license number of the entity that is the subject of the hearing request, a brief statement of how the person is affected by the action what the requestor seeks as the outcome of the hearing, and the name and address of the attorney if the requestor is represented by an attorney. Send hearing requests by mail to: Hearing Request, Radiation Material Licensing, MC 2835, PO Box 149347, Austin, Texas 78714-9347, or by fax to: 512-834-6690, or by e-mail to: RAMlicensing@dshs.texas.gov.

AMENDMENTS TO EXISTING LICENSES ISSUED:

Location of Use/Possession of Material	Name of Licensed Entity	License Number	City of Licensed Entity	Amendment Number	Date of Action
AMARILLO	BSA HOSPITAL LLC DBA THE DON & SYBIL HARRINGTON CANCER CENTER A DEPARTMENT OF BAPTIST ST ANTHONY'S HOSPITAL	L06556	AMARILLO	16	3/10/21
AUSTIN	WORLDWIDE CLINICAL TRIALS EARLY PHASE SERVICES/BIOANALYTICAL SCIENCES LLC	L04427	AUSTIN	22	3/3/21
BAYTOWN	SAN JACINTO METHODIST HOSPITAL DBA HOUSTON METHODIST BAYTOWN HOSPITAL	L02388	BAYTOWN	79	3/1/21
CONROE	SHASHI S BELLUR MD PA	L05728	CONROE	10	3/15/21
DALLAS	HEARTPLACE PA	L04607	DALLAS	75	3/15/21
DENTON	TEXAS WOMAN'S UNIVERSITY	L00304	DENTON	73	3/1/21
EL PASO	THE UNIVERSITY OF TEXAS AT EL PASO	L00159	EL PASO	76	3/5/21
EL PASO	EL PASO COUNTY HOSPITAL DISTRICT DBA UNIVERSITY MEDICAL CENTER OF EL PASO	L00502	EL PASO	81	3/5/21
FORT WORTH	COLUMBIA PLAZA MEDICAL CENTER OF FORT WORTH SUBSIDIARY LP DBA MEDICAL CITY FORT WORTH	L02171	FORT WORTH	66	3/5/21
GATESVILLE	CORYELL COUNTY MEMORIAL HOSPITAL AUTHORITY	L02391	GATESVILLE	41	3/5/21

AMENDMENTS TO EXISTING LICENSES ISSUED: (Continued)

HOUSTON	HOUSTON REFINING LP	L00187	HOUSTON	79	3/1/21
HOUSTON	MEMORIAL HERMANN HEALTH SYSTEM DBA MEMORIAL HERMANN MEMORIAL CITY MEDICAL CENTER	L01168	HOUSTON	189	3/9/21
LUBBOCK	LUBBOCK COUNTY HOSPITAL DISTRICT OF LUBBOCK COUNTY TEXAS	L04719	LUBBOCK	170	3/10/21
MCKINNEY	TEXAS ONCOLOGY PA DBA TEXAS ONCOLOGY	L06947	MCKINNEY	11	3/1/21
PORT LAVACA	MEMORIAL MEDICAL CENTER IN CALHOUN COUNTY	L04685	PORT LAVACA	12	3/9/21
ROUND ROCK	SAGE VETERINARY IMAGING PLLC	L07061	ROUND ROCK	02	3/10/21
SAN ANTONIO	THE UNIVERSITY OF TEXAS HEALTH SCIENCE CENTER AT SAN ANTONIO	L01279	SAN ANTONIO	174	3/10/21
SPRING	SHARED IMAGING LLC	L06614	SPRING	14	3/3/21
TEXARKANA	COLLOM & CARNEY CLINIC ASSOCIATION	L05524	TEXARKANA	14	3/1/21
TEXARKANA	CHRISTUS HEALTH ARK-LA-TEX DBA CHRISTUS ST MICHAEL HEALTH SYSTEMS	L04805	TEXARKANA	41	3/9/21
THROUGHOUT TX	TEXAS A&M UNIVERSITY	L00448	COLLEGE STATION	157	3/5/21
THROUGHOUT TX	HEALTHTEXAS PROVIDER NETWORK DBA BAYLOR SCOTT & WHITE CARDIOLOGY CONSULTANTS OF TEXAS	L06572	DALLAS	09	3/8/21

AMENDMENTS TO EXISTING LICENSES ISSUED: (Continued)

THROUGHOUT TX	REED ENGINEERING GROUP LTD	L04343	DALLAS	21	3/5/21
THROUGHOUT TX	HENLEY-JOHNSTON & ASSOCIATES INC	L00286	DALLAS	39	3/1/21
THROUGHOUT TX	PROFESSIONAL SERVICES INDUSTRIES INC	L02476	EL PASO	37	3/11/21
THROUGHOUT TX	GTS INC	L07019	FARMERS BRANCH	01	3/9/21
THROUGHOUT TX	KELSEY – SEYBOLD MEDICAL GROUP PLLC DBA KELSEY-SEYBOLD CLINIC	L00391	HOUSTON	81	3/8/21
THROUGHOUT TX	VARCO LP	L00287	HOUSTON	161	3/1/21
THROUGHOUT TX	LIBERTY OILFIELD SERVICES LLC	L06901	ODESSA	08	3/9/21
THROUGHOUT TX	BEYOND ENGINEERING AND TESTING LLC	L06924	ROUND ROCK	07	3/3/21
THROUGHOUT TX	ST DAVIDS HEALTHCARE PARTNERSHIP LP LLP DBA ST DAVIDS ROUND ROCK MEDICAL CENTER	L03469	ROUND ROCK	68	3/10/21
THROUGHOUT TX	TEXAS ONCOLOGY PA	L06759	SAN ANTONIO	08	3/5/21
THROUGHOUT TX	METHODIST HEALTHCARE SYSTEM OF SAN ANTONIO LTD LLP	L00594	SAN ANTONIO	380	3/3/21
THROUGHOUT TX	BRAUN INTERTEC CORPORATION	L06681	TYLER	18	3/3/21
THROUGHOUT TX	ALLENS NUTECH INC DBA NUTECH INC	L04274	TYLER	97	3/5/21
WAXAHACHIE	BAYLOR MEDICAL CENTER AT WAXAHACHIE DBA BAYLOR SCOTT & WHITE MEDICAL CENTER - WAXAHACHIE	L04536	WAXAHACHIE	57	3/3/21

RENEWAL OF LICENSES ISSUED:

Location of Use/Possession of Material	Name of Licensed Entity	License Number	City of Licensed Entity	Amendment Number	Date of Action
ARLINGTON	THE UNIVERSITY OF TEXAS AT ARLINGTON	L00248	ARLINGTON	62	3/1/21
AUSTIN	AUSTIN WHITE LIME COMPANY LTD	L02941	AUSTIN	15	3/12/21
CHANNELVIEW	LYONDELL CHEMICAL COMPANY	L04439	CHANNELVIEW	34	3/4/21
HOUSTON	BAYLOR COLLEGE OF MEDICINE	L00680	HOUSTON	129	3/9/21
THROUGHOUT TX	RWLS LLC DBA RENEGADE SERVICES	L06307	ANDREWS	39	3/10/21
THROUGHOUT TX	GLOBE ENGINEERS INC	L05527	DALLAS	07	3/8/21

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
MINERAL WELLS	4T-NDT & INSPECTIONS LLC	L06397	MINERAL WELLS	01	3/3/21

TRD-202101591
 Barbara L. Klein
 General Counsel
 Department of State Health Services
 Filed: April 21, 2021

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 Licensing Actions for Radioactive Materials

During the second half of March 2021, the Department of State Health Services (Department) has taken actions regarding Licenses for the possession and use of radioactive materials as listed in the tables (in alphabetical order by location). The subheading "Location" indicates the city in which the radioactive material may be possessed and/or used. The location listing "Throughout TX [Texas]" indicates that the radioactive material may be used on a temporary basis at locations throughout the state.

In issuing new licenses and amending and renewing existing licenses, the Department's Business Filing and Verification Section has determined that the applicant has complied with the licensing requirements in Title 25 Texas Administrative Code (TAC), Chapter 289, for the noted action. In granting termination of licenses, the Department has determined that the licensee has complied with the applicable decommissioning requirements of 25 TAC, Chapter 289. In granting exemptions to the licensing requirements of Chapter 289, the Department has determined that the exemption is not prohibited by law and will not result in a significant risk to public health and safety and the environment.

A person affected by the actions published in this notice may request a hearing within 30 days of the publication date. A "person affected" is defined as a person who demonstrates that the person has suffered or will suffer actual injury or economic damage and, if the person is not a local government, is (a) a resident of a county, or a county adjacent to the county, in which radioactive material is or will be located, or (b) doing business or has a legal interest in land in the county or adjacent county. 25 TAC §289.205(b)(15); Health and Safety Code §401.003(15). Requests must be made in writing and should contain the words "hearing request," the name and address of the person affected by the agency action, the name and license number of the entity that is the subject of the hearing request, a brief statement of how the person is affected by the action what the requestor seeks as the outcome of the hearing, and the name and address of the attorney if the requestor is represented by an attorney. Send hearing requests by mail to: Hearing Request, Radiation Material Licensing, MC 2835, PO Box 149347, Austin, Texas 78714-9347, or by fax to: 512-834-6690, or by e-mail to: RAMlicensing@dshs.texas.gov.

NEW LICENSES ISSUED:

Location of Use/Possession of Material	Name of Licensed Entity	License Number	City of Licensed Entity	Amendment Number	Date of Action
SINTON	STEEL DYNAMICS SOUTHWEST LLC	L07106	SINTON	00	03/17/21

AMENDMENTS TO EXISTING LICENSES ISSUED:

Location of Use/Possession of Material	Name of Licensed Entity	License Number	City of Licensed Entity	Amendment Number	Date of Action
AMARILLO	BSA HOSPITAL LLC DBA BAPTIST ST ANTHONYS HOSPITAL	L06573	AMARILLO	14	3/24/21
AMARILLO	BSA HOSPITAL LLC	L06556	AMARILLO	17	03/26/21
ATHENS	ATHENS HOSPITAL LLC DBA UT HEALTH EAST TEXAS ATHENS HOSPITAL	L06979	ATHENS	1	03/16/21
AUSTIN	ARA ST DAVIDS IMAGING LP	L05862	AUSTIN	105	03/15/21
BROWNWOOD	HENDRICK MEDICAL CENTER BROWNWOOD	L02322	BROWNWOOD	69	03/31/21
CLEVELAND	EMERGENCY HOSPITAL SYSTEMS LLC	L06886	CLEVELAND	05	03/29/21
DALLAS	PRESBYTERIAN CANCER CENTER - DALLAS LLC	L06056	DALLAS	16	03/15/21
DALLAS	CARDINAL HEALTH	L05610	DALLAS	48	03/17/21
DALLAS	RLS (USA) INC	L05529	DALLAS	57	03/31/21
DALLAS	PETNET SOLUTIONS INC	L05193	DALLAS	60	03/15/21
DALLAS	METHODIST HOSPITALS OF DALLAS	L00659	DALLAS	140	03/15/21
DEER PARK	BILFINGER SALAMIS INC	L07048	DEER PARK	1	03/17/21
DENTON	NORTH TEXAS CANCER CENTER LP	L05945	DENTON	16	03/31/21
DENTON	COLUMBIA MEDICAL CENTER OF DENTON SUBSIDIARY LP DBA MEDICAL CITY DENTON	L02764	DENTON	78	03/17/21

AMENDMENTS TO EXISTING LICENSES ISSUED: (Continued)

EL PASO	TENET HOSPITALS LIMITED DBA THE HOSPITALS OF PROVIDENCE EAST CAMPUS	L06152	EL PASO	36	03/19/21
EL PASO	TENET HOSPITALS LIMITED DBA THE HOSPITALS OF PROVIDENCE MEMORIAL CAMPUS	L02353	EL PASO	149	03/19/21
FREEPORT	BLUE CUBE OPERATIONS LLC	L06926	FREEPORT	02	03/18/21
FRIENDSWOOD	ISO-TEX DIAGNOSTICS INC	L02999	FRIENDSWOOD	54	03/26/21
FRISCO	FRISCO MEDICAL CENTER LLP	L07099	FRISCO	01	3/16/21
FRISCO	FRISCO MEDICAL CENTER LLP	L07099	FRISCO	02	3/21/21
HOUSTON	MEMORIAL HERMANN HEALTH SYSTEM DBA MEMORIAL HERMANN TEXAS MEDICAL CENTER	L06439	HOUSTON	19	03/31/21
HOUSTON	HARRIS COUNTY HOSPITAL DISTRICT DBA HARRIS HEALTH SYSTEM	L01303	HOUSTON	104	03/31/21
HOUSTON	THE UNIVERSITY OF TEXAS MD ANDERSON CANCER CENTER	L00466	HOUSTON	180	03/19/21
HOUSTON	MEMORIAL HERMANN HEALTH SYSTEM	L00439	HOUSTON	253	03/29/21
IRVING	DALLAS-FT WORTH VETERINARY IMAGING CENTER DBA ANIMAL IMAGING	L04602	IRVING	22	03/15/21

AMENDMENTS TO EXISTING LICENSES ISSUED: (Continued)

LUBBOCK	TEXAS TECH UNIVERSITY HEALTH SCIENCES CENTER	L01869	LUBBOCK	103	03/24/21
LUFKIN	PINEY WOODS HEALTHCARE SYSTEM LP DBA WOODLAND HEIGHTS MEDICAL CENTER	L01842	LUFKIN	70	03/15/21
MCALLEN	RIO GRANDE VALLEY ISOTOPES LLC	L06202	MCALLEN	10	03/16/21
NACOGDOCHES	TH HEALTHCARE LTD DBA NACOGDOCHES MEDICAL CENTER	L02853	NACOGDOCHES	58	03/15/21
ODESSA	ODESSA REGIONAL HOSPITAL LP	L04885	ODESSA	16	03/26/21
PASADENA	BAYPORT POLYMERS LLC	L06922	PASADENA	09	03/30/21
SAN ANTONIO	SOUTH TEXAS RADIOLOGY IMAGING CENTERS	L00325	SAN ANTONIO	254	03/22/21
SUGARLAND	MEMORIAL HERMANN HEALTH SYSTEM DBA MEMORIAL HERMANN SUGARLAND HOSPITAL	L03457	HOUSTON	73	03/23/21
SUGARLAND	ST LUKES COMMUNITY DEVELOPMENT CORPORATION – SUGAR LAND DBA ST LUKES SUGAR LAND HOSPITAL	L06532	ROSENBURG	3	03/31/21
SWEETWATER	ROLLING PLAINS MEMORIAL HOSPITAL	L02550	SWEETWATER	29	03/24/21

AMENDMENTS TO EXISTING LICENSES ISSUED: (Continued)

TEXARKANA	RED RIVER PHARMACY SERVICES INC DBA RED RIVER NUCLEAR PHARMACY	L05077	TEXARKANA	38	03/26/21
THE WOODLANDS	METHODIST HEALTH CENTER DBA HOUSTON METHODIST THE WOODLANDS HOSPITAL	L06861	THE WOODLANDS	6	03/24/21
THROUGHOUT TEXAS	CARDIAC IMAGING INC	L06565	BEAUMONT	18	3/26/21
THROUGHOUT TEXAS	CARDINAL HEALTH 414 LLC DBA CARDINAL HEALTH NUCLEAR PHARMACY SERVICES	L02033	SAN ANTONIO	114	03/19/21
THROUGHOUT TEXAS	TEXAS ONCOLOGY PA	L05502	SHERMAN	23	03/17/21
THROUGHOUT TEXAS	PROJECT MANAGEMENT ASSOCIATES PLLC	L06825	SOUTHLAKE	03	03/29/21
THROUGHOUT TEXAS	SCHLUMBERGER TECHNOLOGY CORPORATION	L06303	SUGAR LAND	20	03/29/21
THROUGHOUT TEXAS	SCHLUMBERGER TECHNOLOGY CORPORATION	L01833	SUGAR LAND	221	03/29/21
VICTORIA	INV NYLON CHEMICALS AMERICAS LLC	L00386	VICTORIA	96	03/17/21
VICTORIA	CITIZENS MEDICAL CENTER	L00283	VICTORIA	102	03/15/21
WACO	ASCENSION PROVIDENCE	L01638	WACO	77	03/23/21
WAXAHACHIE	BAYLOR MEDICAL CENTER AT WAXAHACHIE DBA BAYLOR SCOTT & WHITE MEDICAL CENTER - WAXAHACHIE	L06874	WAXAHACHIE	4	03/16/21

AMENDMENTS TO EXISTING LICENSES ISSUED: (Continued)

WICHITA FALLS	KELL WEST REGIONAL HOSPITAL LLC	L05943	WICHITA FALLS	21	03/16/21
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RENEWAL OF LICENSES ISSUED:

Location of Use/Possession of Material	Name of Licensed Entity	License Number	City of Licensed Entity	Amendment Number	Date of Action
MCALLEN	COLUMBIA RIO GRANDE HEALTHCARE LP DBA RIO GRANDE REGIONAL HOSPITAL	L03288	MCALLEN	61	03/15/21
TEXARKANA	BRIM HEALTHCARE OF TEXAS LLC DBA WADLEY REGIONAL MEDICAL CENTER	L06242	TEXARKANA	05	03/17/21
THROUGHOUT TEXAS	APPLIED STANDARDS INSPECTION INC	L03072	BEAUMONT	120	03/29/21

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
DALLAS	BAYLOR SURGICARE AT NORTH DALLAS LLC	L06785	DALLAS	001	03/29/21
SUGAR LAND	SCHLUMBERGER TECHNOLOGY CORPORATION	L00764	SUGAR LAND	172	03/29/21

TRD-202101592

Barbara L. Klein
General Counsel
Department of State Health Services
Filed: April 21, 2021

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Texas Department of Insurance

Company Licensing

Application to do business in the state of Texas for Technology Benefits Trust, a domestic Multiple Employer Welfare Arrangement (MEWA). The home office is in Austin, Texas.

Application for Imperial Insurance Companies, Inc., a domestic Health Maintenance Organization (HMO), DBA Imperial Health. The home office is in Dallas, Texas.

Application for incorporation in the state of Texas for Worth Insurance Company, a domestic fire and/or casualty company. The home office is in Fort Worth, Texas.

Any objections must be filed with the Texas Department of Insurance, within twenty (20) calendar days from the date of the *Texas Register* publication, addressed to the attention of Robert Rudnai, 333 Guadalupe Street, MC 103-CL, Austin, Texas 78701.

TRD-202101579
James Person
General Counsel
Texas Department of Insurance
Filed: April 30, 2021

◆ ◆ ◆
Texas Department of Licensing and Regulation

Course of Organized Instruction (COI) for Driving Safety

(Editor's note: In accordance with Texas Government Code, §2002.014, which permits the omission of material which is "cumbersome, expensive, or otherwise inexpedient," the figure in this document is not included in the print version of the Texas Register. The figure is available in the on-line version of the April 30, 2021, issue of the Texas Register.)

The Texas Department of Licensing and Regulation publishes the Course of Organized Instruction (COI) for Driving Safety. The COI for Driving Safety is incorporated by reference and to be considered with the proposed new rule at 16 Texas Administrative Code (TAC), Chapter 84, Subchapter A, §84.3; and proposed amendments to existing rules at Subchapter C, §84.44 and §84.45; Subchapter D, §84.50; Subchapter L, §84.400; Subchapter M, §§84.500 - 84.506; and Subchapter N, §84.600, regarding the Driver Education and Safety Program. The proposed amendments and new rule were published in the April 23, 2021, issue of the *Texas Register* (46 TexReg 2641).

Figure: Course of Organized Instruction (COI) for Driving Safety
TRD-202101589
Brad Bowman
General Counsel
Texas Department of Licensing and Regulation
Filed: April 21, 2021

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Course of Organized Instruction (COI) for Specialized Driving Safety

(Editor's note: In accordance with Texas Government Code, §2002.014, which permits the omission of material which is "cumbersome, expensive, or otherwise inexpedient," the figure in this document is not included in the print version of the Texas Register. The figure is available in the on-line version of the April 30, 2021, issue of the Texas Register.)

The Texas Department of Licensing and Regulation publishes the Course of Organized Instruction (COI) for Specialized Driving Safety. The COI for Specialized Driving Safety is incorporated by reference and to be considered with the proposed new rule at 16 Texas Administrative Code (TAC), Chapter 84, Subchapter A, §84.3; and proposed amendments to existing rules at Subchapter C, §84.44 and §84.45; Subchapter D, §84.50; Subchapter L, §84.400; Subchapter M, §§84.500 - 84.506; and Subchapter N, §84.600, regarding the Driver Education and Safety Program. The proposed amendments and new rule were published in the April 23, 2021, issue of the *Texas Register* (46 TexReg 2641).

Figure: Course of Organized Instruction (COI) for Specialized Driving Safety

TRD-202101595
Brad Bowman
General Counsel
Texas Department of Licensing and Regulation
Filed: April 21, 2021

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Program of Organized Instruction (POI) for Driver Education and Traffic Safety

(Editor's note: In accordance with Texas Government Code, §2002.014, which permits the omission of material which is "cumbersome, expensive, or otherwise inexpedient," the figure in this document is not included in the print version of the Texas Register. The figure is available in the on-line version of the April 30, 2021, issue of the Texas Register.)

The Texas Department of Licensing and Regulation publishes the Program of Organized Instruction (POI) for Driver Education and Traffic Safety. The POI for Driver Education and Traffic Safety is incorporated by reference and to be considered with the proposed new rule at 16 Texas Administrative Code (TAC), Chapter 84, Subchapter A, §84.3; and proposed amendments to existing rules at Subchapter C, §84.44 and §84.45; Subchapter D, §84.50; Subchapter L, §84.400; Subchapter M, §§84.500 - 84.506; and Subchapter N, §84.600, regarding the Driver Education and Safety Program. The proposed amendments and new rule were published in the April 23, 2021, issue of the *Texas Register* (46 TexReg 2641).

Figure: Program of Organized Instruction (POI) for Driver Education and Traffic Safety

TRD-202101593
Brad Bowman
General Counsel
Texas Department of Licensing and Regulation
Filed: April 21, 2021

◆ ◆ ◆
Program of Organized Instruction (POI) for Driver Education and Traffic Safety (Adult Six-Hour)

(Editor's note: In accordance with Texas Government Code, §2002.014, which permits the omission of material which is "cumbersome, expensive, or otherwise inexpedient," the figure in this document

is not included in the print version of the *Texas Register*. The figure is available in the on-line version of the April 30, 2021, issue of the *Texas Register*.)

The Texas Department of Licensing and Regulation publishes the Program of Organized Instruction (POI) for Driver Education and Traffic Safety (Adult Six-Hour). The POI for Driver Education and Traffic Safety (Adult Six-Hour) is incorporated by reference and to be considered with the proposed new rule at 16 Texas Administrative Code (TAC), Chapter 84, Subchapter A, §84.3; and proposed amendments to existing rules at Subchapter C, §84.44 and §84.45; Subchapter D, §84.50; Subchapter L, §84.400; Subchapter M, §§84.500 - 84.506; and Subchapter N, §84.600, regarding the Driver Education and Safety Program. The proposed amendments and new rule were published in the April 23, 2021, issue of the *Texas Register* (46 TexReg 2641).

Figure: Program of Organized Instruction (POI) for Driver Education and Traffic Safety (Adult Six-Hour)

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Brad Bowman

General Counsel

Texas Department of Licensing and Regulation

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Program of Organized Instruction (POI) for Drug and Alcohol Driving Awareness Programs (DADAP)

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The Texas Department of Licensing and Regulation publishes the Program of Organized Instruction (POI) for Drug and Alcohol Driving Awareness Programs (DADAP). The POI-DADAP is incorporated by reference and to be considered with the proposed new rule at 16 Texas Administrative Code (TAC), Chapter 84, Subchapter A, §84.3; and proposed amendments to existing rules at Subchapter C, §84.44 and §84.45; Subchapter D, §84.50; Subchapter L, §84.400; Subchapter M, §§84.500 - 84.506; and Subchapter N, §84.600, regarding the Driver Education and Safety Program. The proposed amendments and new rule were published April 23, 2021, issue of the *Texas Register* (46 TexReg 2641).

Figure: Program of Organized Instruction (POI) for Drug and Alcohol Driving Awareness Programs (DADAP)

TRD-202101588

Brad Bowman

General Counsel

Texas Department of Licensing and Regulation

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Texas Lottery Commission

Scratch Ticket Game Number 2294 "LUCKY 3"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 2294 is "LUCKY 3". The play style is "key number match".

1.1 Price of Scratch Ticket Game.

A. The price for Scratch Ticket Game No. 2294 shall be \$2.00 per Scratch Ticket.

1.2 Definitions in Scratch Ticket Game No. 2294.

A. Display Printing - That area of the Scratch Ticket outside of the area where the overprint and Play Symbols appear.

B. Latex Overprint - The removable scratch-off covering over the Play Symbols on the front of the Scratch Ticket.

C. Play Symbol - The printed data under the latex on the front of the Scratch Ticket that is used to determine eligibility for a prize. Each Play Symbol is printed in Symbol font in black ink in positive except for dual-image games. The possible black Play Symbols are: 01, 02, 04, 05, 06, 07, 08, 09, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 3X SYMBOL, \$2.00, \$3.00, \$6.00, \$9.00, \$10.00, \$20.00, \$30.00, \$60.00, \$100, \$1,000 and \$30,000.

D. Play Symbol Caption - The printed material appearing below each Play Symbol which explains the Play Symbol. One caption appears under each Play Symbol and is printed in caption font in black ink in positive. The Play Symbol Caption which corresponds with and verifies each Play Symbol is as follows:

Figure 1: GAME NO. 2294 - 1.2D

PLAY SYMBOL	CAPTION
01	ONE
02	TWO
04	FOR
05	FIV
06	SIX
07	SVN
08	EGT
09	NIN
10	TEN
11	ELV
12	TLV
13	TRN
14	FTN
15	FFN
16	SXN
17	SVT
18	ETN
19	NTN
20	TWY
21	TWON
22	TWTO
23	TWTH
24	TWFR
25	TWV
3X SYMBOL	TRP

\$2.00	TWO\$
\$3.00	THR\$
\$6.00	SIX\$
\$9.00	NIN\$
\$10.00	TEN\$
\$20.00	TWY\$
\$30.00	TRTY\$
\$60.00	SXTY\$
\$100	ONHN
\$1,000	ONTH
\$30,000	30TH

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 (2294), a seven (7) digit Pack number, and a three (3) digit Ticket number. Ticket numbers start with 001 and end with 125 within each Pack. The format will be: 2294-0000001-001.

H. Pack - A Pack of the "LUCKY 3" Scratch Ticket Game contains 125 Tickets, packed in plastic shrink-wrapping and fanfolded in pages of two (2). One Ticket will be folded over to expose a front and back of one Ticket on each Pack. All Packs will be tightly shrink-wrapped. There will be no breaks between the Tickets in a Pack.

I. Non-Winning Scratch Ticket - A Scratch Ticket which is not programmed to be a winning Scratch Ticket or a Scratch Ticket that does not meet all of the requirements of these Game Procedures, the State Lottery Act (Texas Government Code, Chapter 466), and applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401.

J. Scratch Ticket Game, Scratch Ticket or Ticket - Texas Lottery "LUCKY 3" Scratch Ticket Game No. 2294.

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 "LUCKY 3" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off

to expose twenty-three (23) Play Symbols. If a player matches any of the YOUR NUMBERS Play Symbols to any of the WINNING NUMBERS Play Symbols, the player wins the PRIZE for that number. If the player reveals a "3X" Play Symbol, the player wins TRIPLE the PRIZE for that symbol. No portion of the Display Printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Scratch Ticket.

2.1 Scratch Ticket Validation Requirements.

A. To be a valid Scratch Ticket, all of the following requirements must be met:

1. Exactly twenty-three (23) 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 twenty-three (23) 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 twenty-three (23) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the twenty-three (23) Play Symbols on the Scratch Ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the Scratch Ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Game-Pack-Ticket Number must be printed in the Game-Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;

18. The Display Printing on the Scratch Ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and

19. The Scratch Ticket must have been received by the Texas Lottery by applicable deadlines.

B. The Scratch Ticket must pass all additional validation tests provided for in these Game Procedures, the Texas Lottery's Rules governing the award of prizes of the amount to be validated, and any confidential validation and security tests of the Texas Lottery.

C. Any Scratch Ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Executive Director may, solely at the Executive Director's discretion, refund the retail sales price of the Scratch Ticket. In the event a defective Scratch Ticket is purchased, the only responsibility or liability of the Texas Lottery shall be to replace the defective Scratch Ticket with another unplayed Scratch Ticket in that Scratch Ticket Game (or a Scratch Ticket of equivalent sales price from any other current Texas Lottery Scratch Ticket Game) or refund the retail sales price of the Scratch Ticket, solely at the Executive Director's discretion.

2.2 Programmed Game Parameters.

A. Consecutive Non-Winning Tickets within a Pack will not have matching patterns, in the same order, of either Play Symbols or Prize Symbols.

B. A Ticket can win as indicated by the prize structure.

C. A Ticket can win up to ten (10) times.

D. On winning and Non-Winning Tickets, the top cash prizes of \$1,000 and \$30,000 will each appear at least once, except on Tickets winning ten (10) times, with respect to other parameters, play action or prize structure.

E. No matching non-winning YOUR NUMBERS Play Symbols will appear on a Ticket.

F. Tickets winning more than one (1) time will use as many WINNING NUMBERS Play Symbols as possible to create matches, unless restricted by other parameters, play action or prize structure.

G. No matching WINNING NUMBERS Play Symbols will appear on a Ticket.

H. All YOUR NUMBERS Play Symbols will never equal the corresponding Prize Symbol (i.e., \$2 and 02, \$6 and 06, \$9 and 09, \$10 and 10 and \$20 and 20).

I. On all Tickets, a Prize Symbol will not appear more than one (1) time, except as required by the prize structure to create multiple wins.

J. On Non-Winning Tickets, a WINNING NUMBERS Play Symbol will never match a YOUR NUMBERS Play Symbol.

K. The "3X" (TRP) Play Symbol will never appear as a WINNING NUMBERS Play Symbol.

L. The "3X" (TRP) Play Symbol will never appear on a Non-Winning Ticket.

M. The "3X" (TRP) Play Symbol will never appear more than once on a Ticket.

N. The "3X" (TRP) Play Symbol will win TRIPLE the PRIZE for that Play Symbol and will win as per the prize structure.

2.3 Procedure for Claiming Prizes.

A. To claim a "LUCKY 3" Scratch Ticket Game prize of \$2.00, \$3.00, \$6.00, \$9.00, \$10.00, \$18.00, \$20.00, \$30.00, \$60.00 or \$100, a claimant shall sign the back of the Scratch Ticket in the space designated on the Scratch Ticket and may present the winning Scratch Ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, if appropriate, make payment of the amount due the claimant and physically void the Scratch Ticket; provided that the Texas Lottery Retailer may, but is not required, to pay a \$30.00, \$60.00 or \$100 Scratch Ticket Game. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and Section 2.3.C of these Game Procedures.

B. To claim a "LUCKY 3" Scratch Ticket Game prize of \$1,000 or \$30,000, 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 "LUCKY 3" 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 vali-

dated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

D. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct the amount of a delinquent tax or other money from the winnings of a prize winner who has been finally determined to be:

1. delinquent in the payment of a tax or other money to a state agency and that delinquency is reported to the Comptroller under Government Code §403.055;
2. in default on a loan made under Chapter 52, Education Code;
3. in default on a loan guaranteed under Chapter 57, Education Code; or
4. delinquent in child support payments in the amount determined by a court or a Title IV-D agency under Chapter 231, Family Code.

E. If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

2.4 Allowance for Delay of Payment. The Texas Lottery may delay payment of the prize pending a final determination by the Executive Director, under any of the following circumstances:

- A. if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize;
- B. if there is any question regarding the identity of the claimant;
- C. if there is any question regarding the validity of the Scratch Ticket presented for payment; or
- D. if the claim is subject to any deduction from the payment otherwise due, as described in Section 2.3.D of these Game Procedures. No liability for interest for any delay shall accrue to the benefit of the claimant pending payment of the claim.

2.5 Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a cash prize under \$600 from the "LUCKY 3" 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 "LUCKY 3" Scratch Ticket Game, the

Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.7 Scratch Ticket Claim Period. All Scratch Ticket prizes must be claimed within 180 days following the end of the Scratch Ticket Game or within the applicable time period for certain eligible military personnel as set forth in Texas Government Code §466.408. Any rights to a prize that is not claimed within that period, and in the manner specified in these Game Procedures and on the back of each Scratch Ticket, shall be forfeited.

2.8 Disclaimer. The number of prizes in a game is approximate based on the number of Scratch Tickets ordered. The number of actual prizes available in a game may vary based on number of Scratch Tickets manufactured, testing, distribution, sales and number of prizes claimed. A Scratch Ticket Game may continue to be sold even when all the top prizes have been claimed.

3.0 Scratch Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of a Scratch Ticket in the space designated, a Scratch Ticket shall be owned by the physical possessor of said Scratch Ticket. When a signature is placed on the back of the Scratch Ticket in the space designated, the player whose signature appears in that area shall be the owner of the Scratch Ticket and shall be entitled to any prize attributable thereto. Notwithstanding any name or names submitted on a claim form, the Executive Director shall make payment to the player whose signature appears on the back of the Scratch Ticket in the space designated. If more than one name appears on the back of the Scratch Ticket, the Executive Director will require that one of those players whose name appears thereon be designated by such players to receive payment.

B. The Texas Lottery shall not be responsible for lost or stolen Scratch Tickets and shall not be required to pay on a lost or stolen Scratch Ticket.

4.0 Number and Value of Scratch Prizes. There will be approximately 9,120,000 Scratch Tickets in Scratch Ticket Game No. 2294. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 2294 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$2.00	912,000	10.00
\$3.00	389,120	23.44
\$6.00	364,800	25.00
\$9.00	206,720	44.12
\$10.00	24,320	375.00
\$18.00	72,960	125.00
\$20.00	85,120	107.14
\$30.00	12,540	727.27
\$60.00	10,450	872.73
\$100	3,648	2,500.00
\$1,000	16	570,000.00
\$30,000	6	1,520,000.00

*The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed.

**The overall odds of winning a prize are 1 in 4.38. 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. 2294 without advance notice, at which point no further Scratch Tickets in that game may be sold. The determination of the closing date and reasons for closing will be made in accordance with the Scratch Ticket closing procedures and the Scratch Ticket Game Rules. See 16 TAC §401.302(j).

6.0 Governing Law. In purchasing a Scratch Ticket, the player agrees to comply with, and abide by, these Game Procedures for Scratch Ticket Game No. 2294, 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-202101575

Bob Biard
 General Counsel
 Texas Lottery Commission
 Filed: April 20, 2021



Scratch Ticket Game Number 2349 "500X"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 2349 is "500X". The play style is "key number match".

1.1 Price of Scratch Ticket Game.

A. The price for Scratch Ticket Game No. 2349 shall be \$20.00 per Scratch Ticket.

1.2 Definitions in Scratch Ticket Game No. 2349.

A. Display Printing - That area of the Scratch Ticket outside of the area where the overprint and Play Symbols appear.

B. Latex Overprint - The removable scratch-off covering over the Play Symbols on the front of the Scratch Ticket.

C. Play Symbol - The printed data under the latex on the front of the Scratch Ticket that is used to determine eligibility for a prize. Each Play Symbol is printed in Symbol font in black ink in positive except for dual-image games. The possible black Play Symbols are: 01, 02, 03, 04, 05, 06, 07, 08, 09, 11, 12, 13, 14, 15, 16, 17, 18, 19, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 10X

SYMBOL, 20X SYMBOL, 500X SYMBOL, \$20.00, \$30.00, \$50.00, \$100, \$200, \$500, \$5,000, \$25,000, \$100,000 and \$1,000,000.

D. Play Symbol Caption - The printed material appearing below each Play Symbol which explains the Play Symbol. One caption appears under each Play Symbol and is printed in caption font in black ink in positive. The Play Symbol Caption which corresponds with and verifies each Play Symbol is as follows:

Figure 1: GAME NO. 2349 - 1.2D

PLAY SYMBOL	CAPTION
01	ONE
02	TWO
03	THR
04	FOR
05	FIV
06	SIX
07	SVN
08	EGT
09	NIN
11	ELV
12	TLV
13	TRN
14	FTN
15	FFN
16	SXN
17	SVT
18	ETN
19	NTN
21	TWON
22	TWTO
23	TWTH
24	TWFR
25	TWFV
26	TWSX

27	TWSV
28	TWET
29	TWNI
30	TRTY
31	TRON
32	TRTO
33	TRTH
34	TRFR
35	TRFV
36	TRSX
37	TRSV
38	TRET
39	TRNI
40	FRTY
41	FRON
42	FRTO
43	FRTH
44	FRFR
45	FRFV
46	FRSX
47	FRSV
48	FRET
49	FRNI
50	FFTY
51	FFON
52	FFTO
53	FFTH

54	FFFR
55	FFFV
56	FFSX
57	FFSV
58	FFET
59	FFNI
60	SXTY
10X SYMBOL	WINX10
20X SYMBOL	WINX20
500X SYMBOL	WINX500
\$20.00	TWY\$
\$30.00	TRTY\$
\$50.00	FFTY\$
\$100	ONHN
\$200	TOHN
\$500	FVHN
\$5,000	FVTH
\$25,000	25TH
\$100,000	100TH
\$1,000,000	TPPZ

E. Serial Number - A unique thirteen (13) digit number appearing under the latex scratch-off covering on the front of the Scratch Ticket. The Serial Number is for validation purposes and cannot be used to play the game. The format will be: 0000000000000.

F. Bar Code - A twenty-four (24) character interleaved two (2) of five (5) Bar Code which will include a four (4) digit game ID, the seven (7) digit Pack number, the three (3) digit Ticket number and the ten (10) digit Validation Number. The Bar Code appears on the back of the Scratch Ticket.

G. Game-Pack-Ticket Number - A fourteen (14) digit number consisting of the four (4) digit game number (2349), a seven (7) digit Pack number, and a three (3) digit Ticket number. Ticket numbers start

with 001 and end with 025 within each Pack. The format will be: 2349-0000001-001.

H. Pack - A Pack of the "500X" Scratch Ticket Game contains 025 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 025 while the other fold will show the back of Ticket 001 and front of 025.

I. Non-Winning Scratch Ticket - A Scratch Ticket which is not programmed to be a winning Scratch Ticket or a Scratch Ticket that does not meet all of the requirements of these Game Procedures, the State Lottery Act (Texas Government Code, Chapter 466), and applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401.

J. Scratch Ticket Game, Scratch Ticket or Ticket - Texas Lottery "500X" Scratch Ticket Game No. 2349.

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 "500X" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose seventy-four (74) Play Symbols. BONUS PLAY INSTRUCTIONS: If a player reveals 2 matching prize amounts in the same BONUS, the player wins that amount. 500X PLAY INSTRUCTIONS: If a player matches any of the YOUR NUMBERS Play Symbols to any of the WINNING NUMBERS Play Symbols, the player wins the prize for that number. If the player reveals a "10X" Play Symbol, the player wins 10 TIMES the prize for that symbol. If the player reveals a "20X" Play Symbol, the player wins 20 TIMES the prize for that symbol. If the player reveals a "500X" Play Symbol, the player wins 500 TIMES the prize for that symbol. No portion of the Display Printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Scratch Ticket.

2.1 Scratch Ticket Validation Requirements.

A. To be a valid Scratch Ticket, all of the following requirements must be met:

1. Exactly seventy-four (74) Play Symbols must appear under the Latex Overprint on the front portion of the Scratch Ticket;
2. Each of the Play Symbols must have a Play Symbol Caption underneath, unless specified, and each Play Symbol must agree with its Play Symbol Caption;
3. Each of the Play Symbols must be present in its entirety and be fully legible;
4. Each of the Play Symbols must be printed in black ink except for dual image games;
5. The Scratch Ticket shall be intact;
6. The Serial Number and Game-Pack-Ticket Number must be present in their entirety and be fully legible;
7. The Serial Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the Scratch Ticket;
8. The Scratch Ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted or tampered with in any manner;
9. The Scratch Ticket must not be counterfeit in whole or in part;
10. The Scratch Ticket must have been issued by the Texas Lottery in an authorized manner;
11. The Scratch Ticket must not have been stolen, nor appear on any list of omitted Scratch Tickets or non-activated Scratch Tickets on file at the Texas Lottery;
12. The Play Symbols, Serial Number and Game-Pack-Ticket Number must be right side up and not reversed in any manner;
13. The Scratch Ticket must be complete and not miscut, and have exactly seventy-four (74) Play Symbols under the Latex Overprint on the front portion of the Scratch Ticket, exactly one Serial Number and exactly one Game-Pack-Ticket Number on the Scratch Ticket;
14. The Serial Number of an apparent winning Scratch Ticket shall correspond with the Texas Lottery's Serial Numbers for winning Scratch Tickets, and a Scratch Ticket with that Serial Number shall not have been paid previously;

15. The Scratch Ticket must not be blank or partially blank, misregistered, defective or printed or produced in error;

16. Each of the seventy-four (74) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the seventy-four (74) 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. BONUS: A non-winning Prize Symbol in a BONUS play area will never match a winning Prize Symbol in the other BONUS play area.

D. BONUS: A Ticket will not have matching non-winning Prize Symbols across the two (2) BONUS play areas.

E. KEY NUMBER MATCH: No prize amount in a non-winning spot will correspond with the YOUR NUMBERS Play Symbol (i.e., 30 and \$30).

F. KEY NUMBER MATCH: No matching non-winning YOUR NUMBERS Play Symbols on a Ticket.

G. KEY NUMBER MATCH: No matching WINNING NUMBERS Play Symbols on a Ticket.

H. KEY NUMBER MATCH: A non-winning Prize Symbol will never match a winning Prize Symbol.

I. KEY NUMBER MATCH: A Ticket may have up to five (5) matching non-winning Prize Symbols, unless restricted by other parameters, play action or prize structure.

J. KEY NUMBER MATCH: The "10X" (WINX10) Play Symbol will only appear on intended winning Tickets, as dictated by the prize structure.

K. KEY NUMBER MATCH: The "20X" (WINX20) Play Symbol will only appear on intended winning Tickets, as dictated by the prize structure.

L. KEY NUMBER MATCH: The "500X" (WINX500) Play Symbol will only appear on intended winning Tickets, as dictated by the prize structure.

2.3 Procedure for Claiming Prizes.

A. To claim a "500X" Scratch Ticket Game prize of \$20.00, \$30.00, \$50.00, \$100, \$200 or \$500, a claimant shall sign the back of the Scratch Ticket in the space designated on the Scratch Ticket and may present the winning Scratch Ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, if appropriate, make payment of the amount due the claimant and physically void the Scratch Ticket; provided that the Texas Lottery Retailer may, but is not required, to pay a \$30.00, \$50.00, \$100, \$200 or \$500 Scratch Ticket Game. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and Section 2.3.C of these Game Procedures.

B. To claim a "500X" Scratch Ticket Game prize of \$5,000, \$25,000, \$100,000 or \$1,000,000, the claimant must sign the winning Scratch Ticket and may present it at one of the Texas Lottery's Claim Centers. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning Scratch Ticket for that prize upon presentation of proper identification. When paying a prize of \$600 or more, the Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS if required. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

C. As an alternative method of claiming a "500X" Scratch Ticket Game prize the claimant may submit the signed winning Scratch Ticket and a thoroughly completed claim form via mail. If a prize value is \$1,000,000 or more, the claimant must also provide proof of Social Security number or Tax Payer Identification (for U.S. Citizens or Resident Aliens). Mail all to: Texas Lottery Commission, P.O. Box 16600, Austin, Texas 78761-6600. The Texas Lottery is not responsible for Scratch Tickets lost in the mail. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

D. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct the amount of a delinquent tax or other money from the winnings of a prize winner who has been finally determined to be:

1. delinquent in the payment of a tax or other money to a state agency and that delinquency is reported to the Comptroller under Government Code §403.055;
2. in default on a loan made under Chapter 52, Education Code;
3. in default on a loan guaranteed under Chapter 57, Education Code; or
4. delinquent in child support payments in the amount determined by a court or a Title IV-D agency under Chapter 231, Family Code.

E. If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

2.4 Allowance for Delay of Payment. The Texas Lottery may delay payment of the prize pending a final determination by the Executive Director, under any of the following circumstances:

A. if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize;

B. if there is any question regarding the identity of the claimant;

C. if there is any question regarding the validity of the Scratch Ticket presented for payment; or

D. if the claim is subject to any deduction from the payment otherwise due, as described in Section 2.3.D of these Game Procedures. No liability for interest for any delay shall accrue to the benefit of the claimant pending payment of the claim.

2.5 Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a cash prize under \$600 from the "500X" 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 "500X" Scratch Ticket Game, the Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.7 Scratch Ticket Claim Period. All Scratch Ticket prizes must be claimed within 180 days following the end of the Scratch Ticket Game or within the applicable time period for certain eligible military personnel as set forth in Texas Government Code §466.408. Any rights to a prize that is not claimed within that period, and in the manner specified in these Game Procedures and on the back of each Scratch Ticket, shall be forfeited.

2.8 Disclaimer. The number of prizes in a game is approximate based on the number of Scratch Tickets ordered. The number of actual prizes available in a game may vary based on number of Scratch Tickets manufactured, testing, distribution, sales and number of prizes claimed. A Scratch Ticket Game may continue to be sold even when all the top prizes have been claimed.

3.0 Scratch Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of a Scratch Ticket in the space designated, a Scratch Ticket shall be owned by the physical possessor of said Scratch Ticket. When a signature is placed on the back of the Scratch Ticket in the space designated, the player whose signature appears in that area shall be the owner of the Scratch Ticket and shall be entitled to any prize attributable thereto. Notwithstanding any name or names submitted on a claim form, the Executive Director shall make payment to the player whose signature appears on the back of the Scratch Ticket in the space designated. If more than one name appears on the back of the Scratch Ticket, the Executive Director will require that one of those players whose name appears thereon be designated by such players to receive payment.

B. The Texas Lottery shall not be responsible for lost or stolen Scratch Tickets and shall not be required to pay on a lost or stolen Scratch Ticket.

4.0 Number and Value of Scratch Prizes. There will be approximately 8,040,000 Scratch Tickets in Scratch Ticket Game No. 2349. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 2349 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$20.00	804,000	10.00
\$30.00	643,200	12.50
\$50.00	482,400	16.67
\$100	321,600	25.00
\$200	76,715	104.80
\$500	4,020	2,000.00
\$5,000	1,273	6,315.79
\$25,000	29	277,241.38
\$100,000	5	1,608,000.00
\$1,000,000	4	2,010,000.00

*The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed.

**The overall odds of winning a prize are 1 in 3.45. 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. 2349 without advance notice, at which point no further Scratch Tickets in that game may be sold. The determination of the closing date and reasons for closing will be made in accordance with the Scratch Ticket closing procedures and the Scratch Ticket Game Rules. See 16 TAC §401.302(j).

6.0 Governing Law. In purchasing a Scratch Ticket, the player agrees to comply with, and abide by, these Game Procedures for Scratch Ticket Game No. 2349, 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-202101563
 Bob Biard
 General Counsel
 Texas Lottery Commission
 Filed: April 19, 2021

◆ ◆ ◆
North Central Texas Council of Governments

Notice of Contract Award - Regional Rail Integration and Analytics System

Pursuant to the provisions of Government Code, Chapter 2254, the North Central Texas Council of Governments publishes this notice of contract award. The request appeared in the November 13, 2020, issue of the *Texas Register* (45 TexReg 8201). The selected entity will perform technical and professional work to Develop a Regional Rail Integration and Analytics System.

The entity selected for this project is Railinc Corporation, 7001 Weston Parkway, Suite 200, Cary, NC 27601. The amount of the contract is not to exceed \$13,000,000. Phase I in an amount not to exceed \$10,000,000 and Phase II in an amount not to exceed \$3,000,000 is contingent on additional RTC funding allocations.

Issued in Arlington, Texas on April 20, 2021

TRD-202101576
 R. Michael Eastland
 Executive Director
 North Central Texas Council of Governments
 Filed: April 20, 2021

◆ ◆ ◆
Panhandle Regional Planning Commission

Legal Notice

The Panhandle Regional Planning Commission (PRPC) is soliciting proposals from qualified entities to operate an integrated One-stop Service Delivery System to deliver Workforce Development and Child Care program services in the 26 counties of the Texas Panhandle Workforce Development Area under a single contract.

Workforce Development and Child Care program services provided through the Service Delivery System include, but are not be limited to, those funded and governed by the Workforce Innovation and Opportunity Act, Wagner-Peyser Employment Services, Temporary Assistance for Needy Families and Noncustodial Parent/CHOICES, Supplemental Nutrition Assistance Program Employment and Training, and Child Care grants.

Proposers will be expected to demonstrate the capability to conduct workforce service delivery for all customers groups at the current level and also effectively incorporate the Panhandle Workforce Development Board's stated priorities. The initial term for any award resulting from this solicitation will be one year with the possibility for renewal for up to three additional years.

The proposal schedule is expected to be as follows:

Release Request for Proposals (RFP) - April 30, 2021

Proposers' Conference - May 12, 2021 at 10:00 a.m.

Questions may be submitted in writing to wdrfpquestions@theprpc.org

- no later than May 19, 2021 at 3:00 p.m.

Deadline for Submission - June 7, 2021 at 3:00 p.m.

A copy of the Request for Proposals (RFP) can be obtained Monday through Friday, 8:00 a.m. to 5:00 p.m., at 415 Southwest Eighth Ave., Amarillo, Texas 79101 or by download from the Workforce Development section of the Panhandle Regional Planning Commission website at <http://www.theprpc.org/Programs/WorkforceDevelopment/wfprocurement.html>

An Equal Opportunity Employer / Program Auxiliary aids and services are available upon request to individuals with disabilities

Relay Texas: 711

TRD-202101590

Leslie Hardin

Workforce Development Program Manager

Panhandle Regional Planning Commission

Filed: April 21, 2021

Permian Basin Regional Planning Commission

Request for Proposals - Permian Basin Economic Resiliency Plan

The Permian Basin Regional Planning Commission proposes to contract the services of a professional planner or entity to complete an economic development study and identify the opportunities for resiliency and diversification of the transportation industry in the Permian Basin region of Texas. The project will involve gathering data and identify the rural communities' most beneficial connective routes to the urban areas of Midland and Odessa, Interstate-20, Interstate-10, and the potential Interstate-27 corridor system. The research will also identify local assets available for development in communities. See complete RFP package at PBRPC.org. PBRPC is an EEO and LEP service provider.

TRD-202101562

Virginia Belew

Executive Director

Permian Basin Regional Planning Commission

Filed: April 16, 2021

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 April 15, 2021, 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 Windstream Communications, LLC for Designation as an Eligible Telecommunications Carrier, Docket Number 52030.

The Application: Windstream seeks designation as an eligible telecommunications carrier (ETC) under 47 U.S.C. § 214(e) and 16 Texas Administrative Code §26.418.

Windstream seeks an ETC designation for the purpose of qualifying to receive federal support covering 55 census block groups in 327 eligible census blocks located in Angelina, Fort Bend, Harris, Jack, Liberty, Marion, Orange, Polk, Sabine, Winkler and Walker counties.

The proposed effective date is May 31, 2021, or 30 days after notice is published, whichever is later.

Persons wishing to file a motion to intervene or comments on the application should contact the commission no later than May 24, 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 52030.

TRD-202101564

Andrea Gonzalez

Rules Coordinator

Public Utility Commission of Texas

Filed: April 19, 2021

Red River Authority of Texas

Request for Statement of Qualifications to Prepare a Regional Water Plan for the Regional Water Planning Group - Area B

The Red River Authority of Texas is the designated administrative agency for the Regional Water Planning Group - Area B. In this capacity, the Authority is requesting Statements of Qualifications (SOQ) from consulting engineers interested in preparing the **2026 Regional B Regional Water Plan**, consistent with the requirements set forth in 31 TAC Chapters 355, 356, and 357. The deadline for submittal of SOQ's is 1:00 P.M. on **Friday, May 14, 2021**, with the final selection occurring by the Regional Water Planning Group - Area B at its meeting scheduled for May 26, 2021. At a minimum, the proposed project management shall possess professional engineering registration in the State of Texas. Additional information on the RFQ can be found at <http://rra.texas.gov/RFQs/RWPG-B-RFQ2021.pdf>.

Respondents must submit **one (1) electronic copy and ten (10) hard copies of their Statement of Qualifications by 1:00 P.M. on Friday, May 14, 2021**. All responses should be submitted to:

Mr. Randy Whiteman, General Manager
Red River Authority of Texas
Chair, Regional Water Planning Group - Area B
Mailing: P.O. Box 240
Wichita Falls, Texas 76307
Physical: 3000 Hammon Road
Wichita Falls, Texas 76310

Email: info@rra.texas.gov
TRD-202101546
Randy Whiteman
General Manager
Red River Authority of Texas
Filed: April 14, 2021



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 46 (2021) is cited as follows: 46 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 "46 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 46 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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