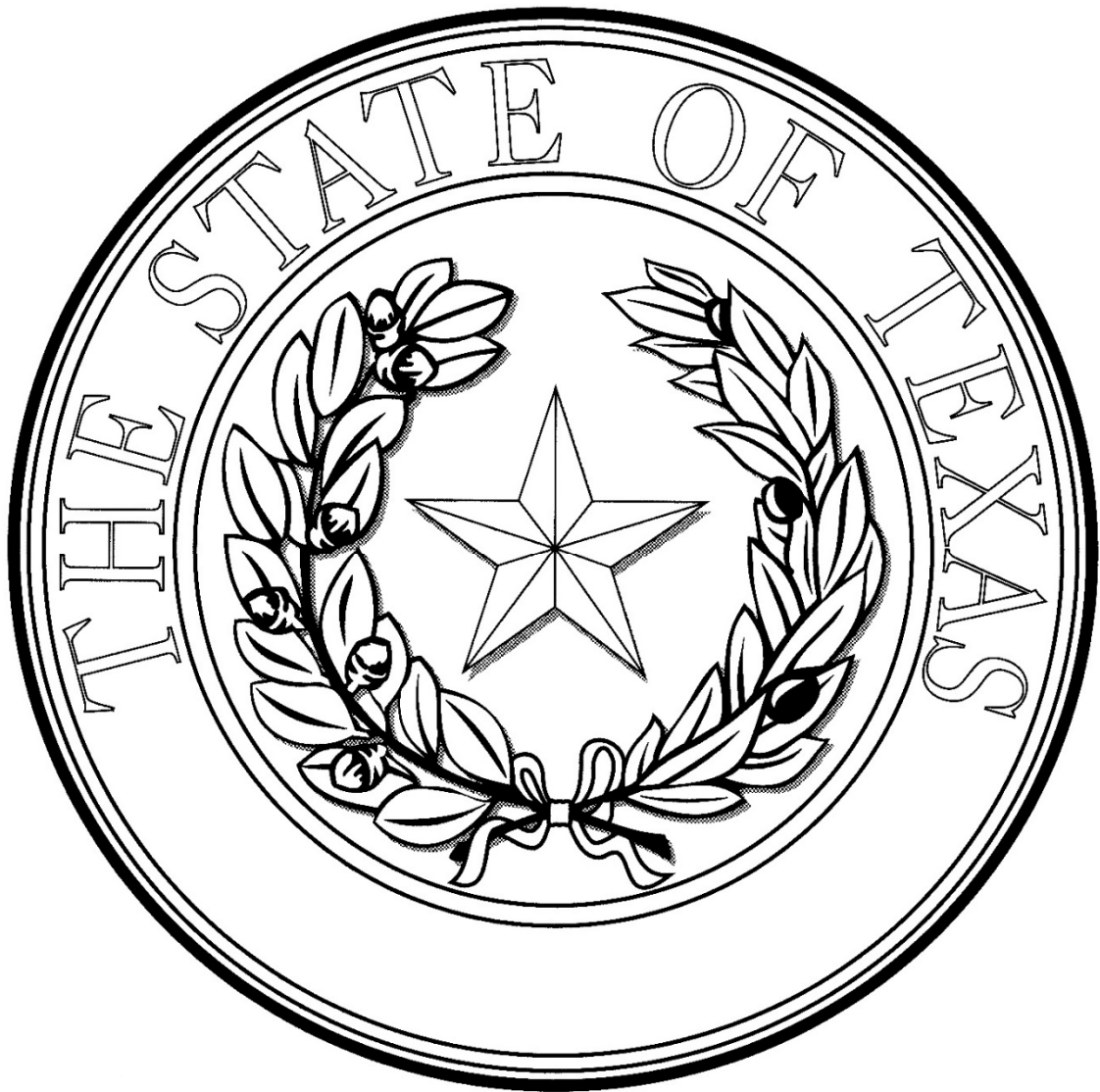

TEXAS REGISTER

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THE GOVERNOR

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

Appointments

Appointments for June 2, 2021

Appointed to the State Board for Educator Certification, for a term to expire February 1, 2027, Andrew B. Kim of New Braunfels, Texas (replacing Arturo J. "Art" Cavazos, Ed.D. of Harlingen, whose term expired).

Greg Abbott, Governor

TRD-202102156



Proclamation 41-3821

TO ALL TO WHOM THESE PRESENTS SHALL COME:

WHEREAS, officials of the City of Galveston have requested that I exercise executive authority to grant an emergency exception to the uniform election date requirements, pursuant to Sections 41.001 and 41.0011 of the Texas Election Code, and to grant permission for the City of Galveston to order a special, emergency election for the purpose of electing a member to fill a vacancy in Galveston City Council District No. 1; and

WHEREAS, the recent death of the incumbent for Galveston City Council District No. 1 has created a vacancy on the city council; and

WHEREAS, the members of the city council are elected for two-year terms at elections conducted every even-numbered year on the May uniform election date; and

WHEREAS, the City Charter provides, in Article II, Section 3, that "[i]f a seat on the council becomes vacant, it shall be filled for the remainder of the unexpired term at a special election called for such purpose, unless the next regular City election is to be held within one hundred twenty (120) days from the time of such vacancy"; and

WHEREAS, because the next regular election day for the City of Galveston is in excess of one hundred twenty (120) days from the date the vacancy occurred, a special election is required under the City Charter to fill the vacancy for the unexpired term of Galveston City Council District No. 1; and

WHEREAS, pursuant to Section 41.001(a)(2) of the Texas Election Code, the next regular election day for the City of Galveston is the uniform election date on May 7, 2022; and

WHEREAS, Section 41.0011 of the Texas Election Code provides that a special election may be held as an emergency election before the appropriate uniform election date if a political subdivision asks the Governor for permission to do so and the Governor determines that an emergency exists; and

WHEREAS, the City of Galveston intends to redistrict its city council district seats this fall, and without an elected member for Galveston City Council District No. 1, the district would be unrepresented during that important process; and

WHEREAS, the unique circumstances faced by the City of Galveston as a result of the vacancy in Galveston City Council District No. 1 indicate that the interest of the voters in that district would be best served by permitting the vacancy to be filled by an election at the earliest practical date;

NOW, THEREFORE, I, GREG ABBOTT, Governor of Texas, under the authority vested in me by the Constitution and statutes of the State of Texas, do hereby declare that the foregoing circumstances constitute an emergency warranting holding a special election before the appropriate uniform election date. Accordingly, I grant permission for the City of Galveston to order, in accordance with the city charter and other applicable laws, a special election on August 28, 2021, for the purpose of electing a city council member for Galveston Council District No. 1. Should the City of Galveston order such special election in accordance with the city charter and other applicable laws, said election may be held on August 28, 2021.

A copy of this proclamation shall be mailed immediately to the city council of the City of Galveston.

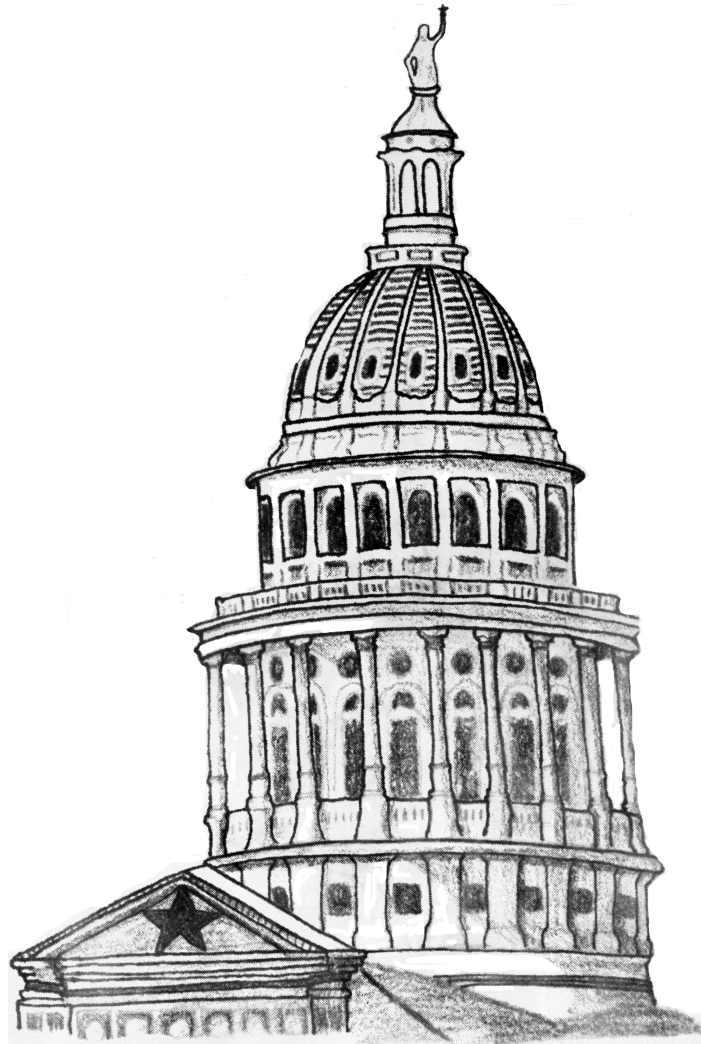
This proclamation is limited to the particular election at issue and the facts as represented by officials of the City of Galveston, and therefore shall not be relied upon as precedent for any other request for a special election.

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 26th day of May, 2021.

Greg Abbott, Governor

TRD-202102115





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-0408-KP

Requestor:

The Honorable Rob Baiamonte

Goliad County Attorney

Post Office Box 24

Goliad, Texas 77963

Re: Authority of county judges to declare and terminate local disasters pursuant to section 418.108 of the Government Code (RQ-0408-KP)

Briefs requested by June 28, 2021

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

TRD-202102143

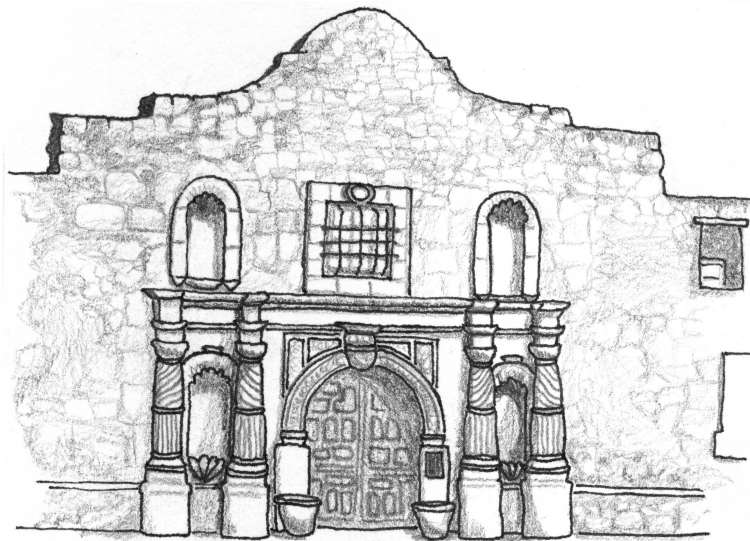
Austin Kinghorn

General Counsel

Office of the Attorney General

Filed: June 1, 2021





TEXAS ETHICS COMMISSION

The Texas Ethics Commission is authorized by the Government Code, §571.091, to issue advisory opinions in regard to the following statutes: the Government Code, Chapter 302; the Government Code, Chapter 305; the Government Code, Chapter 572; the Election Code, Title 15; the Penal Code, Chapter 36; and the Penal Code, Chapter 39. Requests for copies of the full text of opinions or questions on particular submissions should be addressed to the Office of the Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711-2070, (512) 463-5800.

Advisory Opinion Requests/Questions

May a judicial officer create--or coordinate the creation of--photographs of his courtroom for use in political advertisements? Does it make a difference if the photographs are taken from the gallery, the area in front of the bench, or behind the bench?

May a judicial officer use, for political advertisements, photographs that are created without his cooperation or coordination, even if they show the officer behind the bench? (AOR-639)

The Texas Ethics Commission is authorized by section 571.091 of the Government Code to issue advisory opinions in regard to the following statutes: (1) Chapter 572, Government Code; (2) Chapter 302, Government Code; (3) Chapter 303, Government Code; (4) Chapter 305, Government Code; (5) Chapter 2004, Government Code; (6) Title 15, Election Code; (7) Chapter 159, Local Government Code; (8) Chapter 36, Penal Code; (9) Chapter 39, Penal Code; (10) Section 2152.064, Government Code; and (11) Section 2155.003, Government Code.

Questions on particular submissions should be addressed to the Texas Ethics Commission, P.O. Box 12070, Capitol Station, Austin, Texas 78711-2070, (512) 463-5800 or opinions@ethics.state.tx.us.

Issued in Austin, Texas, on June 1, 2021.

TRD-202102136
J.R. Johnson
General Counsel
Texas Ethics Commission
Filed: June 1, 2021



Whether an officer or employee of a political subdivision may use public funds to advertise an event that uses the officer's title, such as "Mayor's Unity Walk."

Whether an officer of a political subdivision may announce, at a public meeting of the political subdivision that is recorded and broadcast on a television channel, Internet website, or social media profile controlled by the subdivision, that the officer will have a booth at the event where he or she will distribute merchandise purchased with personal funds.

Whether an officer or employee of a political subdivision may spend public funds - including the use of paid staff time - to set up tents and provide tables, chairs, and traffic control for a food distribution event at which public officials from other governmental entities are present and distributing personal campaign items purchased with their campaign funds. (AOR-642)

The Texas Ethics Commission is authorized by section 571.091 of the Government Code to issue advisory opinions in regard to the following statutes: (1) Chapter 572, Government Code; (2) Chapter 302, Government Code; (3) Chapter 303, Government Code; (4) Chapter 305, Government Code; (5) Chapter 2004, Government Code; (6) Title 15, Election Code; (7) Chapter 159, Local Government Code; (8) Chapter

36, Penal Code; (9) Chapter 39, Penal Code; (10) Section 2152.064, Government Code; and (11) Section 2155.003, Government Code.

Questions on particular submissions should be addressed to the Texas Ethics Commission, P.O. Box 12070, Capitol Station, Austin, Texas 78711-2070, (512) 463-5800 or opinions@ethics.state.tx.us.

Issued in Austin, Texas, on June 1, 2021.

TRD-202102137
J.R. Johnson
General Counsel
Texas Ethics Commission
Filed: June 1, 2021



Whether communications published on social media websites can qualify as "mass media communications" for purposes of Section 305.006(c) of the Texas Government Code.

Whether a mass media communication can, for purposes of Section 305.006(c)(2), "support or oppose pending legislation" even if it does not expressly state "support/oppose this legislation."

(AOR-645)

The Texas Ethics Commission is authorized by section 571.091 of the Government Code to issue advisory opinions in regard to the following statutes: (1) Chapter 572, Government Code; (2) Chapter 302, Government Code; (3) Chapter 303, Government Code; (4) Chapter 305, Government Code; (5) Chapter 2004, Government Code; (6) Title 15, Election Code; (7) Chapter 159, Local Government Code; (8) Chapter 36, Penal Code; (9) Chapter 39, Penal Code; (10) Section 2152.064, Government Code; and (11) Section 2155.003, Government Code.

Questions on particular submissions should be addressed to the Texas Ethics Commission, P.O. Box 12070, Capitol Station, Austin, Texas 78711-2070, (512) 463-5800 or opinions@ethics.state.tx.us.

Issued in Austin, Texas, on June 1, 2021.

TRD-202102138
J.R. Johnson
General Counsel
Texas Ethics Commission
Filed: June 1, 2021



Whether a judge may use campaign contributions for consulting and travel expenses to seek an appointment to a federal judicial office. (AOR-646).

The Texas Ethics Commission is authorized by section 571.091 of the Government Code to issue advisory opinions in regard to the following statutes: (1) Chapter 572, Government Code; (2) Chapter 302, Government Code; (3) Chapter 303, Government Code; (4) Chapter 305,

Government Code; (5) Chapter 2004, Government Code; (6) Title 15, Election Code; (7) Chapter 159, Local Government Code; (8) Chapter 36, Penal Code; (9) Chapter 39, Penal Code; (10) Section 2152.064, Government Code; and (11) Section 2155.003, Government Code.

Questions on particular submissions should be addressed to the Texas Ethics Commission, P.O. Box 12070, Capitol Station, Austin, Texas 78711-2070, (512) 463-5800 or opinions@ethics.state.tx.us.

Issued in Austin, Texas, on June 1, 2021.

TRD-202102139
J.R. Johnson
General Counsel
Texas Ethics Commission
Filed: June 1, 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 554. NURSING FACILITY REQUIREMENTS FOR LICENSURE AND MEDICAID CERTIFICATION

SUBCHAPTER CC. COVID-19 EMERGENCY RULE

26 TAC §554.2802

The Executive Commissioner of the Texas Health and Human Services Commission (HHSC) adopts on an emergency basis in Title 26 Texas Administrative Code, Chapter 554, Nursing Facility Requirements for Licensure and Medicaid Certification, new §554.2802. This emergency rule is adopted in response to COVID-19 and requires nursing facilities to take certain actions to reduce the risk of spreading COVID-19. The emergency rule also permits nursing facilities to request temporary increases in capacity and Medicaid bed allocations to aid in preventing the transmission of COVID-19 or caring for residents with COVID-19. As authorized by Texas Government Code §2001.034, HHSC may adopt an emergency rule without prior notice or hearing if it finds that an imminent peril to the public health, safety, or welfare requires adoption on fewer than 30 days' notice. Emergency rules adopted under 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. 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 Nursing Facility Response to COVID-19.

To protect nursing facility residents and the public health, safety, and welfare of the state during the COVID-19 pandemic, HHSC is adopting an emergency rule to mitigate and contain COVID-19 and to permit a nursing facility to request a temporary increase in capacity or Medicaid bed allocation as part of the facility's response to COVID-19. The purpose of the new rule is to describe the requirements nursing facility providers must immediately put into place to mitigate and contain COVID-19 and the procedures

and criteria for requesting a temporary capacity increase or a temporary Medicaid bed allocation increase.

STATUTORY AUTHORITY

The emergency rulemaking is adopted under Texas Government Code §2001.034, §531.0055, and §531.021, Texas Health and Safety Code §242.001 and §242.037, and Texas Human Resources Code §32.021 and §32.0213. 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 health and human services system. Texas Government Code §531.021 provides HHSC with the authority to administer federal funds and plan and direct the Medicaid program in each agency that operates a portion of the Medicaid program. Texas Health and Safety Code §242.001 states the goal of Chapter 242 is to ensure that nursing facilities in Texas deliver the highest possible quality of care and establish the minimum acceptable levels of care for individuals who are living in a nursing facility. Texas Health and Safety Code §242.037 requires the Executive Commissioner of HHSC to make and enforce rules prescribing minimum standards relating to quality of care and quality of life for nursing facility residents. Texas Human Resources Code §32.021 provides that HHSC shall adopt necessary rules for the proper and efficient operation of the Medicaid program. Texas Human Resources Code §32.0213 requires the Executive Commissioner of HHSC to establish procedures for controlling the number of Medicaid beds in nursing facilities.

The new rule implements Texas Government Code §531.0055 and §531.021, Texas Health and Safety Code Chapter 242, and Texas Human Resources Code §32.021 and §32.0213.

§554.2802. Nursing Facility COVID-19 Response.

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

(1) Cohort--A group of residents placed in rooms, halls, or sections of the facility with others who have the same COVID-19 status or the act of grouping residents with other residents who have the same COVID-19 status.

(2) Cohorting--The act of establishing a cohort.

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

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

(5) COVID-19 status--The status of a person based on COVID-19 test results, symptoms, or other factors that consider the person's potential for having the virus.

(6) Fully-vaccinated--A person who received the second dose in a two-dose COVID-19 vaccination series or received one dose of a single-dose COVID-19 vaccination and it has been at least 14 days since receiving the vaccination.

(7) Isolated--The separation of people who have COVID-19 positive status from those who have COVID-19 negative status and those whose COVID-19 status is unknown.

(8) Long-term care (LTC) Providers--Nursing facilities, assisted living facilities, intermediate care facilities for individuals with intellectual disability or related conditions, day activity and health services facilities, prescribed pediatric extended care centers, home and community support services agencies, state supported living centers, home and community-based services waiver providers, and Texas home living waiver providers.

(9) Personal protective equipment (PPE)--Specialized clothing or equipment worn by nursing facility staff for protection against transmission of infectious diseases such as COVID-19, including masks, goggles, face shields, gloves, and disposable gowns.

(10) Quarantine--The practice of keeping someone who might have been exposed to COVID-19 away from others. Quarantine helps prevent the spread of disease that can occur before a person knows they are sick or if they are infected with the virus without feeling symptoms.

(11) Unknown COVID-19 status--The status of a resident, except as provided by the CDC for fully-vaccinated residents or residents who have recovered from COVID-19, who:

(A) is a new admission or readmission;

(B) has spent one or more nights away from the facility;

(C) has had known exposure or close contact with a person who is COVID-19 positive; or

(D) is exhibiting symptoms of COVID-19 while awaiting test results.

(b) Response plan. A nursing facility must have a COVID-19 response plan that includes:

(1) cohorting plans that include designated space for COVID-19 negative residents, COVID-19 positive residents, and residents with unknown COVID-19 status,

(2) spaces for staff to don and doff PPE that minimize the movement of staff through other areas of the facility;

(3) resident transport protocols;

(4) plans for obtaining and maintaining a two-week supply of PPE, including surgical facemasks, N95 facemasks, gowns, gloves, and goggles or face shields; and

(5) resident recovery plans for continuing care after a resident recovers from COVID-19.

(c) Screening.

(1) Visitors. A nursing facility must screen all visitors as provided in emergency rule 26 TAC §554.2803 (relating to Nursing Facility COVID-19 Response- Expansion of Reopening Visitation).

(2) Residents. A nursing facility must screen each resident as described below. Resident screenings must be documented in the

resident's chart. A Resident who meets any of the criteria must be cohorted appropriately.

(A) Upon a resident's admission or readmission to the facility, the facility must screen the resident for the following criteria:

(i) fever, defined as a temperature of 100.4 degrees Fahrenheit and above;

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

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

(iv) contact in the last 14 days with someone who has a confirmed diagnosis of COVID-19, is under investigation for COVID-19, or is ill with a respiratory illness; or

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

(B) At least once a day the facility must screen each resident for the criteria in subparagraph (A)(i)-(iv) of this paragraph.

(3) Employees and contractors. A nursing facility must screen each employee or contractor for the criteria in paragraph (2)(A)(i)-(v) of this subsection before entering the facility at the start of their shift. Staff screenings must be documented in a log kept at the facility entrance and must include the name of each person screened, the date and time of the evaluation, and the results of the evaluation. Staff who meet any of the criteria must not be permitted to enter the facility.

(4) Other people who come to the facility. A nursing facility must screen all other people who come to the facility, except emergency services personnel entering the facility or facility campus in an emergency, for the criteria in paragraph (2)(A)(i)-(v) of this subsection before entering the facility. These screenings must be documented in a log kept at the entrance to the facility, which must include the name of each person screened, the date and time of the screening, and the results of the screening. Anyone who meets any of the screening criteria must leave the nursing facility campus.

(d) Cohorting.

(1) Cohorting residents. A nursing facility must cohort residents based on the residents' COVID-19 status.

(A) COVID-19 status unknown. A resident with unknown COVID-19 status must be quarantined and monitored for fever and symptoms of COVID-19, in accordance with CDC guidance.

(B) COVID-19 positive. A resident with COVID-19 positive status must be isolated until the resident meets CDC guidelines for the discontinuation of transmission-based precautions.

(2) Cohort staffing policy. A nursing facility must implement a staffing policy requiring:

(A) staff to wear appropriate PPE, based on the cohort with which they work;

(B) staff to report to the facility via phone prior to reporting for work if they have known exposure or symptoms; and

(C) staff to perform self-monitoring on days they do not work.

(e) Staff who work with other LTC providers. A nursing facility must develop and implement a policy regarding staff working

with other LTC providers that limits the sharing of staff with other LTC providers, unless required in order to maintain adequate staffing at a facility.

(f) PPE. A nursing facility must develop and enforce written standards, policies, and procedures for the facility's infection prevention and control program which must include standard and transmission-based precautions to prevent the spread of COVID-19, including the appropriate use of PPE. All facemasks and N95 masks must be in good functional condition, as described in the COVID-19 Response for Nursing Facilities at hhs.texas.gov, and worn appropriately, completely covering the nose and mouth.

(1) A nursing facility must comply with CDC guidance on the optimization of PPE when supply limitations require PPE to be reused.

(2) A nursing facility must document all efforts made to obtain PPE, including the organization contacted and the date of each attempt.

(g) Fully-vaccinated staff. A nursing facility's infection prevention and control program may allow fully-vaccinated staff to dine and socialize together in break rooms and conduct in-person meetings without wearing a facemask or other PPE, and without physical distancing.

(h) Reporting of COVID-19 activity. A nursing facility must report COVID-19 activity as required by 26 TAC §554.1601(d)(2) (relating to Infection Control) and 42 Code of Federal Regulations §483.80(g)(1)-(2). COVID-19 activity must be reported to HHSC Complaint and Incident Intake, as described below.

(1) Report the first confirmed case of COVID-19 in staff or residents, and the first confirmed case of COVID-19 after a facility has been without new cases for 14 days or more, to HHSC Complaint and Incident Intake (CII) through the Texas Unified Licensure Information Portal (TULIP) or by calling 1-800-458-9858 within 24 hours of the confirmed positive result.

(2) Submit a Form 3613-A, Provider Investigation Report, to HHSC Complaint and Incident Intake through TULIP or by calling 1-800-458-9858 within five working days from the day a confirmed case is reported to CII.

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

(j) Capacity Changes During COVID-19 Pandemic.

(1) A nursing facility may request a temporary capacity increase to aid in preventing the transmission of COVID-19 or caring for residents with COVID-19. To request a temporary capacity increase, a nursing facility must send an email to the Associate Commissioner for Long-term Care Regulation at: LTCRSurveyOperations@hhs.texas.gov. The request must contain the following information:

- (A) provider name;
- (B) facility name;
- (C) facility identification number;
- (D) provider address;
- (E) provider phone number;

(F) current capacity;

(G) current census;

(H) capacity requested;

(I) reasoning for the temporary capacity increase; and

(J) plan to care for the increased number of residents.

(2) If approved, the temporary capacity increase is valid until 120 days after approval or when the Governor's March 13, 2020, Proclamation of Disaster is terminated, whichever is earlier.

(3) A nursing facility may request an extension of a temporary capacity increase. HHSC may grant approval of an extension on a case-by-case basis. HHSC may extend the temporary capacity increase to permit the nursing facility adequate time to apply for a capacity increase under 26 TAC §554.206 (relating to Increase in Capacity) or transition back to its previous licensed capacity.

(4) Before the temporary capacity increase approval expires, the nursing facility must:

(A) apply for and receive an increase in capacity through TULIP using the procedures established in 26 TAC §554.206; or

(B) reduce its census so as to not exceed its licensed capacity before the temporary capacity increase.

(k) Medicaid Bed Allocation During COVID-19 Pandemic.

(1) The property owner may request a temporary Medicaid bed allocation increase to aid in preventing the transmission of COVID-19 or caring for residents with COVID-19. To request a temporary Medicaid bed allocation increase, a nursing facility must send an email to the Director of Long-term Care Licensing and Credentialing at: Medicaid_Bed_Allocation@hhsc.state.tx.us. The request must contain the following information:

(A) provider name;

(B) facility name;

(C) facility identification number;

(D) provider address;

(E) provider phone number;

(F) current licensed capacity;

(G) current approved capacity, if the facility received approval for a temporary capacity increase;

(H) current Medicaid bed occupancy;

(I) current Medicaid bed allocation;

(J) Medicaid bed allocation requested; and

(K) reasoning for the temporary Medicaid bed allocation increase.

(2) If approved, the temporary Medicaid bed allocation increase is valid until 120 days after approval or when the Governor's March 13, 2020, Proclamation of Disaster is terminated, whichever is earlier.

(3) A nursing facility may request an extension of a temporary Medicaid bed allocation increase. HHSC may grant approval of an extension on a case-by-case basis. HHSC may extend the temporary Medicaid bed allocation increase to permit the nursing facility adequate time to request and receive a Medicaid bed allocation increase under 26 TAC §554.2322 (relating to Medicaid Bed Allocation Requirements)

or transition back to its previous Medicaid bed allocation status. If a nursing facility requests an extension to transition back to its previous Medicaid bed allocation status, the nursing facility must submit a plan for reducing the number of residents who have Medicaid as a payor source to the Director of Long-term Care Licensing and credentialing at: Medicaid_Bed_Allocation@hhsc.state.tx.us. HHSC may request additional information, if needed.

(4) Before the temporary Medicaid bed allocation increase approval expires, the nursing facility must:

(A) apply for and receive an increase in Medicaid bed allocation per 26 TAC §554.2322 by submitting a request to the Medicaid Bed Allocation email box: Medicaid_Bed_Allocation@hhsc.state.tx.us; or

(B) reduce the number of residents who have Medicaid as a payor source, so as to not exceed its Medicaid bed allocation before the temporary increase.

(5) A nursing facility may request a voluntary reduction in its licensed Medicaid bed allocation. The nursing facility may not reduce the number of Medicaid beds allocated to the facility to fewer than the minimum number needed to accommodate the residents with Medicaid as a payor source currently living in the nursing facility.

(6) A nursing facility may not reduce its Medicaid bed allocation to less than five beds unless the nursing facility voluntarily ceases to participate in Medicaid and follows the process for withdrawal from the Medicaid program contained in 26 TAC §554.2310 (relating to Nursing Facility Ceases to Participate).

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 June 1, 2021.

TRD-202102152

Nycia Deal

Attorney

Health and Human Services Commission

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Expiration date: September 28, 2021

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



26 TAC §554.2803

The Executive Commissioner of the Texas Health and Human Services Commission (HHSC) adopts on an emergency basis in Title 26 Texas Administrative Code, Chapter 554, Nursing Facility Requirements for Licensure and Medicaid Certification, new §554.2803, concerning an emergency rule in response to COVID-19 describing requirements for limited indoor and outdoor visitation in a facility. As authorized by Texas Government Code §2001.034, HHSC may adopt an emergency rule without prior notice or hearing upon finding that an imminent peril to the public health, safety, or welfare requires adoption on fewer than 30 days' notice. Emergency rules adopted under Texas Government Code §2001.034 may be effective for not longer than 120 days and may be renewed for not longer than 60 days.

BACKGROUND AND PURPOSE

The purpose of the emergency rulemaking is to support the Governor's March 13, 2020, proclamation certifying that the COVID-19 virus poses an imminent threat of disaster in the state

and declaring a state of disaster for all counties in Texas. In this proclamation, the Governor authorized the use of all available resources of state government and of political subdivisions that are reasonably necessary to cope with this disaster and directed that government entities and businesses would continue providing essential services. This emergency rulemaking reflects the continued reopening of the State of Texas as well as the new requirements for visitation of nursing facility residents provided by the Centers for Medicare & Medicaid Services (CMS) in Memorandum QSO-20-39-NH, as revised April 27, 2021. 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 Nursing Facility COVID-19 Response - Expansion of Reopening Visitation.

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

STATUTORY AUTHORITY

The emergency rulemaking is adopted under Texas Government Code §2001.034 and §531.0055, and Texas Health and Safety Code §242.001 and §242.037. Texas Government Code §2001.034 authorizes the adoption of emergency rules without prior notice and hearing, if an agency finds that an imminent peril to the public health, safety, or welfare requires adoption of a rule on fewer than 30 days' notice.

Texas Government Code §531.0055 authorizes the Executive Commissioner of HHSC to adopt rules and policies necessary for the operation and provision of health and human services by the health and human services system. Texas Health and Safety Code §242.037 requires the Executive Commissioner of HHSC to make and enforce rules prescribing minimum standards relating to quality of care and quality of life for nursing facility residents. Texas Health and Safety Code §242.001 states the goal of Chapter 242 is to ensure that nursing facilities in Texas deliver the highest possible quality of care and establish the minimum acceptable levels of care for residents who are living in a nursing facility.

The new rule implements Texas Government Code §531.0055 and Texas Health and Safety Code Chapter 242.

§554.2803. Nursing Facility COVID-19 Response - Expansion of Reopening Visitation.

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

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

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

(3) End-of-life visit--A personal visit between a visitor and a resident who is receiving hospice services; who is at or near end of life, with or without receiving hospice services; or whose prognosis does not indicate recovery. An end-of-life visit is permitted in all facilities and for all residents at or near the end of life.

(4) Essential caregiver--A family member or other outside caregiver, including a friend, volunteer, clergy member, private per-

sonal caregiver, or court appointed guardian, who is at least 18 years old and has been designated by the resident or legal representative.

(5) Essential caregiver visit--A personal visit between a resident and a designated essential caregiver as described in subsection (h) of this section. An essential caregiver visit is permitted in all facilities for all residents.

(6) Facility-acquired COVID-19 infection--COVID-19 infection that is acquired after admission in a nursing facility and was not present at the end of the 14-day period following admission or readmission.

(7) Fully-vaccinated--A person who received the second dose in a two-dose COVID-19 vaccination series or received one dose of a single-dose COVID-19 vaccination and it has been at least 14 days since receiving the vaccination.

(8) Indoor visit--A personal visit between a resident and one or more personal visitors that occurs in-person in a dedicated indoor space.

(9) Outbreak--One or more laboratory confirmed cases of COVID-19 identified in either paid or unpaid staff, or one or more laboratory confirmed facility-acquired cases of COVID-19 identified in a resident.

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

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

(12) Persons with legal authority to enter--Law enforcement officers, representatives of the long-term care ombudsman's office, representatives of the protection and advocacy system in the state for individuals with mental illness or individuals with intellectual or developmental disabilities and government personnel performing their official duties.

(13) Physical distancing--Maintaining a minimum distance between persons as recommended by the CDC, avoiding gathering in groups in accordance with state and local orders, and avoiding unnecessary physical contact.

(14) PPE--Personal protective equipment.

(15) Providers of essential services--Contract doctors, contract nurses, home health and hospice workers, health care professionals, contract professionals, clergy members and spiritual counselors, and individuals operating under the authority of a local intellectual and developmental disability authority, local mental health authority, or local behavioral health authority, whose services are necessary to ensure resident health and safety.

(16) Salon services visit--A personal visit between a resident and a salon services visitor as described in subsection (o) of this section.

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

(18) Unknown COVID-19 status--The status of a resident, except as provided by the CDC for fully-vaccinated residents or residents who have recovered from COVID-19, who:

(A) is a new admission or readmission;

(B) has spent one or more nights away from the facility;

(C) has had known exposure or close contact with a person who is COVID-19 positive; or

(D) is exhibiting symptoms of COVID-19 while awaiting test results.

(b) All nursing facilities, including licensed-only facilities, must comply with the COVID-19 testing requirements specified by 42 CFR §483.80(h).

(c) A nursing facility must screen all visitors prior to allowing them to enter the facility, except emergency services personnel entering the facility or facility campus in an emergency. Visitor screenings must be documented in a log kept at the entrance to the facility, which must include the name of each person screened, the date and time of the screening, and the results of the screening. The visitor screening log may contain protected health information and must be protected in accordance with applicable state and federal law.

(d) Visitors who meet any of the following screening criteria must leave the nursing facility campus and reschedule the visit:

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

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

(3) any other signs and symptoms as outlined by CDC in Symptoms of Coronavirus at [cdc.gov](https://www.cdc.gov/coronavirus/2019-ncov/symptoms.html);

(4) close contact in the last 14 days with someone who has a confirmed diagnosis of COVID-19, is under investigation for COVID-19, or is ill with a respiratory illness, regardless of the visitor's vaccination status; or

(5) has tested positive for COVID-19 in the last 10 days.

(e) A nursing facility must allow persons providing critical assistance, including essential caregivers, and persons with legal authority, to enter the nursing facility if they pass the screening in subsection (d) of this section.

(f) A person providing critical assistance who has had contact with an individual with COVID-19 positive status, but does not meet the CDC definition of close contact or unprotected exposure, must not be denied entry to the nursing facility unless the person providing critical assistance does not pass the screening criteria described in subsection (d)(1) - (3) and (5) of this section, or any other screening criteria based on CDC guidance.

(g) A nursing facility may ask about a visitor's COVID-19 vaccination status and COVID-19 test results but must not require a personal visitor to provide documentation of a COVID-19 negative test result or COVID-19 vaccination status as a condition of visitation or to enter the facility.

(h) The following requirements apply to essential caregiver visits.

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

(2) Up to two essential caregivers may visit a resident at the same time.

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

(4) Essential caregiver visitors do not have to maintain physical distancing between themselves and the resident they are visiting but must maintain physical distancing of at least six feet between themselves and all other residents and staff.

(5) The nursing facility must develop and enforce essential caregiver visitation policies and procedures, which include:

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

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

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

(D) limiting visitation to the area designated by the facility in accordance with paragraph (3) of this subsection.

(6) A nursing facility must:

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

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

(C) maintain documentation of the essential caregiver visitor's training as required in paragraph (5)(B) of this subsection; and

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

(7) An essential caregiver must not participate in visits if the essential caregiver has signs and symptoms of COVID-19 or an active COVID-19 infection.

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

(i) A nursing facility must allow essential caregiver visits, end-of-life visits, indoor visits, and outdoor visits as required by this section. If a nursing facility fails to comply with the requirements of this section, HHSC may impose licensure remedies in accordance with Subchapter V of this chapter.

(j) To permit indoor visitation, a nursing facility must have separate areas, units, wings, halls, or buildings designated for COVID-19 positive, COVID-19 negative, and unknown COVID-19 status resident cohorts.

(k) A nursing facility that meets the requirements of subsection (j) of this section to permit indoor visits and has at least one confirmed COVID-19 case in the last 14 consecutive days in staff working in the area, unit, wing, hall, or building that accommodates residents who are COVID-19 negative, or at least one confirmed facility-acquired case in residents in the COVID-19 negative area, unit, wing, hall, or building may not permit indoor visitation, not including essential caregiver and end-of-life visits, until all of the following conditions are met:

(1) outbreak testing is conducted in accordance with 42 CFR §483.80(h);

(2) the first round of outbreak testing revealed no additional COVID-19 cases in other areas, units, wings, halls, or buildings that accommodate residents who are COVID-19 negative; and

(3) indoor visitation is suspended for the affected area, unit, wing, hall, or building that accommodates residents who are COVID-19 negative until the facility meets the criteria to discontinue outbreak testing.

(l) A nursing facility shall use the COVID-19 county positivity rate as additional information to determine how to facilitate indoor visitation. The COVID-19 county positivity rate can be found at: <https://data.cms.gov/stories/s/COVID-19-Nursing-Home-Data/bkwz-xpvg>. A nursing facility may use the county positivity rate provided by the county as long as the county positivity rate is updated at least weekly.

(1) A nursing facility located in a county with a positivity rate of 10 percent or lower must permit essential caregiver visits, end-of-life visits, outdoor visits, and indoor visits in accordance with this section.

(2) A nursing facility located in a county with a positivity rate greater than 10 percent and at least 70 percent of the residents in the facility are fully vaccinated, must permit essential caregiver visits, end-of-life visits, outdoor visits, and indoor visits in accordance with this section.

(3) A nursing facility located in a county with a positivity rate greater than 10 percent and fewer than 70 percent of the residents in the facility are fully vaccinated, must:

(A) limit indoor visits, not including essential caregiver and end-of-life visits, to fully-vaccinated residents with COVID-19 negative status; and

(B) permit outdoor visits, end-of-life visits, and essential caregiver visits in accordance with this section.

(m) A nursing facility must provide instructional signage throughout the facility and proper visitor education regarding:

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

(2) infection control precautions; and

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

(n) The following limits apply to all visitation allowed under this section.

(1) Visitation must be facilitated to allow time for cleaning and sanitization of the visitation area between visits and to ensure infection prevention and control measures are followed. A nursing facility may schedule personal visits in advance or permit personal visits that are not scheduled in advance. Scheduling in advance may only be used to ensure infection prevention and control measures are followed. Scheduling visits in advance must not be so restrictive as to prohibit or limit visitation for residents.

(2) Except as provided in subsection (l)(3)(A) of this section and in paragraph (3) of this subsection, indoor visits and outdoor visits are permitted only for residents who are COVID-19 negative.

(3) Essential caregiver visits and end-of-life visits are permitted for residents who have COVID-19 negative, COVID-19 positive, or unknown COVID-19 status.

(4) A fully-vaccinated resident may choose to have close or personal contact with their visitor during an indoor or outdoor visit in accordance with CDC guidance. If a resident is not fully-vaccinated, their personal visitor must maintain physical distancing during an indoor visit and an outdoor visit in accordance with CDC guidance. Essential caregiver visitors and end-of-life visitors do not have to main-

tain physical distancing between themselves and the resident they are visiting. A personal visitor, essential caregiver, and end-of-life visitor must maintain physical distancing between themselves and all other persons in the facility.

(5) Visits are permitted where adequate space is available as necessary to ensure physical distancing between visitation groups and safe infection prevention and control practices, including the resident's room. The nursing facility must limit the movement of the visitor through the facility to ensure interaction with other residents is minimized.

(6) A nursing facility must develop and enforce policies and procedures in accordance with applicable Centers for Medicare & Medicaid Services requirements, related to a visitor and a resident wearing a face covering or facemask during a personal visit. A nursing facility must inform residents and visitors of the policies and procedures.

(7) Visitors, except for essential caregivers, may be any age. Visitors under the age of two are exempt from all requirements to wear masks described in the nursing facility's policies and procedures.

(8) A nursing facility must ensure equal access by all residents to visitors and essential caregivers.

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

(10) A nursing facility must ensure a comfortable and safe outdoor visiting area for outdoor visits, considering outside air temperatures and ventilation.

(11) A nursing facility must provide hand-washing stations or hand sanitizer, to the visitor and resident before and after visits.

(12) The visitor and the resident must practice hand hygiene before and after the visit.

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

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

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

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

(p) The following requirements apply to salon services visits.

(1) A salon services visit may be permitted for all residents with COVID-19 negative status.

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

(3) Salon services visitors do not have to maintain physical distancing between themselves and each resident they are visiting but must maintain physical distancing of at least six feet between themselves and all other persons in the facility.

(4) The nursing facility must develop and enforce salon services visitation policies and procedures, which include:

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

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

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

(D) limiting visitation to the area designated by the facility in accordance with paragraph (2) of this subsection.

(5) The nursing facility must:

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

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

(C) maintain documentation of the salon services visitor's training as required in paragraph (4)(B) of this subsection; and

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

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

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

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Nycia Deal

Attorney

Health and Human Services Commission

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



CHAPTER 558. LICENSING STANDARDS
FOR HOME AND COMMUNITY SUPPORT
SERVICES AGENCIES
SUBCHAPTER I. RESPONSE TO COVID-19
AND PANDEMIC-LEVEL COMMUNICABLE
DISEASE

26 TAC §558.961

The Executive Commissioner of the Texas Health and Human Services Commission (HHSC) adopts on an emergency basis in Title 26 Texas Administrative Code, Chapter 558, Licensing Standards for Home and Community Support Services Agen-

cies, new §558.961, concerning an emergency rule in response to COVID-19 to implement provisions in House Bill 797, passed by the 87th Legislature, Regular Session, 2021, relating to possession and administration of certain vaccines by a home and community support services agency (HCSSA) or its employees. As authorized by Texas Government Code §2001.034, HHSC may adopt an emergency rule without prior notice or hearing upon finding that an imminent peril to the public health, safety, or welfare requires adoption on fewer than 30 days' notice. Emergency rules adopted under Texas Government Code §2001.034 may be effective for not longer than 120 days and may be renewed for not longer than 60 days.

BACKGROUND AND PURPOSE

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

To protect clients served by HCSSAs and the public health, safety, and welfare of the state during the COVID-19 pandemic, HHSC is adopting an emergency rule to allow HCSSAs to purchase, store, and transport COVID-19 vaccine for the purposes of vaccinating clients and staff.

STATUTORY AUTHORITY

The emergency rulemaking is adopted under Texas Government Code §2001.034 and §531.0055 and Texas Health and Safety Code §142.012. 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 au-

thorizes the Executive Commissioner of HHSC to adopt rules and policies necessary for the operation and provision of health and human services by the health and human services system. Texas Health and Safety Code §142.012 requires the Executive Commissioner of HHSC to adopt rules necessary to implement Chapter 142 of the Texas Health and Safety Code and setting minimum standards for HCSSAs that are necessary to protect the public.

The new section implements Texas Government Code §531.0055 and Texas Health and Safety Code §142.012.

§558.961. Vaccine Authority for Home Health and Hospice Agencies.

(a) Notwithstanding provisions in §558.303 of this chapter (relating to Standards for Possession of Sterile Water or Saline, Certain Vaccines or Tuberculin, and Certain Dangerous Drugs), an agency licensed to provide home health or hospice services may purchase, store, and transport COVID-19 vaccines.

(b) An agency must have and enforce a vaccination policy that ensures vaccines are stored and transported in accordance with:

(1) vaccine manufacturer's instructions; and

(2) Centers for Disease Control and Prevention, Department of State Health Services, and Texas Health and Human Services Commission guidelines.

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 May 28, 2021.

TRD-202102134

Karen Ray

Chief Counsel

Health and Human Services Commission

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Expiration date: September 24, 2021

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



PROPOSED RULES

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

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

TITLE 22. EXAMINING BOARDS

PART 11. TEXAS BOARD OF NURSING

CHAPTER 221. ADVANCED PRACTICE NURSES

22 TAC §221.14

The Texas Board of Nursing (Board) proposes amendments to 22 Texas Administrative Code §221.14, relating to Nurse-Midwives Providing Controlled Substances. The amendments are being proposed under the authority of Tex. Occ. Code §301.151.

Background. As required by Tex. Gov't. Code §2001.039, the Board filed its notice of intention to review and consider for reoption, reoption with amendments, or repeal, 22 Texas Administrative Code Chapters 213, 216, and 221, pursuant to the 2019 rule review plan adopted by the Board at its July 2018 meeting. The notice was posted in the December 11, 2020, issue of the *Texas Register* (45 TexReg 8885). As a result of the rule review, the Board is now proposing substantive amendments to §221.14 for consistency with Tex. Occ. Code §157.059, which governs *Delegation of Certain Obstetrical Services*.

Tex. Occ. Code §157.059 was amended by Senate Bill (SB) 406, effective November 1, 2013. Pursuant to SB 406, a physician may delegate to a physician assistant or a nurse-midwife the act of administering or providing controlled substances to the patients of the physician assistant or nurse-midwife during intrapartum and immediate postpartum care. This delegation is limited to seven nurse-midwives or physician assistants or their full-time equivalents and the designated facility at which the nurse-midwife or physician assistant provides care. Additionally, SB 406 authorized the use of a prescriptive authority agreement as an additional method for physician delegation under Tex. Occ. Code §157.059. It also updated the terminology throughout the bill to refer to advanced practice *registered* nurses. The Board's proposed amendments are necessary for consistency with these statutory changes.

Fiscal Note. Katherine Thomas, Executive Director, has determined that for each year of the first five years the proposed amendments will be in effect, there will be no change in the revenue to state government as a result of the enforcement or administration of the proposal.

Public Benefit/Cost Note. Ms. Thomas has also determined that for each year of the first five years the proposed amendments are in effect, the anticipated public benefit will be the adoption of a rule that conforms to statutory requirements. There are no anticipated costs of compliance associated with the proposed amendments. The proposed amendments do not impose new requirements on any Board regulated entity. Rather, they con-

form the existing rule text to the statutory changes that occurred during the enactment of SB 406. Since the proposed amendments are the direct result of the enactment of legislation, the Board does not anticipate any resulting costs of compliance as a result of the proposal.

Costs Under the Government Code §2001.0045. The Government Code §2001.0045 prohibits agencies from adopting a rule that imposes costs on regulated persons unless the agency repeals a rule that imposes a total cost on regulated persons that is equal to or greater than the total cost imposed on regulated persons by the proposed rule or amends a rule to decrease the total cost imposed on regulated persons by an amount that is equal to or greater than the cost imposed on the persons by the proposed rule. The Board has determined that there will be no economic impact on any regulated person because there are no anticipated costs of compliance with the proposal.

Economic Impact Statement and Regulatory Flexibility Analysis for Small and Micro Businesses. The Board has determined that there will be no economic impact on small businesses, micro businesses, or rural communities because there are no anticipated costs of compliance associated with the proposal. As such, an economic impact statement and regulatory flexibility analysis is not required.

Government Growth Impact Statement. The Board is required, pursuant to Tex. Gov't Code §2001.0221 and 34 Texas Administrative Code §11.1, to prepare a government growth impact statement. The Board has determined for each year of the first five years the proposed amendments will be in effect: (i) the proposal does not create or eliminate a government program; (ii) the proposal is not expected to have an effect on current agency positions; (iii) implementation of the proposal does not require an increase or decrease in future legislative appropriations to the Board; (iv) the proposal does not affect the fees paid to the Board; (v) the proposal amends an existing regulation for conformity with the mandates of the Occupations Code §157.059; (vi) the proposal does not repeal an existing regulation; (vii) the proposal does not extend to new entities not previously subject to the rule; and (viii) the proposal will not affect the state's economy.

Takings Impact Assessment. The Board has determined that no private real property interests are affected by this proposal and that this proposal does not restrict or limit an owner's right to property that would otherwise exist in the absence of government action and, therefore, does not constitute a taking or require a takings impact assessment under the Government Code §2007.043.

Request for Public Comment. To be considered, written comments on this proposal should be submitted to Kristin Benton, DNP, RN, Director of Nursing, and James W. Johnston, Gen-

eral Counsel, at Texas Board of Nursing, 333 Guadalupe, Suite 3-460, Austin, Texas 78701, or by email to Kristin.Benton@bon.texas.gov and Dusty.Johnston@bon.texas.gov, or faxed to (512) 305-8101. If a hearing is held, written and oral comments presented at the hearing will be considered.

Statutory Authority. The amendments are proposed under the authority of the Occupations Code §301.151.

Section 301.151 addresses the Board's rulemaking authority. Section 301.151 authorizes the Board to adopt and enforce rules consistent with Chapter 301 and necessary to: (i) perform its duties and conduct proceedings before the Board; (ii) regulate the practice of professional nursing and vocational nursing; (iii) establish standards of professional conduct for license holders under Chapter 301; and (iv) determine whether an act constitutes the practice of professional nursing or vocational nursing.

Cross Reference To Statute. The following statutes are affected by this proposal: Tex. Occ. Code §301.151 and §157.059.

§221.14. *Nurse-Midwives Providing Controlled Substances.*

(a) (No change.)

(b) An advanced practice registered nurse recognized by the Board [~~board~~] as a nurse-midwife may provide one or more unit doses of a controlled substance during intra-partum or immediate post-partum care subject to the following conditions:

(1) Physician delegation of authority to provide controlled substances must be made through a physician's order, medical order, standing delegation order, prescriptive authority agreement, or protocol that requires adequate and documented availability for access to medical care. Delegation may not include the use of a prescription sticker or the use or issuance of an official prescription form or the authority to issue an electronic prescription under §481.075, Health and Safety Code;

(2) The physician's orders, medical orders, standing delegation orders, prescriptive authority agreements, or protocols [~~nurse-midwife's protocols or other orders~~] must require the reporting of or monitoring of each patient's progress, including complications of pregnancy and delivery and the administration and provision of controlled substances by the nurse-midwife to the patient;

(3) Delegation [~~delegation~~] is limited to seven [~~three full-time equivalent~~] nurse-midwives or physician assistants or their full-time equivalents and [at] the designated facility at which [~~where~~] the nurse-midwife or physician assistant provides care [~~practices~~]; and

(4) The [~~the~~] controlled substance must be supplied in a suitable container that is labeled in compliance with the applicable drug laws and must include:

(A) - (E) (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 May 27, 2021.

TRD-202102119

Jena Abel

Deputy General Counsel

Texas Board of Nursing

Earliest possible date of adoption: July 11, 2021

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

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PART 17. TEXAS STATE BOARD OF
PLUMBING EXAMINERS

CHAPTER 365. LICENSING AND
REGISTRATION

22 TAC §365.6

The Texas State Board of Plumbing Examiners (Board) proposes amendments to 22 TAC §365.6, relating to Expiration of License, Registration or Endorsement.

Background and Justification

Pursuant to §1301.403(d) of the Texas Occupations Code, a person whose license, endorsement, or registration has been expired for two years or more may not renew the license, endorsement, or registration. Instead, the person must obtain a new license, endorsement, or registration by complying with the requirements and procedures, including the examination requirements, for obtaining an original license, endorsement, or registration. Additionally, pursuant to §1301.002(10) of the Texas Occupations Code, a person must work for 4,000 hours under the direct supervision of a journeyman or master plumber to become a tradesman plumber-limited license holder. Similarly, pursuant to §1301.002(4) of the Texas Occupations Code, a person must work for 8,000 hours under the supervision of a responsible master plumber to become a journeyman plumber. Likewise, pursuant to §1301.002(5) of the Texas Occupations Code, a person must work for one to four years as a journeyman plumber to become a master plumber. While a former licensee must meet the current requirements to obtain a license, including passing the current examination, it has always been board practice to credit verified hours or years obtained at any point in the past towards the requirements to obtain a new license as §1301.002 of the Texas Occupations Code does not place any time limit on when the hours or years were obtained. This proposed amendment is to clarify that those individuals, who previously held a license, endorsement, or registration and are seeking to obtain a new license, endorsement, or registration will be credited with the verified hours or years they previously obtained. Furthermore, over the last decennial, Texas added over 4 million residents. demographics.texas.gov/data/decennial/2020/. Moreover, Texas ranks first in the U.S. in the variety and frequency of natural disasters. nisar.jpl.nasa.gov/files/nisar/NISAR_Applications_Hazards_Texas.pdf. These two facts highlight the need for qualified plumbers in this state to not only respond to disasters like Winter Storm Uri, but also to meet new construction demands. By making its longstanding policy more explicit, the board hopes that it will encourage persons who left the trade to return to the trade.

Fiscal Impact on State and Local Government

Lisa G. Hill, Executive Director, has determined that for the first five years the amended rule is in effect, there are no foreseeable increases or reductions in costs to the state or local governments as a result of enforcing or administering the amended rule. The Executive Director has further determined that for the first five years the amended rule is in effect, there will be no foreseeable loss in revenue for the state or local governments as a result of enforcing or administering the amended rule. The amended rule may result in an indeterminate increase in revenue to the state in the form of application and license fees as more individ-

uals will be eligible for, and may seek, licensure by the Board. No increase in revenue for local governments is anticipated as a result of the amended rule directly. However, to the extent the amended rule results in additional individuals being licensed by the Board, overall plumbing activity in the state may increase, potentially increasing revenue to local governments requiring the permitting and inspection of plumbing work within their jurisdiction, derived from such permits.

Public Benefits

The Executive Director has determined that for each of the first five years the amended rule is in effect, the public benefit anticipated as a result of amending the rule will be the presence of additional plumbers in the marketplace. Thereby, increasing supply to meet heavy demand for licensed plumbing professionals and reducing costs to consumers.

Probable Economic Costs to Persons Required to Comply with the Rule

The Executive Director has further determined that for the first five years the amended rule is in effect, there are no substantial costs anticipated for persons required to comply with the rule.

One-for-One Rule Analysis

Given the rule does not have a fiscal note which imposes a cost on regulated persons, including another state agency, a special district, or local government, the Board asserts proposal and adoption of the rule is not subject to the requirements of Government Code §2001.0045.

Government Growth Impact Statement

For each of the first five years the amended rule is in effect, the agency has determined the following: (1) the amended rule does not create or eliminate a government program; (2) implementation of the amended rule does not require the creation of new employee positions or the elimination of existing employee positions; (3) implementation of the amended rule does not require an increase or decrease in future legislative appropriations to the agency; (4) the rule does not require an increase or decrease in fees paid to the agency by persons already regulated by the Board, and would not alter applicable fee amounts for licensure; however, as related, *supra*, the rule may result in additional individuals being licensed by the Board, which would cause additional fees to be paid to the agency; (5) the amended rule does not create a new regulation; (6) the amended rule does not expand or limit an existing regulation; (7) the amended rule does not increase or decrease the number of individuals subject to the amended rule's applicability; and (8) the amended rule does not adversely affect this state's economy and has the potential to positively impact the state's economy by putting additional licensed plumbers into the marketplace, potentially spurring economic activity and growth.

Local Employment Impact Statement

The Executive Director has determined that no local economies are substantially affected by the rule, and, as such, the Board is exempted from preparing a local employment impact statement pursuant to Government Code §2001.022.

Fiscal Impact on Small and Micro-Businesses and Rural Communities

The Executive Director has determined that the rule will not have an adverse effect on small or micro-businesses, or rural communities, because there are no substantial anticipated costs to

persons who are required to comply with the rule. As a result, the Board asserts preparation of an economic impact statement and a regulatory flexibility analysis, as provided by Government Code §2006.002, are not required.

Takings Impact Assessment

The Board has determined that there are no private real property interests affected by the rule; thus, the Board asserts preparation of a takings impact assessment, as provided by Government Code §2007.043, is not required.

Environmental Rule Analysis

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

Public Comments

Written comments regarding the amendments may be submitted by mail to Helen Kelley at P.O. Box 4200, Austin, Texas 78765-4200, or by email to rule.comment@tsbpe.texas.gov with the subject line "365.6 Rule Amendment." All comments must be received within 30 days of publication of this proposal.

Statutory Authority

This amendment is proposed under the authority of §1301.251(2) of the Occupations Code, which requires the Board to adopt and enforce rules necessary to administer and enforce Chapter 1301 of the Occupations Code (Plumbing License Law or PLL). This amendment is also proposed under the authority of §1301.002(4), (5), and (10), which sets the experience requirements for tradesman plumber-limited license holders, journeyman plumbers and master plumbers.

This proposal affects the Plumbing License Law. No other statute is affected by this proposal.

§365.6. *Expiration of License, Registration or Endorsement.*

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

[(d) An individual whose license, registration or endorsement has been expired for more than two (2) years may not renew and shall instead apply for a reinstatement of the license, registration or endorsement. An individual seeking a reinstatement shall follow the same application process as an applicant who has never held a license, registration or endorsement, including registering as a Plumber's Apprentice, submitting the necessary application(s), paying the fee(s) required by §361.6 of the Board Rules, and taking any applicable examinations.]

(d) [(e)] CPE requirements must be satisfied prior to the renewal of any expired license, Medical Gas Piping Installation Endorsement or Drain Cleaner, Drain Cleaner-Restricted or Residential Utilities Installer Registration.

(e) An individual whose license, registration or endorsement has been expired for more than two (2) years may not renew and shall instead apply for a reinstatement of the license, registration or endorsement. An individual seeking a reinstatement shall follow the same application process as an applicant who has never held a license, registration or endorsement, including registering as a Plumber's Apprentice, submitting the necessary application(s), paying the fee(s) required by §361.6 of the Board Rules, and taking any applicable examinations. An applicant for reinstatement of a Tradesman Plumber-Limited License or a Journeyman Plumber License shall be credited with the hours pre-

viously obtained by the applicant working at the trade under the supervision of an RMP or a Master Plumber licensed in another state. An applicant for reinstatement of a Master Plumber License shall be credited with the year(s) a Journeyman Plumber License was previously held.

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 May 27, 2021.

TRD-202102116

Lisa Hill

Executive Director

Texas State Board of Plumbing Examiners

Earliest possible date of adoption: July 11, 2021

For further information, please call: (512) 936-5216



WITHDRAWN RULES

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

TITLE 26. HEALTH AND HUMAN SERVICES

PART 1. HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 554. NURSING FACILITY REQUIREMENTS FOR LICENSURE AND MEDICAID CERTIFICATION

SUBCHAPTER CC. COVID-19 EMERGENCY RULE

26 TAC §554.2802

The Health and Human Services Commission withdraws the emergency adoption of new §554.2802, which appeared in the February 19, 2021, issue of the *Texas Register* (46 TexReg 1126).

Filed with the Office of the Secretary of State on June 1, 2021.

TRD-202102151

Nycia Deal
Attorney
Health and Human Services Commission
Effective date: June 1, 2021
For further information, please call: (512) 438-3161



26 TAC §554.2803

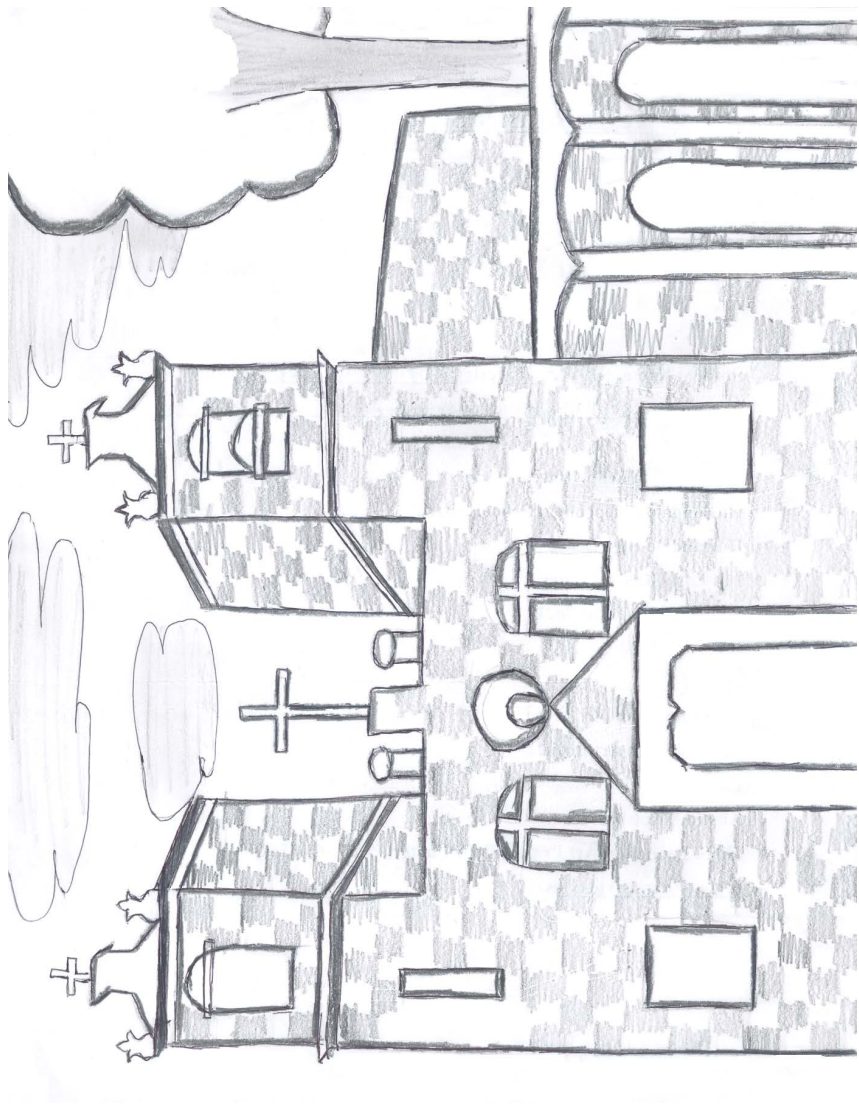
The Health and Human Services Commission withdraws the emergency adoption of new §554.2803, which appeared in the May 7, 2021, issue of the *Texas Register* (46 TexReg 2957).

Filed with the Office of the Secretary of State on June 1, 2021.

TRD-202102149

Nycia Deal
Attorney
Health and Human Services Commission
Effective date: June 1, 2021
For further information, please call: (512) 438-3161





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 16. ECONOMIC REGULATION

PART 4. TEXAS DEPARTMENT OF LICENSING AND REGULATION

CHAPTER 60. PROCEDURAL RULES OF THE COMMISSION AND THE DEPARTMENT SUBCHAPTER D. CRIMINAL HISTORY AND LICENSE ELIGIBILITY

16 TAC §60.42

The Texas Commission of Licensing and Regulation (Commission) adopts amendments to an existing rule at 16 Texas Administrative Code (TAC), Chapter 60, Subchapter D, §60.42, regarding the Procedural Rules of the Commission and the Department, without changes to the proposed text as published in the January 22, 2021, issue of the *Texas Register* (46 TexReg 515). The rule will not be republished.

EXPLANATION OF AND JUSTIFICATION FOR THE RULE

The rule under 16 TAC, Chapter 60, implements Texas Occupations Code, Chapter 51, General Provisions Related to Licensing, and Chapter 53, Subchapter D, Preliminary Evaluation of License Eligibility.

The adopted rule reduces the current fee amount in administrative rules charged for the Criminal History Evaluation Letter (CHEL) from \$25 to \$10. This letter is issued by the Department, upon request, to determine a license applicant's eligibility for a specific occupational license regulated by the Department, after conducting a criminal background check. The adopted rule is necessary to reflect the Department's adherence to Sections 51.202 and 53.105, Texas Occupations Code to reduce the CHEL fee to an amount reasonable and necessary to cover the costs of administering programs, after consideration and analysis by Department staff.

SECTION-BY-SECTION SUMMARY

The adopted rule amends 16 TAC, §60.42, Criminal History Evaluation Letter, by reducing the fee noted in subsection (c)(2) from \$25 to \$10.

PUBLIC COMMENTS

The Department drafted and distributed the proposed rules to persons internal and external to the agency. The proposed rules were published in the January 22, 2021, issue of the *Texas Register* (46 TexReg 515). The deadline for public comments was February 22, 2021. The Department received comments from four interested parties on the proposed rules during the 30-day public comment period. The public comments are summarized below.

Comment--The Department received a comment from the Texas Public Policy Foundation in support of the reduction of the criminal history evaluation fee from \$25 to \$10, describing the move as a reduction in economic and regulatory burdens on license applicants.

Department Response--The Department appreciates the comment in support of the proposed rule and no change was made to the proposed rule as a result of this comment.

Comment--The Department received a comment from the Academy of Hair Design in support of the reduction of the criminal history evaluation fee from \$25 to \$10 but noted that the application and payment process related to obtaining a criminal history evaluation letter should be available for online transactions. The commenter contended that such an option would streamline the process for those applicants who opted for such an approach.

Department Response--The Department appreciates the comment in support of the proposed rule and no change was made to the proposed rule as a result of this comment. Any change to the application and payment process related to the criminal history evaluation letter is not within the scope of the proposed rule. The comment has been forwarded to the appropriate division for further consideration and possible action.

Comment--The Department received two comments from interested parties supporting the proposed fee rule reduction.

Department Response--The Department appreciates the comments in support of the proposed rule and no change was made as a result of the comments.

COMMISSION ACTION

The Department staff recommended that the Commission adopt the proposed rule as published in the *Texas Register* without changes. At its meeting on May 6, 2021, the Commission adopted the proposed rules without changes as recommended.

STATUTORY AUTHORITY

The adopted rule is adopted under Texas Occupations Code, Chapters 51 and 53, which authorize the Texas Commission of Licensing and Regulation, the Department's governing body, to adopt rules as necessary to implement these chapters and any other law establishing a program regulated by the Department.

The statutory provisions affected by the adopted rule are those set forth in Texas Occupations Code, Chapters 51 and 53. No other statutes, articles, or codes are affected by the adopted rule.

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

Filed with the Office of the Secretary of State on May 26, 2021.

TRD-202102096
Brad Bowman
General Counsel
Texas Department of Licensing and Regulation
Effective date: June 15, 2021
Proposal publication date: January 22, 2021
For further information, please call: (512) 475-4879



TITLE 22. EXAMINING BOARDS

PART 17. TEXAS STATE BOARD OF PLUMBING EXAMINERS

CHAPTER 363. EXAMINATION AND REGISTRATION

22 TAC §363.2

The Texas State Board of Plumbing Examiners (Board) adopts amendments to 22 Texas Administrative Code §363.2, relating to fingerprinting requirements of individuals seeking a license as a journeyman plumber. Amendments to 22 Texas Administrative Code §363.2 are adopted without changes to the proposed text as published in the March 12, 2021, issue of the *Texas Register* (46 TexReg 1585). The rule will not be republished.

Reasoned Justification:

Pursuant to §1301.4521 and Chapter 53 of the Occupations Code, the Board conducts reviews of individuals with a criminal background seeking licensure by the Board to evaluate their fitness and to determine whether their criminal background disqualifies them from being licensed or registered by the Board. In accordance with §411.122 of the Government Code, the Board is authorized to access criminal background records from the Texas Department of Public Safety (DPS). On January 9, 2019, the Texas Sunset Advisory Commission (Sunset), pursuant to §325.012 of the Government Code, proposed a recommendation for statutory changes to Chapter 1301 of the Occupations Code (Plumbing License Law or PLL) that would require all licensees and registrants to submit to fingerprint background checks with DPS. The recommendation comports with Sunset's Model Standards for Licensing and Regulatory Agencies, which promote fingerprint-based criminal background checks over other types of criminal background checks, particularly when the duties and responsibilities of performing work with the license would allow the individual to enter a person's home, and whether the licensee could injure or harm a member of the public. Fingerprint-based criminal background checks have become more useful, given the ability to participate in the Federal Rap Back program joined by Texas, and implemented on January 15, 2018, allowing for near-instant notification of additions to an individual's criminal background, including crimes committed in other states. Subsection 363.2(f) was added in May 2019 to allow the Board to phase in fingerprinting background checks for various licensees beginning with tradesman plumbers. This amendment expands the requirement to also include journeyman plumbers.

Summary of Comments:

No comments were received regarding adoption of the amendment.

Statutory Authority:

This amendment is adopted under the authority of §1301.251(2) of the Occupations Code, which requires the Board to adopt and enforce rules necessary to administer and enforce the Plumbing License Law and §1301.002(4) of the Occupations Code, which allows the Board to set requirements for persons seeking to become licensed as a journeyman plumber. This amendment is also adopted under the authority of, and to implement, §1301.4521 of the Occupations Code. Amended §363.2 is also proposed under the authority of Chapter 53 of the Occupations Code and §411.122 of the 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 May 27, 2021.

TRD-202102117
Lisa Hill
Executive Director
Texas State Board of Plumbing Examiners
Effective date: July 1, 2021
Proposal publication date: March 12, 2021
For further information, please call: (512) 936-5216



22 TAC §363.4

The Texas State Board of Plumbing Examiners (Board) adopts amendments to 22 Texas Administrative Code §363.4, relating to master plumber licenses. Amendments to 22 Texas Administrative Code §363.4 are adopted with changes to the proposed text as published in the March 12, 2021, issue of the *Texas Register* (46 TexReg 1588). The rule will be republished.

Reasoned Justification:

On January 9, 2019, the Texas Sunset Advisory Commission (Sunset), pursuant to §325.012 of the Government Code, adopted a recommendation directing the Board to eliminate the requirement for individuals licensed by the Board to hold a high school diploma or certificate of high school equivalency in lieu thereof. On May 15, 2019, the Board adopted amendments to 22 TAC §363.5 to eliminate the requirement for an individual to hold such high school diploma or certificate of high school equivalency in order to be eligible for a journeyman plumber license. By adopting this amendment the Board further implements the directive of Sunset to eliminate the requirement for an individual to hold a high school diploma or certificate of high school equivalency in order to be eligible to receive a master plumber license.

Summary of Comments:

No comments were received regarding adoption of the amendment.

Statutory Authority:

This amendment is adopted under the authority of §1301.251(2) of the Occupations Code, which requires the Board to adopt and enforce rules necessary to administer and enforce chapter 1301 of the Occupations Code Law and §1301.002(5) of the Occupations Code, which allows the Board to set requirements for persons seeking to become licensed as a master plumber.

§363.4. *Master Plumber License.*

(a) To be eligible for a Master Plumber License an applicant must have held a Journeyman Plumber License issued in Texas or another state:

(1) for at least four years; or

(2) for at least one year if the applicant has successfully completed a training program approved by the United States Department of Labor, Office of Apprenticeship or another nationally-recognized apprentice training program accepted by the Board.

(b) An applicant who is licensed as a Master Plumber in another state must meet the requirements set forth in subsection (a) of this section.

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

Filed with the Office of the Secretary of State on May 27, 2021.

TRD-202102124

Lisa Hill

Executive Director

Texas State Board of Plumbing Examiners

Effective date: July 1, 2021

Proposal publication date: March 12, 2021

For further information, please call: (512) 936-5216



22 TAC §363.8

The Texas State Board of Plumbing Examiners (Board) adopts amendments to 22 Texas Administrative Code §363.8, relating to plumbing inspector licenses. Amendments to 22 Texas Administrative Code §363.8 are adopted without changes to the proposed text published in the March 12, 2021, issue of the *Texas Register* (46 TexReg 1590) and will not be republished.

Reasoned Justification:

On January 9, 2019 the Texas Sunset Advisory Commission (Sunset), pursuant to §325.012 of the Government Code, adopted a recommendation directing the Board to eliminate the requirement for individuals licensed by the Board to hold a high school diploma or certificate of high school equivalency in lieu thereof. On May 15, 2019 the Board adopted amendments to 22 TAC §363.5 to eliminate the requirement for an individual to hold such high school diploma or certificate of high school equivalency in order to be eligible for a journeyman plumber license. By adopting this amendment the Board further implements the directive of Sunset to eliminate the requirement for an individual to hold a high school diploma or certificate of high school equivalency in order to be eligible to receive a plumbing inspector license.

Summary of Comments:

No comments were received regarding adoption of the amendment.

Statutory Authority:

This amendment is adopted under the authority of §1301.251(2) of the Occupations Code, which requires the Board to adopt and enforce rules necessary to administer and enforce chapter 1301 of the Occupations Code and §1301.002(8) of the Occupations Code, which allows the Board to set requirements for persons seeking to become licensed as a plumbing inspector.

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 May 27, 2021.

TRD-202102125

Lisa Hill

Executive Director

Texas State Board of Plumbing Examiners

Effective date: July 1, 2021

Proposal publication date: March 12, 2021

For further information, please call: (512) 936-5216



CHAPTER 367. ENFORCEMENT

22 TAC §367.2

The Texas State Board of Plumbing Examiners (Board) adopts amendments to 22 Texas Administrative Code §367.2, relating to code requirements. Amendments to 22 Texas Administrative Code §363.2 are adopted without changes to the proposed text published in the March 12, 2021, issue of the *Texas Register* (46 TexReg 1593) and will not be republished.

Reasoned Justification:

Occupations Code §1301.255 requires the Board to adopt plumbing codes governing the minimum design, installation and maintenance requirements of a plumbing system. Specifically, the Board was required to adopt the Uniform Plumbing Code (UPC), as published by the International Association of Plumbing and Mechanical Officials and the International Plumbing Code (IPC), as published by the International Code Council. Pursuant to Occupations Code §1301.551, municipalities with a population greater than 5,000 must regulate plumbing within their jurisdiction in accordance with the requirements of Occupations Code Chapter 1301. Municipalities below this threshold, meanwhile, may opt-in and elect to regulate plumbing within their jurisdiction in accordance with the requirements of Occupations Code Chapter 1301. Pursuant to Occupations Code §1301.255(c) the plumbing codes adopted by the Board apply in areas that are not otherwise subject to regulation under Occupations Code Chapter 1301. Occupations Code §1301.255(b) authorizes the Board to adopt later editions of the plumbing codes. The adopted 2018 editions of the UPC and IPC replace the previous 2012 editions ensuring that plumbing systems designed, installed, and maintained in the state use modern materials and installation techniques, and conform to modern industry-recognized standards for function, efficiency, and safety.

Summary of Comments:

No comments were received regarding adoption of the amendment.

Statutory Authority:

This amendment is adopted under the authority of §1301.251(2) of the Occupations Code, which requires the Board to adopt and enforce rules necessary to administer and enforce Chapter 1301 of the Occupations Code. This amendment is also adopted under the authority of Occupations Code §1301.255(b) which allows the Board to adopt later editions of the plumbing codes by rule.

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

Filed with the Office of the Secretary of State on May 27, 2021.

TRD-202102126

Lisa Hill

Executive Director

Texas State Board of Plumbing Examiners

Effective date: June 16, 2021

Proposal publication date: March 12, 2021

For further information, please call: (512) 936-5216

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TITLE 28. INSURANCE

PART 1. TEXAS DEPARTMENT OF INSURANCE

CHAPTER 19. LICENSING AND REGULATION OF INSURANCE PROFESSIONALS

SUBCHAPTER K. CONTINUING EDUCATION, ADJUSTER PRELICENSING EDUCATION PROGRAMS, AND CERTIFICATION COURSES

28 TAC §§19.1006, 19.1010, 19.1011, 19.1029

The Commissioner of Insurance adopts amendments to 28 Texas Administrative Code (TAC) §§19.1006, 19.1010, 19.1011, and 19.1029, concerning continuing education (CE) requirements of insurance professionals, including agents, adjusters, public insurance adjusters, and managing general agents. The amendments to §§19.1006, 19.1010, 19.1011, and 19.1029 are adopted with nonsubstantive changes to the proposed text published in the November 27, 2020, issue of the *Texas Register* (45 TexReg 8477). The rules will be republished.

REASONED JUSTIFICATION. In response to a Texas Department of Insurance (TDI) initiative to identify rules for updates and changes, stakeholders requested that TDI amend the CE rules to simplify existing requirements and add options for obtaining CE course credit. In response to this, the amendments to §§19.1006, 19.1010, and 19.1011 update the rules to reflect best practices for the CE requirements of insurance professionals.

Amendments to §19.1006 update the CE course topics, providing more detail and choices to make it easier for insurance professionals to obtain individually tailored CE. Amendments to §19.1010 add ways to calculate CE hours and simplify credit hours to include only whole numbers, to align with industry best practices. And amendments to §19.1011 give providers more flexibility in administering a CE exam and makes clear that a CE provider may issue an electronic certificate for CE course completion directly to the insurance professional. These amendments will help ensure that insurance professionals acquire and maintain the expertise to properly serve Texas insureds.

Further, the legislature amended Insurance Code §4004.202(b) in response to a TDI biennial report that called for additional CE requirements because of increased consumer complaints

about complex insurance products. The amendment to §19.1029 will bring the rule into compliance with Insurance Code §4004.202(b).

The amendments to the sections are described in the following paragraphs.

Section 19.1006. Section 19.1006(a) is amended to expand and modernize the non-exclusive list of topics that may be covered as part of a certified continuing education course. The amended list contains 31 topics listed in new paragraphs (1) through (31), including new topics related to financial planning. Subsection (a) is further amended to clarify course content requirements for ethics and consumer protection credit by deleting current paragraphs (1) - (18) and inserting text that tracks those paragraphs into new paragraph (8)(A) - (R). The text of subsection (a)(24) as proposed has been changed by capitalizing the word "Real" in "Real Estate Settlement Procedures Act."

Section 19.1010. Section 19.1010(a)(1) and §19.1010(a)(2)(B) are amended by deleting the third and second sentences, respectively, referring to partial hour credit for CE courses. Section 19.1010(a)(2)(A) is amended by adding clauses (iii) and (iv), which describe new options for providers to calculate the number of credit hours per course. The options in new clauses (iii) and (iv) supplement the existing options in clauses (i) and (ii), and catchlines are also added to existing clauses (i) and (ii) to describe the content of those clauses. The text of §19.1010 as proposed has been changed by adding a hyphen to "self study" where necessary for consistency with the term as used in the rest of the adopted sections.

Section 19.1011. Section 19.1011(d)(1) is amended by deleting the last two sentences of the existing paragraph, which mandate that at least 70% of examination questions or interactive inquiries be based at the application level, while the remainder may be at the knowledge level. The removal of this requirement in §19.1011(d)(1) will allow providers to offer more courses that cater to educating novice insurance professionals.

Section 19.1011(e) is amended by deleting the last sentence of the existing subsection, which mandates that only CE course providers may prepare, print, or complete a CE course certificate of completion. Deleting the last sentence and making conforming amendments to the remainder of the subsection will ensure that, while providers must still prepare and complete the certificates of completion, the provider may award electronic certificates that can be printed by the insurance professional.

The text of §19.1011 as proposed has been changed by adding a hyphen to "self study" where necessary for consistency with the term as used in the rest of the adopted sections, and the text of subsection (f)(6) as proposed has been changed by making the letter "A" at the start of paragraph (6) lower case.

Section 19.1029. Section 19.1029 is amended to mirror the requirements of Insurance Code §4004.202(b). The existing section relates to CE hours regarding agents who sell annuities, and existing subsection (a) requires four hours of TDI-certified CE per year. Existing subsections (b) and (c) are deleted.

Existing §19.1029(a) is amended by adding a sentence to clarify that the exemptions provided in §19.1004(b) and (c) also apply to insurance professionals certified to sell annuities. The remainder of the existing text of the subsection is divided into new subsections (b) and (c). The text from existing subsection (a) that is incorporated into new subsection (b) is amended to require eight hours of TDI-certified continuing education hours ev-

ery two years. The text from existing subsection (a) that is incorporated into new subsection (c) is amended to clarify that completion of the annuity certification course required by §19.1028 constitutes four hours of TDI-certified annuity continuing education in the license period during which the certification course is taken. These changes will align the section with the requirements in the Insurance Code and further simplify requirements for insurance professionals engaging in the annuities business. The text of subsection (d)(2) as proposed has been changed by adding the word "in."

In addition, §§19.1006, 19.1010, 19.1011, and 19.1029 include nonsubstantive editorial and formatting amendments to conform the sections to the agency's current style and to improve the rule's clarity. These amendments include replacing each instance of "department," replacing or deleting each instance of "shall," and revising the wording where administrative code sections are referenced. "Department" or "the department" is replaced by "TDI," "shall" is replaced by "must" or otherwise replaced or deleted as appropriate, and the words "chapter" and "subchapter" are changed to "title" where they appear in references to administrative code sections. In addition, punctuation and capitalization are revised throughout the text where necessary to correct errors and for consistency with TDI's current style.

SUMMARY OF COMMENTS. TDI did not receive any comments on the proposed amendments.

STATUTORY AUTHORITY. TDI adopts amendments to §§19.1006, 19.1010, 19.1011, and 19.1029 under Insurance Code §§4004.001, 4004.103, 4004.104, 4004.203, and 36.001.

Insurance Code §4004.001 provides TDI with exclusive jurisdiction for all matters relating to the continuing education of agents licensed under the Insurance Code.

Insurance Code §4004.103 provides that the Commissioner may adopt rules establishing other requirements for continuing education program providers.

Insurance Code §4004.104 provides TDI with authority to establish the scope and type of continuing education requirements for each type of licensee.

Insurance Code §4004.203 provides that the Commissioner by rule adopt criteria for continuing education programs used to satisfy the requirements of §4004.202.

Insurance Code §36.001 provides that the Commissioner may adopt any rules necessary and appropriate to implement the powers and duties of TDI under the Insurance Code and other laws of this state.

§19.1006. Course Criteria.

(a) To be certified as a continuing education course, the course content must include topics that contribute substantive knowledge relating to the business of insurance and expand the competence of the licensee. Ethics and consumer protection course credit, described in paragraph (8) of this subsection, applies equally to all license types. TDI will not approve a course if it does not relate specifically to the business of insurance. Given that restriction, approved topics include, but are not limited to, the following:

- (1) actuarial mathematics, statistics, and probability;
- (2) assigned risk;
- (3) claims adjusting;

- (4) courses leading to and maintaining insurance designations;
- (5) employee benefit plans;
- (6) errors and omissions;
- (7) estate planning/taxation;
- (8) ethics and consumer protection, only if the course also provides instruction consistent with one or more of the following topics:

(A) Insurance Code Chapter 541, concerning Unfair Methods of Competition and Unfair or Deceptive Acts or Practices;

(B) Insurance Code Chapter 547, concerning False Advertising by Unauthorized Insurers;

(C) Insurance Code Chapter 542, Subchapter A, concerning Unfair Claim Settlement Practices;

(D) Business and Commerce Code Chapter 17, Subchapter E, concerning Deceptive Trade Practices and Consumer Protection Act;

(E) analogous laws as specified by TDI, including:

(i) Insurance Code Chapter 1952, Subchapter G, concerning Repair of Motor Vehicles;

(ii) Insurance Code Chapter 542, Subchapter B, concerning Prompt Payment of Claims;

(iii) Insurance Code Chapter 542, Subchapter D, concerning Notice of Settlement of Claim Under Casualty Insurance Policy;

(iv) Insurance Code Chapter 542, Subchapter E, concerning Recovery of Deductible From Third Parties Under Certain Automobile Insurance Policies;

(v) §5.501 of this title (relating to Notice Requirements to Claimants Regarding Motor Vehicle Repairs); and

(vi) Penal Code Chapter 35, concerning Insurance Fraud;

(F) corporate ethics;

(G) ethical challenges of licensees;

(H) ethical behavior of an insurance company;

(I) ethical behavior of an agent or adjuster;

(J) duties of the licensee to company, client, and customer;

(K) duties of insurer/HMO to agents/clients;

(L) fiduciary responsibility;

(M) unfair marketing practices;

(N) difference between ethics and laws;

(O) confidentiality, privacy, and ethics;

(P) ethical analysis of the licensee's job;

(Q) philosophical approaches to ethics; or

(R) business ethics;

(9) fundamentals/principles of insurance;

(10) insurance accounting/actuarial considerations;

(11) insurance contract/policy comparison and analysis;

- (12) insurance fraud;
- (13) insurance laws, rules, regulations, and regulatory updates;
- (14) insurance policy provisions;
- (15) insurance product-specific knowledge;
- (16) insurance rating/underwriting/claims;
- (17) insurance tax laws;
- (18) legal principles;
- (19) long-term care/partnership;
- (20) loss prevention, control, and mitigation;
- (21) managed care;
- (22) principles of risk management;
- (23) proper uses of insurance products;
- (24) Real Estate Settlement Procedures Act;
- (25) restoration -- addresses claims, loss control issues, and mitigation;
- (26) retirement planning;
- (27) securities;
- (28) suitability in insurance products;
- (29) surety bail bond;
- (30) underwriting principles; and
- (31) viaticals/life settlements.

(b) To be certified as an adjuster prelicensing education course or program, the course content must enhance the student's knowledge, understanding, and/or professional competence regarding the subjects set forth in §19.1017 and §19.1018 of this title (relating to Adjuster Prelicensing Education Course Content and Examination Requirements and Adjuster Prelicensing Examination Topics). Unless specifically stated otherwise, this subchapter applies equally to courses certified for continuing education and adjuster prelicensing purposes.

(c) To be certified as a long-term care partnership certification course, the course content must enhance the student's knowledge, understanding, and professional competence regarding the subjects specified in §19.1022 of this title (relating to Long-Term Care Partnership Certification Course). Unless specifically stated otherwise, this subchapter applies equally to courses certified for continuing education and long-term care partnership certification and long-term care partnership continuing education purposes.

(d) To be certified as a Medicare-related product certification course, the course content must enhance the student's knowledge, understanding, and professional competence regarding the subjects specified in §19.1024 of this title (relating to Medicare-Related Product Certification Course). Unless specifically stated otherwise, this subchapter applies equally to courses certified for continuing education, Medicare-related product certification, and Medicare-related product continuing education purposes.

(e) To be certified as a small employer health benefit plan specialty certification course, the course content must enhance the student's knowledge, understanding, and professional competence regarding the subjects specified in §19.1026 of this title (relating to Small Employer Health Benefit Plan Specialty Certification Course). Unless specifically stated otherwise, this subchapter applies equally to courses

certified for continuing education and small employer health benefit plan specialty certification.

(f) To be certified as an annuity certification or continuing education course, the course content must enhance the student's knowledge, understanding, and professional competence regarding the subjects specified in §19.1028(g)(1) - (4) of this title (relating to Annuity Certification Course). Unless specifically stated otherwise, this section applies equally to courses certified for continuing education and annuity certification.

(g) The following course content is not applicable to a licensee's continuing education requirements:

(1) meetings held in conjunction with the regular business of the licensee or courses or training relating to the marketing and business practices of a specific company;

(2) course content teaching general accounting, speed reading, other general business skills, computer use, or computer software application use;

(3) course content teaching motivation, goal-setting, time management, communication, sales, or marketing skills;

(4) course content providing for prelicensing training qualifying examination preparation;

(5) course content that does not meet the requirement of subsection (a) of this section; and

(6) course content that is substantially:

(A) a glossary, dictionary, or index of insurance terms without independent distinction as to the application of these terms to the business of insurance through case studies or analysis based on actual or hypothetical factual situations that apply to the business of insurance; or

(B) a recitation of statutes, rules, legal principles, or theories without independent distinction as to the application of these issues to the business of insurance through case studies or analysis based on actual or hypothetical factual situations that apply to the business of insurance.

(h) A single continuing education course may include both ethics and consumer protection credit topics with other topics meeting the requirements of subsection (a) of this section.

§19.1010. Hours of Credit.

(a) Credit hours for courses are determined by the methods set forth in paragraphs (1) - (7) of this subsection.

(1) TDI will award credit for certified classroom courses at the rate of one hour for every 50 minutes of actual instruction contact time. All classroom courses must be at least one hour of credit in length. Instruction contact time is considered the amount of time devoted to the actual course instruction and does not include breaks, lunch, dinner, introductions of speakers, explanatory or preparatory instructions, or evaluation of the course. TDI will not certify more than 24 credit hours for any one classroom course.

(2) TDI will award credit for certified classroom equivalent and self-study courses as set forth in subparagraphs (A) - (D) of this paragraph.

(A) The provider must determine the number of course hours by using one of the methods described in the following clauses.

(i) Average completion time. The provider may determine the number of course hours by calculating the average completion time of the individual course completion times of at least five

licensees. If the provider uses this method to determine the number of credit hours, the provider must retain the names, current insurance license numbers, and completion times of all licensees that were used by the provider. A provider using this method may, at its discretion, issue certificates of completion in the number of hours certified by TDI to the licensees involved in the process and who completed the entire course.

(ii) Average number of credit hours assigned by other states. The provider may determine the number of course hours by calculating the average number of hours of the credit hours assigned by all other states in which the course is certified or approved. A provider may not use this method to determine the number of credit hours unless the course is approved in at least three other states. Providers may not include any hours allowed by other states for sales and marketing topics in calculating the average.

(iii) Word count/difficulty level. Providers using this method must designate the course as one of three difficulty levels: basic, intermediate, or advanced. A basic level course is designed for entry-level practitioners or practitioners new to the subject matter, an intermediate level course is designed for practitioners who have existing competence in the subject area and who seek to further develop and apply their skills, and an advanced course is designed for practitioners who have a strong foundation and high level of competence in the subject matter. Using these course difficulty definitions, the provider may then determine the number of course hours in the following manner. First, divide the total number of words by 180 to equal the documented average reading time. Second, divide the documented average reading time by 50 to equal the credit hours for a basic level course. Third, for intermediate and advanced courses, multiply the number of credit hours by 1.25 and 1.50, respectively, to reach the total number of credit hours for those respective courses. Fractional hours must be rounded up to the nearest whole number if .50 or above, and fractional hours must be rounded down to the nearest whole number if .49 or less.

(iv) Interactive course content. To use this method, the course must be interactive. An interactive course includes regularly occurring opportunities for student participation, engagement, and interaction with or in course activities and information. Examples include, but are not limited to, question and answer sessions, polling, games, sequencing, and matching exercises. The provider may determine the number of course hours of an interactive course by calculating the run time of the mandatory interactive elements, which include only those elements required to complete the course.

(B) All classroom equivalent and self-study courses must be at least one hour of credit, 50 minutes, in length.

(C) Providers may not use the final examination and pre-tests for determining course hours or calculating an average.

(D) TDI will not certify more than 24 credit hours for any one classroom equivalent course or 12 credit hours for any one self-study course.

(3) TDI will grant continuing education classroom credit to licensees successfully completing qualifying college, law school, and university insurance classroom courses, as determined by the college, law school, or university. The number of classroom hours of continuing education credit for college, law school, and university insurance courses is the number of classroom instruction contact hours not including examinations, which may be no more than 24 credit hours per course.

(4) TDI will grant 12 self-study credit hours to licensees successfully passing qualifying national designation certification pro-

gram examinations. Should the licensee also participate in and successfully complete a certified or qualifying classroom or classroom equivalent course in preparation for the national designation certification program examination, the licensee must choose either the classroom presentation or the national designation certification program examination to count as credit towards the licensee's continuing education requirement.

(5) Licensees who teach any portion of a certified continuing education classroom course may receive hour for hour classroom credit up to the maximum number of credit hours for the course. Licensees who teach courses may also be awarded an equal number of self-study hours as credit for course preparation.

(6) TDI will grant continuing education classroom credit to licensees successfully completing qualifying courses certified or approved for classroom, classroom equivalent, or participatory credit by the continuing education authority of a state bar association or state board of public accountancy on an hour for hour basis equal to the credit hours assigned to the course by the certifying state bar association or state board of public accountancy. The state bar association or state board of public accountancy must determine what constitutes successful completion of the course. TDI will not grant licensees self-study credit for any course accepted by a state bar association or state board of public accountancy unless the self-study course is offered through a registered provider in accordance with this subchapter.

(7) TDI will grant licensees continuing education credit for successfully completing courses certified or approved by the Federal Farm Credit Insurance Corporation on an hour for hour basis as assigned by the Farm Credit Insurance Corporation. The Farm Credit Insurance Corporation must determine what constitutes successful completion of the course.

(b) A provider must not issue certificates of completion to a licensee for partial credit of any course, except to an instructor teaching a portion of the course and who does not attend the full course.

(c) A licensee may not receive credit for teaching or completing the same continuing education course more than once within the same reporting period for compliance with the continuing education requirement.

(d) Providers may advertise and link courses as parts of a whole curriculum, but providers may not require a licensee to purchase more than one continuing education course to receive the credit hours approved for a single course.

§19.1011. Requirements for Successful Completion of Continuing Education Courses.

(a) Providers must use, at a minimum, actual attendance rosters to certify completion of a certified classroom or one-time-event continuing education course or a certified classroom certification course. TDI requires each student to attend at least 90% of the course. Providers must establish a means to ensure that each student attended at least 90% of the course. Attendance records must include, at a minimum, sign-in and sign-out sheets, and the legible names, addresses, and TDI license number of each student in attendance. Providers must use a written, online, or computer-based final examination to determine completion of all certified classroom certification courses that statutorily require an examination for successful completion of the certified classroom certification course. Providers may establish additional assessment measurements or any other completion requirements for successful completion of a classroom continuing education or classroom certification course, but those requirements must be fully disclosed in the registration materials before the student purchases the course. Providers must determine successful completion of these additional requirements.

(b) Providers must use the periodic interactive inquiries to determine completion of certified classroom equivalent continuing education or certification courses. A student must complete all inquiry sections with a minimum score of at least 70% for each section.

(c) Providers must use a written, online, or computer-based final examination as the means of completion for all certified self-study continuing education or certification courses. TDI does not require providers to monitor continuing education or certification self-study examinations. Course records for each examination attempt must include, at a minimum, the date the exam was taken, the final examination score, the examination version used, the legible name, address, and the TDI license number of each student.

(d) Self-study examinations and classroom equivalent interactive inquiries must meet the criteria set forth in paragraphs (1) - (12) of this subsection:

(1) the final examination or interactive inquiries must reasonably evaluate the student's understanding of the course content;

(2) the specific final examination questions and interactive inquiries may not be made available to the student until the test is administered, and providers must effect security measures to maintain the integrity of the examination;

(3) providers must maintain a record of each student's final examination in the student's record for four years;

(4) an authorized staff member or computer program must grade self-study final examinations, and the interactive inquiry computer program must grade interactive inquiries;

(5) providers must allow students to retake an examination at least one time if a score of 70% or higher is not achieved;

(6) providers must revise and update self-study final examinations and interactive inquiries consistent with the course update/revision;

(7) providers requiring a monitored final examination must establish the rules under which the examination will be given;

(8) the examination or interactive inquiry periods must consist of questions that do not give or indicate an answer or correct response and are of the following types:

(A) for self-study courses:

(i) short essay questions requiring a response of five or more words;

(ii) fill in the blank questions requiring a response from memory and not from an indicated list of potential alternatives; or

(iii) multiple choice questions stemming from an inquiry with at least four appropriate potential responses and for which "all of the above" or "none of the above" is not an appropriate option;

(B) for interactive inquiry periods, multiple choice questions stemming from an inquiry with at least four appropriate potential responses and for which "all of the above" or "none of the above" is not an appropriate option;

(9) each interactive inquiry period must consist of at least five questions;

(10) each self-study final examination must consist of at least 10 questions for each hour of credit up to a maximum requirement of 50 questions per course. Providers may, at their discretion, have a greater number of final examination questions;

(11) during examinations and interactive inquiry periods, licensees may use course materials or personal notes, but may not use another person's notes, answers, or otherwise receive assistance in answering the questions from another person; and

(12) licensees must mail or deliver the completed self-study examination directly to the provider.

(e) Providers must issue certificates of completion to students who successfully complete a certified course. The provider must prepare the certificate and issue it in a manner that ensures that the student receiving the certificate is the student who took the course, issue the certificate within 30 days of completing the course, and complete the certificate to reflect the date the student took the course/examination.

(f) Notwithstanding subsections (a) - (e) of this section, licensees must claim continuing education under §19.1020 of this title (relating to State and National Association Credit) by sending to TDI, or its designee, upon request, an affirmation acceptable to TDI containing:

(1) the licensee's name, address, telephone number, and licensee's TDI license number;

(2) the name of the national designation or state or national insurance association providing educational materials or sponsoring educational presentations;

(3) the cumulative number of hours of credit claimed for reviewing the educational materials;

(4) the cumulative number of hours of credit claimed for attending the educational presentations;

(5) a statement that the licensee currently holds the national designation or is a member in good standing of the state or national insurance association; and

(6) a statement that the licensee completed at least the number of hours in these activities the licensee is claiming for continuing education credit.

(g) In addition to the affirmation provided under subsection (f) of this section, TDI may request a licensee claiming hours under §19.1020 of this title to submit a sworn written affirmation to TDI confirming under oath the information in subsection (f) of this section. Failure to submit a sworn affirmation will result in denial of the claimed hours and may result in disciplinary action under §19.1015 of this title (relating to Failure to Comply) or the Insurance Code.

§19.1029. Annuity Continuing Education.

(a) Licensees who qualify for the exemption provided in §19.1004(b) or (c) of this title (relating to Licensee Exemption from and Extension of Time for Continuing Education) are exempt from the provisions of this section.

(b) During a licensee's two-year licensing period, a licensee who sells, solicits, or negotiates a contract for an annuity or represents an insurer in relation to an annuity in this state, or intends to sell, solicit, or negotiate a contract for an annuity or represent an insurer in relation to an annuity in this state, must complete at least eight hours of TDI-certified annuity continuing education in compliance with this section.

(c) Completion of the annuity certification course required by §19.1028 of this title (relating to Annuity Certification Course) constitutes four hours of TDI-certified annuity continuing education in the license period during which the certification course is taken.

(d) The TDI-certified continuing education required under subsection (b) of this section must:

(1) comply with the requirements of §19.1006 of this title (relating to Course Criteria); and

(2) enhance the student's knowledge, understanding, and professional competence of one or more of the subjects described in §19.1028(g)(1) - (4) of this title.

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 May 27, 2021.

TRD-202102108

James Person

General Counsel

Texas Department of Insurance

Effective date: June 16, 2021

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For further information, please call: (512) 676-6584



TITLE 34. PUBLIC FINANCE

PART 4. EMPLOYEES RETIREMENT SYSTEM OF TEXAS

CHAPTER 63. BOARD OF TRUSTEES

34 TAC §63.4

The Employees Retirement System of Texas (ERS) adopts amendments to 34 Texas Administrative Code Chapter 63, concerning Board of Trustees, §63.4, concerning Election of Trustees (Ballot), with changes to the proposed text as published in the April 23, 2021, issue of the *Texas Register* (46 TexReg 2705). The amendments were approved by the ERS Board of Trustees at its May 26, 2021, meeting. This section will be republished.

Section 63.4 is amended to allow the ERS board or the board's designee to certify a candidate without conducting an election in certain circumstances. If only one candidate is eligible to be presented on the ballot, the board or the board's designee may then certify the candidate without an election.

No comments were received regarding the proposed amendments.

The amendments are adopted under Tex. Gov't Code §815.102, which authorizes the ERS Board of Trustees to adopt rules necessary for the administration of the funds of the retirement system and regarding the transaction of any other business of the Board, and §815.003(a), which authorizes the ERS Board of Trustees to adopt rules related to the nomination and election of trustees.

§63.4. Election of Trustees (Ballot).

(a) The order of names on the ballot will be set by drawing. All nominated candidates or their representatives are entitled to be present at the drawing. The time and location of the drawing will be set by the system.

(b) All candidates must submit within the time frame established by the system any information requested by the system for presentation on the ballot. Such information may include, but is not limited to:

(1) name as it is to appear on the ballot;

(2) current classification/exempt title and position as a state employee;

(3) name of current employing state agency; and

(4) other information the system determines may be helpful to persons qualified to vote in the election.

(c) In addition to the information required in subsection (b) of this section, the candidate shall provide, within the time frame provided by the system, his or her state agency mailing address, a statement of qualifications and position on system issues consisting of 250 words or less, and such additional information as the system may request. This information, in addition to that which will appear on an election ballot, will be made available to the electorate through a special system newsletter devoted to the trustee election process. This special edition of the newsletter will be made available to the electorate at the beginning of each election and will describe restrictions on the use of state funds to influence the outcome of any election.

(d) The system may contract with an election administrator to implement and monitor the election process. Balloting may be conducted electronically or in combination with a printed ballot.

(e) The system/election administrator will, at least 25 days in advance of the close of each election established by the election calendar, make ballots available to eligible voters. Upon request of the candidate, the system/election administrator will provide 500 ballots without preprinted names to each candidate.

(f) The system/election administrator will provide a 24-hour toll-free telephone line which eligible voters may use to request a printed ballot.

(g) Electronic ballots must be completed and submitted to the system/election administrator in accordance with the instructions contained in the electronic voting format.

(h) Each candidate may designate one (1) person to observe the ballot counting process. No observer will be permitted to see complete ballots which indicate the identity of a voter and voter's candidate selection. No observer will be permitted to challenge the validity of ballots or disrupt the counting process in any way.

(i) The system/election administrator will disqualify ballots which do not meet the requirements and instructions specified in the electronic format or printed on the ballot.

(j) The board or the board's designee shall certify election results. If only one candidate is eligible to be presented on the ballot, the board or the board's designee may certify the candidate without an election.

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 May 27, 2021.

TRD-202102118

Cynthia C. Hamilton

Acting General Counsel

Employees Retirement System of Texas

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For further information, please call: (877) 275-4377





TRANSFERRED RULES

The Government Code, §2002.058, authorizes the Secretary of State to remove or transfer rules within the Texas Administrative Code when the agency that promulgated the rules is abolished. The Secretary of State will publish notice of rule transfer or removal in this section of the *Texas Register*. The effective date of a rule transfer is the date set by the legislature, not the date of publication of notice. Proposed or emergency rules are not subject to administrative transfer.

Department of Aging and Disability Services

Rule Transfer

During the 84th Legislative Session, the Texas Legislature passed Senate Bill 200, addressing the reorganization of health and human services delivery in Texas. As a result, some agencies were abolished, and their functions transferred to the Texas Health and Human Services Commission (HHSC). Texas Government Code, §531.0202(b), specified the Department of Aging and Disability Services (DADS) be abolished September 1, 2017, after all its functions were transferred to HHSC in accordance with Texas Government Code, §531.0201 and §531.02011. The former DADS rules in Texas Administrative Code, Title 40, Part 1, Chapter 52, Contracting to Provide Emergency Response Services, are being transferred to Texas Administrative Code, Title 26, Part 1, Chapter 279, Contracting to Provide Emergency Response Services.

The rules will be transferred in the Texas Administrative Code effective July 1, 2021.

The following table outlines the rule transfer:

Figure: 40 TAC Chapter 52

TRD-202102129

Health and Human Services Commission

Rule Transfer

During the 84th Legislative Session, the Texas Legislature passed Senate Bill 200, addressing the reorganization of health and human services delivery in Texas. As a result, some agencies were abolished, and their functions transferred to the Texas Health and Human Services Commission (HHSC). Texas Government Code, §531.0202(b), specified the Department of Aging and Disability Services (DADS) be abolished September 1, 2017, after all its functions were transferred to HHSC in accordance with Texas Government Code, §531.0201 and §531.02011. The former DADS rules in Texas Administrative Code, Title 40, Part 1, Chapter 52, Contracting to Provide Emergency Response Services, are being transferred to Texas Administrative Code, Title 26, Part 1, Chapter 279, Contracting to Provide Emergency Response Services.

The rules will be transferred in the Texas Administrative Code effective July 1, 2021.

The following table outlines the rule transfer:

Figure: 40 TAC Chapter 52

TRD-202102131

Figure: 40 TAC Chapter 52

Current Rules Title 40. Social Services and Assistance Part 1. Department of Aging and Disability Services Chapter 52. Contracting to Provide Emergency Response Services	Move to Title 26. Health and Human Services Part 1. Health and Human Services Commission Chapter 279. Contracting to Provide Emergency Response Services
Subchapter A. Introduction	Subchapter A. Introduction
§52.101. Purpose.	§279.1. Purpose.
§52.103. Definitions.	§279.3. Definitions.
Subchapter B. Contracting Requirements	Subchapter B. Contracting Requirements
§52.201. General Contracting Requirements.	§279.21. General Contracting Requirements.
§52.203. Written Notification.	§279.23. Written Notification.
Subchapter C. Staff Requirements	Subchapter C. Staff Requirements
§52.301. Provider Staff Requirements.	§279.51. Provider Staff Requirements.
§52.303. Responders.	§279.53. Responders.
Subchapter D. Service Delivery	Subchapter D. Service Delivery
§52.401. Referrals.	§279.71. Referrals.
§52.403. Service Initiation.	§279.73. Service Initiation.
§52.405. Equipment Installation.	§279.75. Equipment Installation.
§52.407. System Checks.	§279.77. System Checks.
§52.409. Alarm Calls.	§279.79. Alarm Calls.
§52.411. Equipment Maintenance.	§279.81. Equipment Maintenance.
§52.413. Interdisciplinary Team.	§279.83. Interdisciplinary Team.
§52.415. Changes in an Individual's Surroundings.	§279.95. Changes in an Individual's Surroundings.
§52.417. Required Notification.	§279.97. Required Notification.
§52.419. Suspension.	§279.99. Suspension.
§52.421. Termination.	§279.101. Termination.
Subchapter E. Claims Payment and Documentation	Subchapter E. Claims Payment and Documentation
§52.501. Record Keeping.	§279.151. Record Keeping.
§52.503. Payment.	§279.153. Payment.



Department of Aging and Disability Services

Rule Transfer

During the 84th Legislative Session, the Texas Legislature passed Senate Bill 200, addressing the reorganization of health and human services delivery in Texas. As a result, some agencies were abolished, and their functions transferred to the Texas Health and Human Services Commission (HHSC). Texas Government Code, §531.0202(b), specified the Department of Aging and Disability Services (DADS) be abolished September 1, 2017, after all its functions were transferred to HHSC in accordance with Texas Government Code, §531.0201 and §531.02011. The former DADS rules in Texas Administrative Code, Title 40, Part 1, Chapter 62, Transition Assistance Services, are being transferred to Texas Administrative Code, Title 26, Part 1, Chapter 272, Transition Assistance Services.

The rules will be transferred in the Texas Administrative Code effective July 1, 2021.

The following table outlines the rule transfer:

Figure: 40 TAC Chapter 62

TRD-202102130

Health and Human Services Commission

Rule Transfer

During the 84th Legislative Session, the Texas Legislature passed Senate Bill 200, addressing the reorganization of health and human services delivery in Texas. As a result, some agencies were abolished, and their functions transferred to the Texas Health and Human Services Commission (HHSC). Texas Government Code, §531.0202(b), specified the Department of Aging and Disability Services (DADS) be abolished September 1, 2017, after all its functions were transferred to HHSC in accordance with Texas Government Code, §531.0201 and §531.02011. The former DADS rules in Texas Administrative Code, Title 40, Part 1, Chapter 62, Transition Assistance Services, are being transferred to Texas Administrative Code, Title 26, Part 1, Chapter 272, Transition Assistance Services.

The rules will be transferred in the Texas Administrative Code effective July 1, 2021.

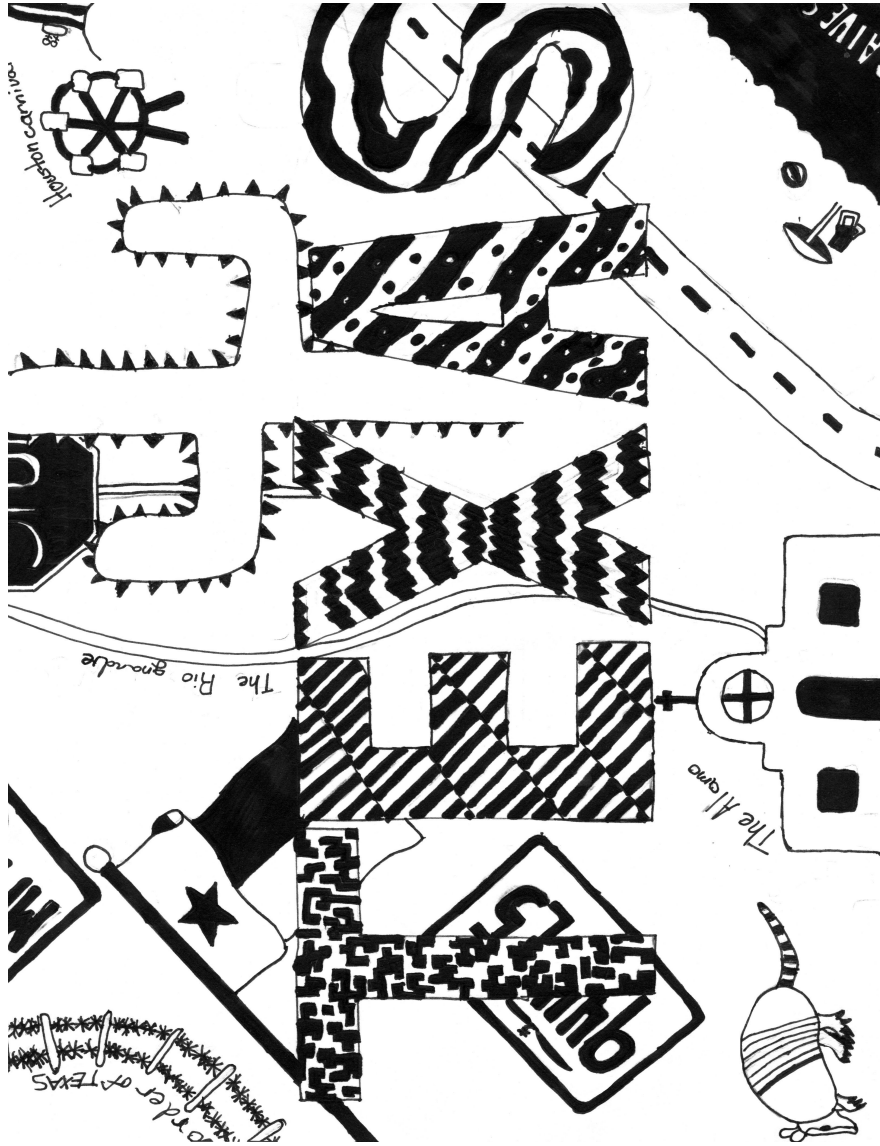
The following table outlines the rule transfer:

Figure: 40 TAC Chapter 62

TRD-202102132

Figure: 40 TAC Chapter 62

Current Rules Title 40. Social Services and Assistance Part 1. Department of Aging and Disability Services Chapter 62. Transition Assistance Services	Move to Title 26. Health and Human Services Part 1. Health and Human Services Commission Chapter 272. Transition Assistance Services
Subchapter A. Introduction	Subchapter A. Introduction
§62.1. Purpose.	§272.1. Purpose.
§62.3. Definitions.	§272.3. Definitions.
§62.5. Service Description.	§272.5. Service Description.
§62.7. TAS in the HCS Program.	§272.7. TAS in the HCS Program.
Subchapter B. TAS Provider Requirements	Subchapter B. TAS Provider Requirements
§62.11. Contracting Requirements.	§272.11. Contracting Requirements.
Subchapter C. Staff Requirements	Subchapter C. Staff Requirements
§62.21. Staff Requirements.	§272.21. Staff Requirements.
Subchapter D. Service Delivery Requirements	Subchapter D. Service Delivery Requirements
§62.33. Service Delivery.	§272.33. Service Delivery.
Subchapter E. Claim Payments and Documentation	Subchapter E. Claim Payments and Documentation
§62.41. Record Keeping.	§272.41. Record Keeping.



REVIEW OF AGENCY RULES

This section contains notices of state agency rule review as directed by the Texas Government Code, §2001.039. Included here are proposed rule review notices, which

invite public comment to specified rules under review; and adopted rule review notices, which summarize public comment received as part of the review. The complete text of an agency's rule being reviewed is available in the *Texas Administrative Code* on the Texas Secretary of State's website.

For questions about the content and subject matter of rules, please contact the state agency that is reviewing the rules. Questions about the website and printed copies of these notices may be directed to the *Texas Register* office.

Proposed Rule Reviews

Texas Board of Nursing

Title 22, Part 11

In accordance with Government Code §2001.039, the Texas Board of Nursing (Board) files this notice of intention to review and consider for readoption, readoption with amendments, or repeal, the following chapters contained in Title 22, Part 11, of the Texas Administrative Code, pursuant to the 2019 rule review plan adopted by the Board at its July 2018 meeting.

Chapter 214. Vocational Nursing Education, §§214.1 - 214.13

Chapter 215. Professional Nursing Education, §§215.1- 215.13

Chapter 222. Advanced Practice Registered Nurses with Prescriptive Authority, §§222.1 - 222.10

In conducting its review, the Board will assess whether the reasons for originally adopting these chapters continue to exist. Each section of these chapters will be reviewed to determine whether it is obsolete, whether it reflects current legal and policy considerations and current procedures and practices of the Board, and whether it is in compliance with Chapter 2001 of the Government Code (Administrative Procedure Act).

The public has thirty (30) days from the publication of this rule review in the *Texas Register* to comment and submit any response or suggestions. Written comments may be submitted to John Vanderford, Assistant General Counsel, Texas Board of Nursing, 333 Guadalupe, Suite 3-460, Austin, Texas 78701, by email to john.vanderford@bon.texas.gov or by fax to John Vanderford at (512) 305-8101. Any proposed changes to these chapters as a result of this review will be published separately in the Proposed Rules section of the *Texas Register* and will be open for an additional comment period prior to the final adoption or repeal by the Board.

TRD-202102121

John Vanderford
Assistant General Counsel
Texas Board of Nursing
Filed: May 27, 2021



Texas Council for Developmental Disabilities

Title 40, Part 21

In accordance with Texas Government Code §2001.039, the Texas Council for Developmental Disabilities (TCDD) submits notice of its intention to review its rules. These rules appear under Texas Administrative Code Title 40, Part 21. TCDD will consider, among other things, whether the reasons for readoption of these rules continue to exist and following the assessment will readopt, readopt with amendments, or repeal the rules. Comments will be accepted from any interested persons or groups.

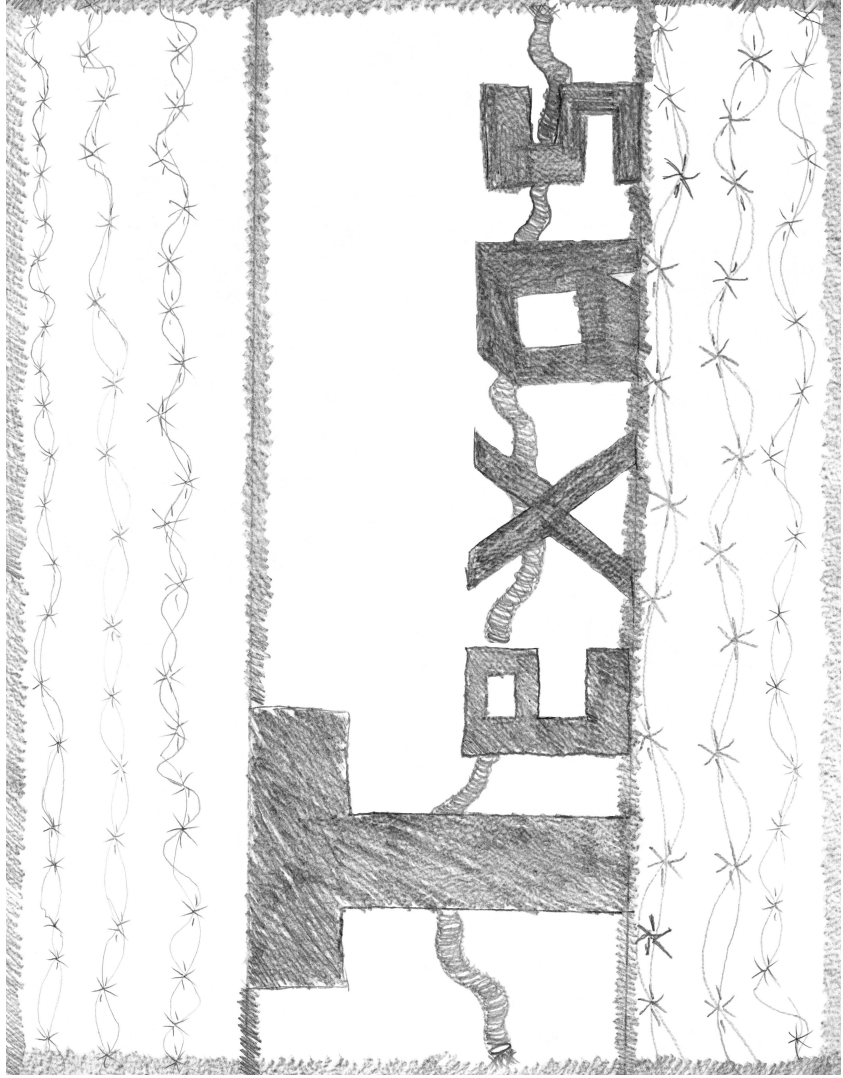
Chapter 876. General Provisions

Chapter 877. Grant Awards

All comments and/or questions should be directed to Koren Vogel, Council Business Manager, Texas Council for Developmental Disabilities, 6201 E. Oltorf, Suite 600, Austin, Texas 78741; or email koren.vogel@tcdd.texas.gov. Comments must be received in the office no later than Monday, July 12, 2021, at 5:00 p.m.

TRD-202102157
Beth Stalvey
Executive Director
Texas Council for Developmental Disabilities
Filed: June 2, 2021





IN ADDITION

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

Office of the Attorney General

Texas Water Code and Texas Health and Safety Code
Settlement Notice

Notice is hereby given by the State of Texas of the following proposed resolution of an environmental enforcement action under the Texas Water Code and the Texas Health and Safety Code. Before the State may enter into a voluntary settlement agreement, pursuant to section 7.110 of the Texas Water Code, the State shall permit the public to comment in writing on the proposed judgment. The Attorney General will consider any written comments and may withdraw or withhold consent to the proposed agreed judgment if the comments disclose facts or considerations that indicate that the consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Texas Water Code.

Case Title and Court: *Texas Commission on Environmental Quality v. James Michael Barr III and Janice L. Walker aka Janice L. Gupton aka Janice L. Avery*; Cause No. D-1-GN-19-001489, in the 201st Judicial District, Travis County, Texas.

Nature of the Suit: Defendants James Michael Barr III ("Barr") and Janice L. Walker aka Janice L. Gupton aka Janice L. Avery ("Avery") are current and former owners of real property located at the 3300 block on Industrial Drive, Pearland, Brazoria County (the "Site"), where hazardous substances were found leaking from aboveground storage tanks in 1997. During the following two decades, Plaintiff the Texas Commission on Environmental Quality ("TCEQ") conducted several removal and remediation actions to remove sludge, wash water, solid wastes, and hazardous substances from the Site, and monitored the groundwater for arsenic. It designated the Site a state Superfund Site, with Defendants identified as potentially responsible parties pursuant to Texas Health and Safety Code §§ 361.188 and 361.272. By 2018, after expending over \$1.4 million dollars on removal and remediation actions, TCEQ determined that the Site was no longer an immediate threat to human health and the environment, and deleted it from the State's Superfund Registry. Defendant Avery has agreed to reimburse the TCEQ for part of the response costs expended, while the litigation against Defendant Barr continues.

Proposed Agreed Judgment: The parties propose an Agreed Final Judgment which provides for a total momentary contribution of \$5,500 from Defendant Avery, awarding the TCEQ a total of \$4,400 as reimbursement for its response costs and \$1,100 as attorney's fees.

For a complete description of the proposed settlement, the complete proposed Agreed Final Judgment should be reviewed in its entirety. Requests for copies of the judgment, and written comments on the proposed settlement, should be directed to Tyler J. Ryska, Assistant Attorney General, Office of the Attorney General of Texas, P.O. Box 12548, MC 066, Austin, Texas 78711-2548, phone (512) 463-2012, facsimile (512) 320-0911, or email: Tyler.Ryska@oag.texas.gov. Written comments must be received within 30 days of publication of this notice to be considered.

TRD-202102145

Austin Kinghorn
General Counsel
Office of the Attorney General
Filed: June 1, 2021

Comptroller of Public Accounts

Certification of the Average Closing Price of Gas and Oil -
April 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 April 2021 is \$41.63 per barrel for the three-month period beginning on January 1, 2021, and ending March 31, 2021. Therefore, pursuant to Tax Code, §202.058, oil produced during the month of April 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 April 2021 is \$1.73 per mcf for the three-month period beginning on January 1, 2021, and ending March 31, 2021. Therefore, pursuant to Tax Code, §201.059, gas produced during the month of April 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 April 2021 is \$61.70 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 April 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 April 2021 is \$2.69 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 April 2021, from a qualified low-producing gas well.

This agency hereby certifies that legal counsel has reviewed this notice and found it to be within the agency's authority to publish.

Issued in Austin, Texas, on June 1, 2021.

TRD-202102141
William Hamner
Special Counsel for Tax Administration
Comptroller of Public Accounts
Filed: June 1, 2021

Office of Consumer Credit Commissioner

Notice of Rate Ceilings

The Consumer Credit Commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in §§303.003, 303.005, 303.008, 303.009, 304.003, and 346.101, Texas Finance Code.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 06/07/21 - 06/13/21 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 06/07/21 - 06/13/21 is 18% for Commercial over \$250,000.

The monthly ceiling as prescribed by §303.005³ for the period of 06/01/21 - 06/30/21 is 18% for Consumer/Agricultural/Commercial credit through \$250,000.

The monthly ceiling as prescribed by §303.005 for the period of 06/01/21 - 06/30/21 is 18% for Commercial over \$250,000.

The standard quarterly rate as prescribed by §303.008 and §303.009 for the period of 07/01/21 - 09/30/21 is 18% for Consumer/Agricultural/Commercial credit through \$250,000.

The standard quarterly rate as prescribed by §303.008 and §303.009 for the period of 07/01/21 - 09/30/21 is 18% for Commercial over \$250,000.

The retail credit card quarterly rate as prescribed by §303.009¹ for the period of 07/01/21 - 09/30/21 is 18% for Consumer/Agricultural/Commercial credit through \$250,000.

The lender credit card quarterly rate as prescribed by §346.101¹ for the period of 07/01/21 - 09/30/21 is 18% for Consumer/Agricultural/Commercial credit through \$250,000.

The standard annual rate as prescribed by §303.008 and §303.009⁴ for the period of 07/01/21 - 09/30/21 is 18% for Consumer/Agricultural/Commercial credit through \$250,000.

The standard annual rate as prescribed by §303.008 and §303.009 for the period of 07/01/21 - 09/30/21 is 18% for Commercial over \$250,000.

The retail credit card annual rate as prescribed by §303.009¹ for the period of 07/01/21 - 09/30/21 is 18% for Consumer/Agricultural/Commercial credit through \$250,000.

The judgment ceiling as prescribed by §304.003 for the period of 06/01/21 - 06/30/21 is 5.00% for Consumer/Agricultural/Commercial credit through \$250,000.

The judgment ceiling as prescribed §304.003 for the period of 06/01/21 - 06/30/21 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.

³ For variable rate commercial transactions only.

⁴ Only for open-end credit as defined in §301.002(14), Texas Finance Code.

TRD-202102144

Leslie L. Pettijohn
Commissioner

Office of Consumer Credit Commissioner

Filed: June 1, 2021

◆ ◆ ◆
Court of Criminal Appeals

Order Amending Texas Rules of Appellate Procedure

(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 is not included in the print version of the Texas Register. The figure is available in the on-line version of the June 11, 2021, issue of the Texas Register.)

TRD-202102114

Deana Williamson

Clerk of the Court

Court of Criminal Appeals

Filed: May 27, 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 **July 12, 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 **July 12, 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: Azteca Milling, L.P.; DOCKET NUMBER: 2020-1227-PWS-E; IDENTIFIER: RN100215086; LOCATION: Plainview, Hale County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.39(1)(5), by failing to meet the conditions for an issued exception; 30 TAC §290.43(d)(3), by failing to equip the air compressor injection lines with filters or other devices to prevent compressor lubricants or other contaminants from entering the facility's pressure tank; 30 TAC §290.44(h)(1)(A), by failing to ensure additional protection was provided at all residences or establishments where an actual or potential contamination hazard exists in the form of an air gap or backflow prevention assembly, as identified in 30 TAC §290.47(f); 30 TAC §290.46(n)(1), by failing to maintain at the public water system accurate and up-to-date detailed as-built plans or record drawings and specifications for each treatment plant, pump station, and storage tank

until the facility is decommissioned; 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; and 30 TAC §290.46(s)(2)(C)(i), by failing to verify the accuracy of the manual disinfectant residual analyzer at least once every 90 days using chlorine solutions of known concentrations; PENALTY: \$6,176; ENFORCEMENT COORDINATOR: Julianne Dewar, (817) 588-5861; REGIONAL OFFICE: 5012 50th Street, Suite 100, Lubbock, Texas 79414-3426, (806) 796-7092.

(2) COMPANY: B.C.Y. Water Supply Corporation; DOCKET NUMBER: 2021-0109-PWS-E; IDENTIFIER: RN101437713; LOCATION: Tennessee Colony, Anderson County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.44(d) and §290.46(r), by failing to provide a minimum pressure of 35 pounds per square inch (psi) throughout the distribution system under normal operating conditions and a minimum of 20 psi during emergencies such as firefighting; PENALTY: \$1,860; ENFORCEMENT COORDINATOR: Steven Hall, (512) 239-2569; REGIONAL OFFICE: 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

(3) COMPANY: Brazos Valley Contracting Co.; DOCKET NUMBER: 2021-0117-AIR-E; IDENTIFIER: RN100979673; LOCATION: Glenn Heights, Dallas County; TYPE OF FACILITY: trench burning site; RULES VIOLATED: 30 TAC §106.496(h)(3)(B) and §116.110(a), Permit by Rule Registration Number 51666L020, and Texas Health and Safety Code, §382.0518(a) and §382.085(b), by failing to obtain authorization prior to constructing or modifying a source of air contaminants; PENALTY: \$3,375; ENFORCEMENT COORDINATOR: Mackenzie Mehlmann, (512) 239-2572; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(4) COMPANY: Capital Ridge Condominiums Association; DOCKET NUMBER: 2020-0769-MWD-E; IDENTIFIER: RN104795836; LOCATION: West Lake Hills, Travis County; TYPE OF FACILITY: wastewater treatment facility; RULES VIOLATED: 30 TAC §305.65 and §305.125(2), and TWC, §26.121(a)(1), by failing to maintain authorization to dispose of wastewater adjacent to any water in the state; PENALTY: \$7,875; ENFORCEMENT COORDINATOR: Ellen Ojeda, (512) 239-2581; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 339-2929.

(5) COMPANY: Charles H. Michaelis; DOCKET NUMBER: 2021-0021-WOC-E; IDENTIFIER: RN105051197; LOCATION: Alpine, Brewster County; TYPE OF FACILITY: operator; RULES VIOLATED: 30 TAC §30.5(a) and §30.381(b), TWC, §37.003, and Texas Health and Safety Code, §341.034(b), by failing to have a current, valid water system operator's license prior to performing process control duties in production or distribution of public drinking water; PENALTY: \$424; ENFORCEMENT COORDINATOR: Carlos Molina, (512) 239-2557; REGIONAL OFFICE: 401 East Franklin Avenue, Suite 560, El Paso, Texas 79901-1212, (915) 834-4949.

(6) COMPANY: City of Alpine; DOCKET NUMBER: 2020-1576-PWS-E; IDENTIFIER: RN101176261; LOCATION: Alpine, Brewster County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.46(e), by failing to use a water works operator who holds an applicable, valid license issued by the executive director (ED); 30 TAC §290.46(f)(2) and (3)(B)(iii), by failing to maintain water works operation and maintenance records and make them readily available for review by the ED upon request; and 30 TAC §290.46(l), by failing to flush all dead-end mains at monthly intervals; PENALTY: \$1,784; ENFORCEMENT COORDINATOR: Aaron Vincent, (512) 239-0855; REGIONAL OFFICE: 401 East Franklin Avenue, Suite 560, El Paso, Texas 79901-1212, (915) 834-4949.

(7) COMPANY: City of Goodrich; DOCKET NUMBER: 2020-1469-PWS-E; IDENTIFIER: RN101193266; LOCATION: Goodrich, Polk County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.110(e)(4)(A) and (f)(3), by failing to submit a Disinfection Level Quarterly Operating Report to the executive director (ED) by the tenth day of the month following the end of each quarter for the third quarter of 2019 through the second quarter of 2020; and 30 TAC §290.117(i)(6) and (j), by failing to provide a consumer notification of lead tap water monitoring results to persons served at the sites that were tested, and failing to mail a copy of the consumer notification of tap results to the ED along with certification the consumer notification has been distributed in a manner consistent with TCEQ requirements for the January 1, 2018 - December 31, 2018, monitoring period; PENALTY: \$1,606; ENFORCEMENT COORDINATOR: Samantha Duncan, (512) 239-2511; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1830, (409) 898-3838.

(8) COMPANY: City of Paint Rock; DOCKET NUMBER: 2020-1398-PWS-E; IDENTIFIER: RN101451730; LOCATION: Paint Rock, Concho 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 §290.43(c)(3), by failing to maintain the facility's storage tanks in strict accordance with current American Water Works Association standards with an overflow that terminates downward with a gravity-hinged and weighted cover fitted with no gap over 1/16 inch; 30 TAC §290.46(m)(1)(A), by failing to inspect the facility's clearwell annually; 30 TAC §290.110(e)(4)(A) and (f)(3), by failing to submit a Disinfection Level Quarterly Operating Report to the executive director (ED) by the tenth day of the month following the end of each quarter for the first, second, and third quarters of 2019 through the first quarter of 2020; 30 TAC §290.110(e) and (f)(1)(A), by failing to include all samples collected at sites designated in the monitoring plan as microbiological and residual monitoring sites in the compliance determination calculations; 30 TAC §290.115(e)(2), by failing to conduct an operational evaluation and submit a written operation evaluation report to the ED within 90 days after being notified of analytical results that caused an exceedance of the operational evaluation level for total trihalomethanes (TTHM) at Stage 2 Disinfection Byproducts at Site 1 during the second quarter of 2019 through the second quarter of 2020; and 30 TAC §290.115(f)(1) and Texas Health and Safety Code, §341.0315(c), by failing to comply with the maximum contaminant level of 0.080 milligrams per liter for TTHM based on the locational running annual average; PENALTY: \$5,865; ENFORCEMENT COORDINATOR: Ryan Byer, (512) 239-2571; REGIONAL OFFICE: 622 South Oakes, Suite K, San Angelo, Texas 76903-7035, (325) 655-9479.

(9) COMPANY: Devon Energy Production Company, L.P.; DOCKET NUMBER: 2020-1409-AIR-E; IDENTIFIER: RN110883436; LOCATION: Yorktown, DeWitt County; TYPE OF FACILITY: gas well; RULES VIOLATED: Texas Health and Safety Code, §382.085(a) and (b), by failing to not cause, suffer, allow, or permit the emission of any air contaminant or the performance of any activity that causes or contributes to, or that will cause or contribute to, air pollution; PENALTY: \$97,500; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$48,750; ENFORCEMENT COORDINATOR: Danielle Porras, (713) 767-3682; REGIONAL OFFICE: 6300 Ocean Drive, Suite 1200, Corpus Christi, Texas 78412-5839, (361) 825-3100.

(10) COMPANY: Erath County; DOCKET NUMBER: 2021-0121-WQ-E; IDENTIFIER: RN105427736; LOCATION: Stephenville, Erath County; TYPE OF FACILITY: operator; RULE VIOLATED: 30 TAC §281.25(a)(4), by failing to obtain a multi-sector general permit (stormwater); PENALTY: \$875; ENFORCEMENT COORDINATOR:

Harley Hobson, (512) 239-1337; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(11) COMPANY: ETC Texas Pipeline, Ltd. fka ETC Field Services LLC; DOCKET NUMBER: 2021-0124-AIR-E; IDENTIFIER: RN103952925; LOCATION: Kermit, Winkler 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 §106.6(b), Permit by Rule Registration Number 70070, and THSC, §382.085(b), by failing to prevent unauthorized emissions; PENALTY: \$1,500; ENFORCEMENT COORDINATOR: Abigail Lindsey, (512) 239-2576; REGIONAL OFFICE: 9900 West IH-20, Suite 100, Midland, Texas 79706, (432) 570-1359.

(12) COMPANY: FIVE MITRO LLC dba Shade Tree; DOCKET NUMBER: 2021-0107-PST-E; IDENTIFIER: RN101844611; LOCATION: Comanche, Comanche County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.8(c)(4)(A)(vii) and (5)(B)(ii), by failing to renew a previously issued underground storage tank (UST) delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date; 30 TAC §334.8(c)(5)(A)(i) and TWC, §26.3467(a), by failing to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs; 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 TWC, §26.3475(c)(1), by failing to monitor the USTs for releases in a manner which will detect a release at a frequency of at least once every 30 days; PENALTY: \$9,011; ENFORCEMENT COORDINATOR: Karolyn Kent, (512) 239-2536; REGIONAL OFFICE: 1977 Industrial Boulevard, Abilene, Texas 79602-7833, (325) 698-9674.

(13) COMPANY: Frio Canon Water Company, LLC; DOCKET NUMBER: 2021-0130-PWS-E; IDENTIFIER: RN105472682; LOCATION: Leakey, Real County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.108(f)(1) and Texas Health and Safety Code, §341.0315(c), by failing to comply with the maximum contaminant level of 5 pCi/L for combined radium-226 and -228, and 15 pCi/L for gross alpha particle activity, based on the running annual average; PENALTY: \$2,475; ENFORCEMENT COORDINATOR: Ecko Beggs, (915) 834-4968; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

(14) COMPANY: Gehan Homes, Ltd.; DOCKET NUMBER: 2020-1345-WQ-E; IDENTIFIER: RN108006990; LOCATION: Leander, Williamson County; TYPE OF FACILITY: construction site; RULES VIOLATED: 30 TAC §305.125(1), TWC, §26.121(a), and Texas Pollutant Discharge Elimination System (TPDES) General Permit Number TXR15255M, Part III.G.1(e) and Part VII.A, by failing to design, install, and maintain effective erosion and sediment controls to minimize sediment discharges from the site; 30 TAC §305.125(1), TWC, §26.121(a), and TPDES General Permit Number TXR15255M, Part III.G.4(b) and Part VII.A, by failing to design, install, and maintain effective pollution prevention measures to minimize the exposure of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste, and other materials present on the site to precipitation

and to stormwater; and 30 TAC §305.125(1), TWC, §26.121(a), and TPDES General Permit Number TXR15255M, Part V and Part VII.A, by failing to comply with the concrete truck wash-out requirements established in Part V of the construction stormwater general permit and failing to prevent the discharge of concrete truck wash-out water to surface water in the state; PENALTY: \$4,987; ENFORCEMENT COORDINATOR: Mark Gamble, (512) 239-2587; REGIONAL OFFICE: P.O. Box 13087, Austin, Texas 78711-3087, (512) 339-2929.

(15) COMPANY: Indorama Ventures Oxides LLC; DOCKET NUMBER: 2021-0126-AIR-E; IDENTIFIER: RN106492325; LOCATION: Alvin, Brazoria County; TYPE OF FACILITY: petrochemical manufacturing plant; RULES VIOLATED: 30 TAC §116.115(c) and §122.143(4), New Source Review Permit Number 6534, Special Conditions Number 1, Federal Operating Permit Number O2319, General Terms and Conditions and Special Terms and Conditions Number 19, and Texas Health and Safety Code, §382.085(b), by failing to prevent unauthorized emissions; PENALTY: \$4,463; ENFORCEMENT COORDINATOR: Margarita Dennis, (817) 588-5892; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(16) COMPANY: Ken Dietz Homes, Incorporated; DOCKET NUMBER: 2021-0122-WQ-E; IDENTIFIER: RN111113080; LOCATION: Flint, Smith County; TYPE OF FACILITY: operator; RULE VIOLATED: 30 TAC §281.25(a)(4), by failing to obtain a construction general permit (stormwater); PENALTY: \$875; ENFORCEMENT COORDINATOR: Katelyn Tubbs, (512) 239-2512; REGIONAL OFFICE: 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

(17) COMPANY: Luna Bell dba Express Food Mart; DOCKET NUMBER: 2019-1110-PST-E; IDENTIFIER: RN102231560; LOCATION: Rockport, Aransas Pass County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.10(b)(2), by failing to assure that all underground storage tank (UST) recordkeeping requirements are met; 30 TAC §334.50(b)(1)(A) and (2) and TWC, §26.3475(a) and (c)(1), by failing to monitor the 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; and 30 TAC §334.602(a), by failing to designate, train, and certify at least one named individual for each class of operator, Class A, Class B, and Class C, for the facility; PENALTY: \$4,862; ENFORCEMENT COORDINATOR: Alain Elegbe, (512) 239-6924; REGIONAL OFFICE: 6300 Ocean Drive, Suite 1200, Corpus Christi, Texas 78412-5839, (361) 825-3100.

(18) COMPANY: NASA OIL, INCORPORATED dba Nasa Food Mart; DOCKET NUMBER: 2020-1292-PST-E; IDENTIFIER: RN101432599; LOCATION: Webster, Harris County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.7(d)(1)(A) and (3) and §334.8(c)(4)(A)(vii) and (C), by failing to renew a previously issued underground storage tank (UST) delivery certificate by submitting a properly completed UST registration and self-certification form within 30 days of the ownership and operator change, and failing to provide an amended registration for any change or additional information to the agency regarding the USTs within 30 days from the date of the occurrence of the change or addition; 30 TAC §334.8(c)(5)(A)(i) and TWC, §26.3467(a), by failing to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the regulated USTs; 30 TAC §334.10(b)(2), by failing to assure that all UST recordkeeping requirements are met; and 30 TAC §§334.49(c)(4)(C), 334.50, and 334.54(c)(1) and TWC, §26.3475(c)(1) and (d), by failing to monitor a temporarily out-of-service UST system for releases, 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; PENALTY: \$5,201; ENFORCEMENT COORDINATOR: Hailey Johnson, (512) 239-1756; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(19) COMPANY: PAK NEPAL LLC dba Country Express Exxon; DOCKET NUMBER: 2021-0127-PST-E; IDENTIFIER: RN102457231; LOCATION: Naples, Morris County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.50(b)(1)(A) and (2) and TWC, §26.3475(a) and (c)(1), by failing to monitor the underground storage tanks (USTs) for releases 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: \$3,874; ENFORCEMENT COORDINATOR: Ken Moller, (512) 239-6111; REGIONAL OFFICE: 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

(20) COMPANY: Whitmore Manufacturing, LLC; DOCKET NUMBER: 2020-1513-IHW-E; IDENTIFIER: RN102081007; LOCATION: Rockwall, Rockwall County; TYPE OF FACILITY: grease and lubricant manufacturer; RULES VIOLATED: 30 TAC §335.2(b), by failing to not cause, suffer, allow, or permit the disposal of hazardous waste (HW) at an unauthorized facility; and 30 TAC §335.10(a) and (c)(1) and 40 Code of Federal Regulations §262.20(a)(1), by failing to properly fill out HW manifests; PENALTY: \$13,472; ENFORCEMENT COORDINATOR: Ken Moller, (512) 534-7550; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

TRD-202102120
Charmaine Backens
Deputy Director, Litigation
Texas Commission on Environmental Quality
Filed: May 27, 2021



Notice of a Proposed Renewal with Amendment of General Permit TXG110000 Authorizing the Discharge of Wastewater

The Texas Commission on Environmental Quality (TCEQ or commission) is proposing to renew and amend Texas Pollutant Discharge Elimination System General Permit TXG110000. This general permit authorizes discharges of facility wastewater and stormwater associated with industrial activities into or adjacent to water in the state from ready-mixed concrete plants, concrete products plants, and their associated facilities (Standard Industrial Classification (SIC) 3271, 3272, and 3273). The draft general permit applies to the entire state of Texas. General permits are authorized by Texas Water Code, §26.040.

Draft General Permit. The executive director has prepared a draft general permit renewal with amendments of an existing general permit that authorizes discharges of facility wastewater and stormwater associated with industrial activities into or adjacent to water in the state from ready-mixed concrete plants, concrete products plants, and their associated facilities (SIC 3271, 3272, and 3273). No significant degradation of high quality waters is expected and existing uses will be maintained and protected. The executive director proposes to require regulated entities to submit a Notice of Intent to obtain authorization under the general permit.

The executive director has reviewed this action for consistency with the goals and policies of the Texas Coastal Management Program (CMP) according to General Land Office regulations and has determined that the action is consistent with applicable CMP goals and policies.

On the date that this notice is published, a copy of the draft general permit and fact sheet will be available for a minimum of 30 days for viewing and copying at the TCEQ Office of the Chief Clerk located at the TCEQ Austin office, at 12100 Park 35 Circle, Building F. Alternately, you may request a copy of the draft general permit and fact sheet by contacting the TCEQ Office of the Chief Clerk by phone at (512) 239-3300 or by mail at TCEQ OCC, Notice Team MC-105, P.O. Box 13087, Austin, Texas 78711. These documents will also be available at the TCEQ's 16 regional offices and on the TCEQ website at <https://www.tceq.texas.gov/permitting/wastewater/general/index.html>.

Public Comment/Public Meeting. You may submit public comments or request a public meeting about this draft general permit. The purpose of a public meeting is to provide the opportunity to submit written or oral comment or to ask questions about the draft general permit. Generally, the TCEQ will hold a public meeting if the executive director determines that there is a significant degree of public interest in the draft general permit or if requested by a state legislator. A public meeting is not a contested case hearing.

Written public comments must be received by the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087 or electronically at <https://www14.tceq.texas.gov/epic/eComment/> within 30 days from the date this notice is published.

Approval Process. After the comment period, the executive director will consider all the public comments and prepare a written response. The response will be filed with the TCEQ Office of the Chief Clerk at least 10 days before the scheduled commission meeting when the commission will consider approval of the general permit. The commission will consider all public comment in making its decision and will either adopt the executive director's response or prepare its own response. The commission will issue its written response on the general permit at the same time the commission issues or denies the general permit. A copy of any issued general permit and response to comments will be made available to the public for inspection at the agency's Austin office. A notice of the commissioners' action on the draft general permit and a copy of its response to comments will be mailed to each person who submitted a comment. Also, a notice of the commission's action on the draft general permit and the text of its response to comments will be published in the *Texas Register*.

Mailing Lists. In addition to submitting public comments, you may ask to be placed on a mailing list to receive future public notices mailed by the TCEQ Office of the Chief Clerk. You may request to be added to: 1) the mailing list for this specific general permit; 2) the permanent mailing list for a specific county; or 3) both. Clearly specify the mailing lists to which you wish to be added and send your request to the TCEQ Office of the Chief Clerk at the address previously mentioned. Unless you otherwise specify, you will be included only on the mailing list for this specific general permit.

Information. If you need more information about this general permit or the permitting process, please call the TCEQ Public Education Program, toll free, at (800) 687-4040. General information about the TCEQ can be found at our website at: <https://www.tceq.texas.gov>.

Further information may also be obtained by calling Ms. Laurie Fleet, TCEQ Water Quality Division, at (512) 239-5445.

Si desea información en español, puede llamar (800) 687-4040.

TRD-202102133
Robert Martinez
Deputy Director, Environmental Law Division
Texas Commission on Environmental Quality
Filed: May 28, 2021

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Notice of a Proposed Renewal with Amendment of General Permit TXG870000 Authorizing the Discharge of Pesticides

The Texas Commission on Environmental Quality (TCEQ or commission) is proposing to renew and amend Texas Pollutant Discharge Elimination System General Permit TXG870000. This general permit authorizes the application of pesticides into or over, including near waters of the United States (U.S.) for the control of mosquito and other insect pests, vegetation and algae pests, animal pests, area-wide pests, and forest canopy pests. The draft general permit applies to the entire state of Texas. General permits are authorized by Texas Water Code, §26.040.

DRAFT GENERAL PERMIT. The executive director has prepared a draft general permit renewal with amendments of an existing general permit that authorizes the application of pesticides into or over, including near waters of the U.S. for the control of mosquito and other insect pests, vegetation and algae pests, animal pests, area-wide pests, and forest canopy pests. No significant degradation of high quality waters is expected and existing uses will be maintained and protected. The executive director proposes to require regulated entities to submit a Notice of Intent to obtain authorization under the general permit.

The executive director has reviewed this action for consistency with the goals and policies of the Texas Coastal Management Program (CMP) according to General Land Office regulations and has determined that the action is consistent with applicable CMP goals and policies.

On the date that this notice is published, a copy of the draft general permit and fact sheet will be available for a minimum of 30 days for viewing and copying at the TCEQ Office of the Chief Clerk located at the TCEQ Austin office, at 12100 Park 35 Circle, Building F. Alternately, you may request a copy of the draft general permit and fact sheet by contacting the TCEQ Office of the Chief Clerk by phone at (512) 239-3300 or by mail at TCEQ OCC, Notice Team MC-105, P.O. Box 13087, Austin, Texas 78711. These documents will also be available at the TCEQ's 16 regional offices and on the TCEQ website at <https://www.tceq.texas.gov/permitting/wastewater/general/index.html>.

PUBLIC COMMENT/PUBLIC MEETING. You may submit public comments or request a public meeting about this draft general permit. The purpose of a public meeting is to provide the opportunity to submit written or oral comment or to ask questions about the draft general permit. Generally, the TCEQ will hold a public meeting if the executive director determines that there is a significant degree of public interest in the draft general permit or if requested by a state legislator. A public meeting is not a contested case hearing.

Written public comments must be received by the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087 or electronically at <https://www14.tceq.texas.gov/epic/eComment/> within 30 days from the date this notice is published.

APPROVAL PROCESS. After the comment period, the executive director will consider all the public comments and prepare a written response. The response will be filed with the TCEQ Office of the Chief Clerk at least 10 days before the scheduled commission meeting when the commission will consider approval of the general permit. The commission will consider all public comment in making its decision and will either adopt the executive director's response or prepare its own response. The commission will issue its written response on the general permit at the same time the commission issues or denies the general permit. A copy of any issued general permit and response to comments will be made available to the public for inspection at the agency's Austin office. A notice of the commissioners' action on the draft gen-

eral permit and a copy of its response to comments will be mailed to each person who submitted a comment. Also, a notice of the commission's action on the draft general permit and the text of its response to comments will be published in the *Texas Register*.

MAILING LISTS. In addition to submitting public comments, you may ask to be placed on a mailing list to receive future public notices mailed by the TCEQ Office of the Chief Clerk. You may request to be added to: 1) the mailing list for this specific general permit; 2) the permanent mailing list for a specific county; or 3) both. Clearly specify the mailing lists to which you wish to be added and send your request to the TCEQ Office of the Chief Clerk at the address previously mentioned. Unless you otherwise specify, you will be included only on the mailing list for this specific general permit.

INFORMATION. If you need more information about this general permit or the permitting process, please call the TCEQ Public Education Program, toll free, at (800) 687-4040. General information about the TCEQ can be found at our website at: <https://www.tceq.texas.gov>.

Further information may also be obtained by calling Ms. Laurie Fleet, TCEQ Water Quality Division, at (512) 239-5445.

Si desea información en español, puede llamar (800) 687-4040.

TRD-202102135

Robert Martinez

Deputy Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: May 28, 2021

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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 164504

APPLICATION. Tex-mix Partners Ltd, P.O. Box 830, Leander, Texas 78646-0830 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 164504 to authorize the operation of a concrete batch plant. The facility is proposed to be located at 9701 Crofford Lane, Austin, Travis County, Texas 78724. This link to an electronic map of the site or facility's general location is provided as a public courtesy and not part of the application or notice. For exact location, refer to application. <http://www.tceq.texas.gov/assets/public/hb610/index.html?lat=30.325475&lng=-97.620466&zoom=13&type=r>. This application was submitted to the TCEQ on March 27, 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 May 4, 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:

Tuesday, July 6, 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 592-283-811. 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, (415) 930-5321 and enter access code 267-068-889.

Additional information will be available on the agency calendar of events at the following link:

<https://www.tceq.texas.gov/agency/decisions/hearings/calendar.html>.

RESPONSE TO COMMENTS. A written response to all formal comments will be prepared by the executive director after the comment period closes. The response, along with the executive director's decision on the application, will be mailed to everyone who submitted public comments and the response to comments will be posted in the permit file for viewing.

The executive director shall approve or deny the application not later than 35 days after the date of the public hearing, considering all comments received within the comment period, and base this decision on whether the application meets the requirements of the standard permit.

CENTRAL/REGIONAL OFFICE. The application will be available for viewing and copying at the TCEQ Central Office and the TCEQ Austin Regional Office, located at 12100 Park 35 Circle, Building A, Room 179, Austin, Texas 78753-1808, 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 Tex-Mix Partners, Ltd., P.O. Box 830, Leander, Texas 78646-0830, or by calling Mr. Aaron Dalton, Project Engineer at (512) 759-1438.

Notice Issuance Date: May 25, 2021

TRD-202102106

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: May 26, 2021

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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 164700

APPLICATION. Redi-mix LLC, 331 N. Main Street, Euless, Texas 76039-3636 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 164700 to authorize the operation of a concrete batch plant. The facility is proposed to be located at the southeast corner of West Bonds Ranch Road and Business 287 North Saginaw Boulevard, Fort Worth, Tarrant County, Texas 76179. This link to an electronic map of the site or facility's general location is provided as a public courtesy and not part of the application or notice. For exact location, refer to application. <http://www.tceq.texas.gov/assets/public/hb610/index.html?lat=32.923611&lng=-97.410278&zoom=13&type=r>. This application was submitted to the TCEQ on April 6, 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 May 3, 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:

Monday, July 12, 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 521-424-739. 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, (415) 655-0060 and enter access code 448-777-876.

Additional information will be available on the agency calendar of events at the following link:

<https://www.tceq.texas.gov/agency/decisions/hearings/calendar.html>.

RESPONSE TO COMMENTS. A written response to all formal comments will be prepared by the executive director after the comment period closes. The response, along with the executive director's decision on the application, will be mailed to everyone who submitted public comments and the response to comments will be posted in the permit file for viewing.

The executive director shall approve or deny the application not later than 35 days after the date of the public hearing, considering all comments received within the comment period, and base this decision on whether the application meets the requirements of the standard permit.

CENTRAL/REGIONAL OFFICE. The application will be available for viewing and copying at the TCEQ Central Office and the TCEQ Dallas/Fort Worth Regional Office, located at 2309 Gravel Drive, Fort Worth, Texas 76118-6951, 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 Redi-Mix, LLC, 331 N. Main St., Euless, Texas 76039-3636, or by calling Mrs. Katy Sipe, Environmental Specialist at Westward Environmental, Inc. at (830) 249-8284.

Notice Issuance Date: May 25, 2021

TRD-202102107

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: May 26, 2021



Notice of District Petition

Notice issued May 27, 2021

TCEQ Internal Control No. D-04122021-020; Wesley West Minerals, Ltd., a Texas limited partnership, (Petitioner) filed a petition for creation of Galveston County Municipal Utility District No. 81 (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 260.58 acres located within Galveston County, Texas; and (4) all of the land within the proposed District is within the corporate limits of the City of League City, Texas.

By Resolution No. 2020-160, passed and adopted on October 27, 2020, the City of League City, 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, construct, acquire, maintain and operate a waterworks and sanitary sewer system, park and recreational facilities, and road facilities for residen-

tial 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, improve, maintain and operate such additional facilities, 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 \$41,575,000 (\$32,000,000 for water, wastewater, and drainage plus \$4,675,000 for recreation plus \$4,900,000 for roads).

INFORMATION SECTION

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

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

TRD-202102113

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: May 27, 2021



Notice of Hearing on Tycon Ready Mix, LLC: SOAH Docket No. 582-21-1741; TCEQ Docket No. 2020-1426-AIR; Proposed Registration No. 159582

APPLICATION. Tycon Ready Mix, LLC, has applied to the Texas Commission on Environmental Quality (TCEQ) for an Air Quality Standard Permit, Registration No. 159582. This application would

authorize construction of a permanent Concrete Batch Plant located at the following driving directions: from the intersection of Hunters Trail and County Road 139 (Burkett Road), go north on County Road 139 for approximately 180 feet, site entrance will be on the right, Flint, Smith County, Texas 75762. This application is being processed in an expedited manner, as allowed by the commission's rules in 30 Texas Administrative Code (TAC), Chapter 101, Subchapter J. This application was submitted to the TCEQ on December 20, 2019. 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=-95.349166%2C32.209166&level=12>. For the exact location, refer to the application. The proposed plant will emit the following air contaminants: particulate matter, including (but not limited to) aggregate, cement, road dust, and particulate matter with diameters of 10 microns or less and 2.5 microns or less.

The TCEQ Executive Director has determined that the application meets all of the requirements of a standard permit authorized by 30 Texas Administrative Code §116.611, which would establish the conditions under which the plant must operate. The Executive Director has made a preliminary decision to issue the registration because it meets all applicable rules. The permit application, executive director's preliminary decision, and standard permit are available for viewing and copying at the TCEQ central office, the TCEQ Tyler regional office, and the Bullard Community Library, 211 West Main Street, Bullard, Smith County, Texas. The facility's compliance file, if any exists, is available for public review at the TCEQ Tyler Regional Office, 2916 Teague Drive, Tyler, Texas. Visit <http://www.tceq.texas.gov/goto/cbp> to review the standard permit.

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. - July 21, 2021

To join the Zoom meeting via computer:

<https://soah-texas.zoomgov.com/>

Meeting ID: 160 483 9774

Password: ZZ8WN2

or

To join the Zoom meeting via telephone:

(669) 254-5252 or (646) 828-7666

Meeting ID: 160 483 9774

Password: 431820

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 address the disputed issues of fact identified in the TCEQ order concerning this application issued on February 1, 2021. In addition to these issues, the judge may consider additional issues if certain factors are met.

The hearing will be conducted in accordance with the Chapter 2001, Texas Government Code; Chapter 382, Texas Health and Safety Code; TCEQ rules including 30 TAC Chapter 116, Subchapters A, B, and F; and the procedural rules of the TCEQ and SOAH, including 30 TAC Chapter 80 and 1 TAC Chapter 155. The hearing will be held unless all timely hearing requests have been withdrawn or denied.

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

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

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

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

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

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

Further information may also be obtained from Mr. Josh Butler, Principal Consultant, Elm Creek Environmental, LLC at (972) 768-9093.

Issued: May 28, 2021

TRD-202102155

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: June 2, 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 July

12, 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 July 12, 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: Glendale Water Supply Corporation; DOCKET NUMBER: 2019-1781-PWS-E; TCEQ ID NUMBER: RN101436319; LOCATION: State Highway 94 approximately five miles Northeast of Trinity, Trinity County; TYPE OF FACILITY: public water system; RULES VIOLATED: TCEQ AO Docket Number 2017-0963-PWS-E, Ordering Provision Number 2.c.i., by failing to submit a recommendation to the executive director (ED) for optimal corrosion control treatment within six months after the end of the January 1, 2016 - December 31, 2016 monitoring period during which the lead action level was exceeded; TCEQ AO Docket Number 2017-0963-PWS-E, Ordering Provision Number 2.c.ii., by failing to submit a recommendation to the ED for a source water treatment within 180 days after the end of the January 1, 2016 - December 31, 2016 monitoring period during which the lead action level was exceeded; 30 TAC §290.117(c)(2), (h), and (i)(3), by failing to conduct water quality parameter sampling at each of the facility's entry points and the required distribution sample sites, have the samples analyzed, and report the results to the ED for the January 1, 2017 - June 30, 2017, July 1, 2017 - December 31, 2017, January 1, 2018 - June 30, 2018, July 1, 2018 - December 31, 2018 and January 1, 2019 - June 30, 2019 monitoring periods; and 30 TAC §290.117(f)(1)(A)(ii) and (i)(7), by failing to perform and submit a corrosion control study to identify optimal corrosion control treatment for the system within 12 months after the end of the January 1, 2016 - December 31, 2016 monitoring period in which the system first exceeded the lead action level; PENALTY: \$1,575; STAFF ATTORNEY: Jake Marx, Litigation, MC 175, (512) 239-5111; REGIONAL OFFICE: Beaumont Regional Office, 3870 Eastex Freeway, Beaumont, Texas 77703-1830, (409) 898-3838.

(2) COMPANY: Kathie Johnson; DOCKET NUMBER: 2020-0640-MLM-E; TCEQ ID NUMBER: RN110843117; LOCATION: 133 County Road 3126, Orange, Newton County; TYPE OF FACILITY: unauthorized municipal solid waste (MSW) disposal site; RULES VIOLATED: 30 TAC §111.201 and Texas Health and Safety Code, §382.085(b), by causing, suffering, allowing, or permitting outdoor burning within the state of Texas - specifically, on March 27, 2020, TCEQ staff documented that approximately one cubic yard of MSW consisting of treated lumber, wood molding, a table or chair leg, part of a storage trunk, one compact fluorescent bulb which contained mercury, one pressurized aerosol can, five strips of heavy rubber strips measuring three inches wide by 72 inches long by less than one inch thick, and other material was burned at the site; and 30 TAC

§330.15(a) and (c), by causing, suffering, allowing, or permitting the unauthorized disposal of MSW - specifically, on March 27, 2020, TCEQ staff documented that approximately one cubic yard of MSW consisting of plastics, pieces of a table, car parts, and household trash was disposed of at the site; PENALTY: \$2,777; STAFF ATTORNEY: Judy Bohr, Litigation, MC 175, (512) 239-5807; REGIONAL OFFICE: Beaumont Regional Office, 3870 Eastex Freeway, Beaumont, Texas 77703-1830, (409) 898-3838.

(3) COMPANY: MUDD Creek Country Store, LLC; DOCKET NUMBER: 2020-1147-PST-E; TCEQ ID NUMBER: RN107125395; LOCATION: 1870 State Highway 79, Franklin, Robertson 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)(B), by failing to monitor the USTs installed on or after January 1, 2009 in a manner which will detect a release at a frequency of at least once every 30 days by using interstitial monitoring (IM) - specifically, three USTs were installed after March 19, 2014, and respondent was not using IM release detection; and 30 TAC §334.602(a), by failing to designate, train, and certify at least one named individual for each class of operator Class A - C for the facility - specifically, the facility did not have a certified Class C Operator; PENALTY: \$4,725; STAFF ATTORNEY: Roslyn Dubberstein, Litigation, MC 175, (512) 239-0683; REGIONAL OFFICE: Waco Regional Office, 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

TRD-202102122
Charmaine Backens
Deputy Director, Litigation
Texas Commission on Environmental Quality
Filed: May 27, 2021



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

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 July 12, 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: Ell A. Kramer, Cinda L. Kramer Usener, and Gary W. Kramer, trustees of Ell Kramer Living Trust; DOCKET NUMBER: 2019-0273-PWS-E; TCEQ ID NUMBER: RN109916817; LOCATION: 186 Sky Harbor Road Northwest near Mountain Home, Kerr County; TYPE OF FACILITY: public water system; RULES VIOLATED: 30 TAC §290.46(n)(1), by failing to maintain accurate, up-to-date, detailed as-built plans or record drawings and specifications for each treatment plant, pump station, and storage tank at the public water system until the facility is decommissioned; 30 TAC §290.42(b)(1) and (e)(3), by failing to provide disinfection facilities for groundwater supply for the purpose of microbiological control and distribution protection; Texas Health and Safety Code, §341.033(a) and 30 TAC §290.46(e)(4)(A), by failing to use a water works operator who holds a Class D or higher license; 30 TAC §290.110(e)(4)(A) and (f)(3), by failing to submit a Disinfectant Level Quarterly Operating Report to the executive director (ED) each quarter by the tenth day of the month

following the end of each quarter; 30 TAC §290.106(e), by failing to provide the results for asbestos sampling to the ED; and 30 TAC §290.117(c)(2)(A), (h), and (i)(1), by failing to collect lead and copper tap samples at the required five sample sites, have the samples analyzed, and report the results to the ED; PENALTY: \$5,070; STAFF ATTORNEY: John S. Mercurief II, Litigation, MC 175, (512) 239-6944; REGIONAL OFFICE: San Antonio Regional Office, 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

(2) COMPANY: KOUNTRY RENTALS LLC; DOCKET NUMBER: 2019-1098-PWS-E; TCEQ ID NUMBER: RN110493772; LOCATION: 3404 North Twin City Highway near Nederland, Jefferson County; TYPE OF FACILITY: public water system; RULES VIOLATED: 30 TAC §290.106(c) and (e) and §290.108(c) and (e), by failing to collect and report the results of cyanide, metals and minerals, nitrate/nitrite, and radionuclides sampling to the executive director (ED) for the January 1, 2018 - December 31, 2018 monitoring period; 30 TAC §290.107(c) and (e), by failing to collect and report the results of synthetic organic chemical and volatile organic chemical sampling to the ED for the October 1, 2018 - December 31, 2018 monitoring period; and 30 TAC §290.110(e)(4)(A) and (f)(3), by failing to submit a Disinfectant Level Quarterly Operating Report to the ED by the tenth day of the month following the end of each quarter for the fourth quarter of 2018 through the first quarter of 2019; PENALTY: \$2,204; STAFF ATTORNEY: John S. Mercurief II, Litigation, MC 175, (512) 239-6944; REGIONAL OFFICE: Beaumont Regional Office, 3870 Eastex Freeway, Beaumont, Texas 77703-1830, (409) 898-3838.

(3) COMPANY: TFW Industrial Supply & CNC Machine, LLC; DOCKET NUMBER: 2020-0527-IHW-E; TCEQ ID NUMBER: RN110835048; LOCATION: 8145 Cotton Trail, Godley, Johnson County; TYPE OF FACILITY: turning, milling, and sawing facility; RULES VIOLATED: TWC, §26.121(a)(1) and 30 TAC §335.4(1), by causing, suffering, allowing, or permitting the unauthorized disposal of industrial solid waste; and 30 TAC §§335.62, 335.503(a), and 335.504 and 40 Code of Federal Regulations §262.11, by failing to conduct hazardous waste determinations and waste classifications; PENALTY: \$11,812; STAFF ATTORNEY: Taylor Pearson, Litigation, MC 175, (512) 239-6363; REGIONAL OFFICE: Dallas/Fort Worth Regional Office, 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

TRD-202102123
Charmaine Backens
Deputy Director, Litigation
Texas Commission on Environmental Quality
Filed: May 27, 2021



Notice of Public Hearing on Assessment of Administrative Penalties and Requiring Certain Actions of Kurt Wolf: SOAH Docket No. 582-21-2062; TCEQ Docket No. 2019-1598-PST-E

The Texas Commission on Environmental Quality (TCEQ or the Commission) has referred this matter to the State Office of Administrative Hearings (SOAH). An Administrative Law Judge with the State Office of Administrative Hearings will conduct a public hearing via Zoom videoconference at:

10:00 a.m. - July 1, 2021

To join the Zoom meeting via computer:

<https://soah-texas.zoomgov.com/>

Meeting ID: 161 294 9586

Password: 9cHL%43

or

To join the Zoom meeting via telephone dial:

(669) 254-5252 or (646) 828-7666

Meeting ID: 161 294 9586

Password: 7868538

The purpose of the hearing will be to consider the Executive Director's Preliminary Report and Petition mailed January 6, 2021, concerning assessing administrative penalties against and requiring certain actions of Kurt Wolf, for violations in Archer County, Texas, of: Texas Water Code §26.3475(d) and 30 TAC §334.49(a)(2) and §334.54(b)(3).

The hearing will allow Kurt Wolf, the Executive Director, and the Commission's Public Interest Counsel to present evidence on whether a violation has occurred, whether an administrative penalty should be assessed, and the amount of such penalty, if any. The first convened session of the hearing will be to establish jurisdiction, afford Kurt Wolf, the Executive Director of the Commission, and the Commission's Public Interest Counsel an opportunity to negotiate and to establish a discovery and procedural schedule for an evidentiary hearing. Unless agreed to by all parties in attendance at the preliminary hearing, an evidentiary hearing will not be held on the date of this preliminary hearing. **Upon failure of Kurt Wolf to appear at the preliminary hearing or evidentiary hearing, the factual allegations in the notice will be deemed admitted as true, and the relief sought in the notice of hearing may be granted by default. The specific allegations included in the notice are those set forth in the Executive Director's Preliminary Report and Petition, attached hereto and incorporated herein for all purposes.** Kurt Wolf, the Executive Director of the Commission, and the Commission's Public Interest Counsel are the only designated parties to this proceeding.

Legal Authority: Tex. Water Code §7.054 and Tex. Water Code chs. 7 and 26 and 30 TAC chs. 70 and 334; Tex. Water Code §7.058, and the Rules of Procedure of the Texas Commission on Environmental Quality and the State Office of Administrative Hearings, including 30 TAC §70.108 and §70.109 and ch. 80, and 1 TAC ch. 155.

Further information regarding this hearing may be obtained by contacting Benjamin Warms, Staff Attorney, Texas Commission on Environmental Quality, Litigation Division, Mail Code 175, P.O. Box 13087, Austin, Texas 78711-3087, telephone (512) 239-3400. Information concerning your participation in this hearing may be obtained by contacting Vic McWherter, Public Interest Counsel, Mail Code 103, at the same P.O. Box address given above, or by telephone at (512) 239-6363.

Any document filed prior to the hearing must be filed with TCEQ's Office of the Chief Clerk and SOAH. Documents filed with the Office of the Chief Clerk may be filed electronically at www.tceq.texas.gov/goto/efilings or sent to the following address: TCEQ Office of the Chief Clerk, Mail Code 105, P.O. Box 13087, Austin, Texas 78711-3087. Documents filed with SOAH may be filed via fax at (512) 322-2061 or sent to the following address: SOAH, 300 West 15th Street, Suite 504, Austin, Texas 78701. When contacting the Commission or SOAH regarding this matter, reference the SOAH docket number given at the top of this notice.

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

Persons who need special accommodations at the hearing should call the SOAH Docketing Department at (512) 475-3445, at least one week before the hearing.

Issued: June 1, 2021

TRD-202102153

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: June 2, 2021



Notice of Water Rights Application

Notice Issued May 28, 2021

APPLICATION NO. 08-2410K; North Texas Municipal Water District, P.O. Box 2408, Wylie, Texas 75098, Applicant, seeks to amend Certificate of Adjudication No. 08-2410, as amended, to authorize the diversion and use of an additional 264,543 acre-feet of water per year from the East Fork Trinity River (Lake Lavon), Trinity River Basin in Collin County when Lake Lavon is at or above elevation 492 feet msl. More information on the application and how to participate in the permitting process is given below. The application and partial fees were received on July 21, 2016. Additional information and fees were received on August 19, September 15, 2016 and March 6 and March 7, 2017. The application was declared administratively complete and filed with the Office of the Chief Clerk on March 23, 2017. Additional information was received on September 14, October 26, 2017 and April 3, October 28, November 24, 2020 and February 22, 2021.

The Executive Director has completed the technical review of the application and prepared a draft amendment. The draft amendment, if granted, would include special conditions including, but not limited to, maintaining an accounting plan and streamflow restrictions. The application, technical memoranda, and Executive Director's draft amendment are available for viewing on the TCEQ web page at: www.tceq.texas.gov/permitting/water_rights/wr-permitting/wr-apps-pub-notice. Alternatively, you may request a copy of the documents by contacting the TCEQ Office of the Chief Clerk by phone at (512) 239-3300 or by mail at TCEQ OCC, Notice Team (MC-105), P.O. Box 13087, Austin, Texas 78711. Written public comments and requests for a public meeting should be submitted to the Office of the Chief Clerk, at the address provided in the information section below, within 30 days of the date of newspaper publication of the notice. A public meeting is intended for the taking of public comment, and is not a contested case hearing. A public meeting will be held if the Executive Director determines that there is a significant degree of public interest in the application.

The TCEQ may grant a contested case hearing on this application if a written hearing request is filed within 30 days from the date of newspaper publication of this notice. The Executive Director may approve the application unless a written request for a contested case hearing is filed within 30 days after newspaper publication of this 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) applicant's name and permit number; (3) the statement "[I/we] request a contested case hearing;" (4) a brief and specific description of how you would be affected by the application in a way not common to the general public; and (5) the location and distance of your property relative to the proposed activity. You may also submit proposed conditions for the requested permit which would satisfy your concerns. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address

provided in the information section below. If a hearing request is filed, the Executive Director will not issue the permit and will forward the application and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting. Written hearing requests, public comments or requests for a public meeting should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087 or electronically at <http://www14.tceq.texas.gov/epic/eComment/> by entering ADJ 2410 in the search field. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Public Education Program at (800) 687-4040. General information regarding the TCEQ can be found at our website at www.tceq.texas.gov. Si desea información en español, puede llamar al (800) 687-4040 o por el internet al <http://www.tceq.texas.gov>.

TRD-202102128

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: May 28, 2021



Texas Ethics Commission

List of Late Filers

Below is a list from the Texas Ethics Commission naming the filers who failed to pay the penalty fine for failure to file the report, or filing a late report, in reference to the specified filing deadline. If you have any questions, you may contact Scarlett Scalzo at (512) 463-5800.

Deadline: Day Before Regular Session Report due January 11, 2021

Dennis H. Bonnen, 122 E. Myrtle, Angleton, Texas 77515

Christopher D. Paddie Sr., P.O. Box 8259, Marshall, Texas 75671

Deadline: Semiannual Report due January 15, 2021

Sarahjane D. Swanson, 3550 West 12th St., Ste. 102, Houston, Texas 77008

Samuel T. Hatton, P.O. Box 7714, Abilene, Texas 79608

Tricia K. Krenek, 6445 FM 1463 Road, Ste. 160-101, Katy, Texas 77494

Hubert Todd McCray, P.O. Box 830804, San Antonio, Texas 78283

Amber N. Givens-Davis, 3824 Cedar Springs Rd. #253, Dallas, Texas 75219

David L. Bridges, P.O. Box 553, Fate, Texas 75132

David Wahlberg, 1208 West Ave., Austin, Texas 78701

Mark Watson, 5851 McCommas Blvd., Dallas, Texas 75206 (COH)

Ramsey E. Cantu, 2004 Ricks Dr., Eagle Pass, Texas 78852

Holly Newton, P.O. Box 63, Dripping Springs, Texas 78620

Leslie A. Peeler, 2221 Justin Rd., Ste. 119-135, Flower Mound, Texas 75028

Clayton R. Hunt, 8550 Glenview Dr., Houston, Texas 77017

Kendra J. Yarbrough Camarena, 6007 Spruce Forest, Houston, Texas 77092

Maribel Cruz, 13423 Blanco Rd. #458, San Antonio, Texas 78216

David R. Wilson, 1120 Glade Rd., Ste 170, Colleyville, Texas 76034

Amber L. Medina, 1659 Westminster Rd., Brownsville, Texas 78521
Alfredo M. Ramirez Jr., 2056 Hardee Pass, San Antonio, Texas 78253
Elvonte Patton, P.O. Box 841611, Pearland, Texas 77584
John Berry, P.O. Box 936, Jacksboro, Texas 76458
George M. Clayton, 526 Tiffany Trl., Richardson, Texas 75081
Earl W. Davis II, 2822 CR 2161, P.O. Box 1113, Clarksville, Texas 75426
Angelica Garcia, P.O. Box 259, Katy, Texas 77492-0259
Stephen P. Ballantyne Jr., 9 Auburn Pl., San Antonio, Texas 78209-4379
Graciela Olvera, 435 W. 12th Street, Dallas, Texas 75208
Matthew S. Muller, 1021 Main St. #1275, Houston, Texas 77002
Jacinto Martinez, 1230 Duke Rd., San Antonio, Texas 78264
Edward W. Espinosa, P.O. Box 160233, Austin, Texas 78716
Ira Bershad, 4332 Cheetah Trail, Frisco, Texas 75034
TRD-202102109
Anne Temple Peters
Executive Director
Texas Ethics Commission
Filed: May 27, 2021

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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 May 24, 2021 to May 28, 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 website. The notice was published on the website on Friday, June 4, 2021. The public comment period for this project will close at 5:00 p.m. on Sunday, July 4, 2021.

FEDERAL AGENCY ACTIONS:

Applicant: Aransas County

Location: The project is located in Aransas Bay along North Fulton Beach Road between Prairie Road and Kontiki Beach Resort in Rockport, Aransas County, Texas.

Project Description: The applicant proposes to construct shoreline stabilization which will include 28,500 cubic yards of fill material placed below the Annual High Tide Line along 7,500 linear feet of shoreline (6.5-acre area). This would include the excavation of existing relic concrete and other debris along the shoreline, placement of fill material to create a stable slope, and construction of a riprap revetment on top of the graded slope. The revetment would be constructed of a geotextile underlayer, bedding material, and stone riprap armor layer.

Type of Application: U.S. Army Corps of Engineers permit application # SWG-2020-00806. This application will be reviewed pursuant to Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act. Note: The consistency review for this project may be conducted by the Texas Commission on Environmental Quality as part of its certification under §401 of the Clean Water Act.

CMP Project No: 21-1315-F1

Applicant: Misho's Oyster Company

Location: The proposed project is located within Copano Bay approximately 600 feet northeast of the applicant's property located at 5751 Loop 1781, Rockport, Aransas County, Texas.

Project Description: The applicant proposes the construction of two long-shore breakwaters using repurposed concrete riprap in Copano Bay, Aransas County, Texas. The western breakwater is approximately 48-feet-wide by 550-feet-long with approximately 5,333 cubic yards (cy) and the eastern breakwater is approximately 45-feet-wide by 350-feet-long with approximately 3,521 cy of riprap within a .99-acre project area. Ingress and egress will be along an existing channel via watercraft vessels and all material will be loaded onto barge(s) and transported to the proposed work area via an existing channel as depicted on the plan sheets. The proposed commercial piling-supported pier consists of an approximately 330-foot long by 10-foot wide walkway with an approximate 100-foot by 10-foot T-head. In total, the proposed pier is approximately 4,300 square feet (0.09-acre). The pier, including the T-head will extend approximately 340-foot seaward from an existing bulkhead along the applicant's property. Wooden pilings used to support the pier structure will extend above the proposed walkway to act as mooring structures for the commercial oyster vessels. No additional mooring dolphins are currently proposed. Breakwater fill material is currently staged at the applicant's property located at 5751 Loop 1781, Rockport, Aransas County, Texas. Breakwater materials will be loaded onto barges from the applicant's property and transported to the work area. Access between the applicant's property/stockpile area and the proposed breakwaters will be via an existing channel as depicted on the 1972 National Oceanic and Atmospheric Administration (NOAA) nautical chart (Appendix D). According to the 1972 nautical chart, this channel had a representative depth of -12 feet Mean High Water (MHW) in 1960 and extended from a bulkheaded portion of the applicant's property to the north. Once transported to the proposed work area, fill material will then be placed mechanically consistent within the specifications.

Type of Application: U.S. Army Corps of Engineers permit application # SWG-2021-00041. This application will be reviewed pursuant to Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act. Note: The consistency review for this project may be conducted by the Texas Commission on Environmental Quality as part of its certification under §401 of the Clean Water Act.

CMP Project No: 21-1316-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-202102142

Mark A. Havens

Chief Clerk

General Land Office

Filed: June 1, 2021

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Department of State Health Services

During the first half of April 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
ABILENE	HENDRICK MEDICAL CENTER	L02433	ABILENE	132	04/02/21
AUSTIN	ST DAVIDS HEALTHCARE PARTNERSHIP LP LLPDBA ST DAVIDS NORTH AUSTIN MEDICAL CENTER	L04910	AUSTIN	108	04/06/21
BENBROOK	WEATHERFORD INTERNATIONAL LLC	L04286	BENBROOK	130	04/06/21
BROWNWOOD	HENDRICK MEDICAL CENTER BROWNWOOD	L02322	BROWNWOOD	70	04/06/21
BURNET	SK NELSON ENGINEERING LLC	L06463	BURNET	04	04/13/21
CARROLLTON	SANA HEALTHCARE CARROLLTON LLC DBA CARROLLTON REGIONAL MEDICAL CENTER	L07078	CARROLLTON	02	04/13/21
CORPUS CHRISTI	CITGO REFINING AND CHEMICALS COMPANY LP	L06183	CORPUS CHRISTI	08	04/13/21
DALLAS	TEXAS ONCOLOGY PA DBA SAMMONS CANCER CENTER	L04878	DALLAS	68	04/05/21
DALLAS	BAYLOR UNIVERSITY MEDICAL CENTER	L01290	DALLAS	149	04/12/21
EDINBURG	THE UNIVERSITY OF TEXAS RIO GRANDE VALLEY	L06754	HARLINGEN	06	04/06/21
FARMERS BRANCH	FANLIGHT CORP INC	L07086	FARMERS BRANCH	02	04/07/21

AMENDMENTS TO EXISTING LICENSES ISSUED: (Continued)

FORT WORTH	UNIVERSITY OF NORTH TEXAS HEALTH SCIENCE CENTER AT FORT WORTH	L06123	FORT WORTH	10	04/12/21
HOUSTON	HARRIS COUNTY HOSPITAL DISTRICT DBA HARRIS HEALTH SYSTEM	L04412	HOUSTON	52	04/02/21
LEAGUE CITY	SUNTRAC SERVICES INC	L03062	LEAGUE CITY	33	04/07/21
NACOGDOCHES	SHARED MEDICAL SERVICES INC	L06142	NACOGDOCHES	37	04/05/21
NACOGDOCHES	TH HEALTHCARE LTD DBA NACOGDOCHES MEDICAL CENTER	L02853	NACOGDOCHES	59	04/13/21
RICHARDSON	METHODIST HOSPITALS OF DALLAS	L06474	RICHARDSON	10	04/12/21
ROSHARON	KLX ENERGY SERVICES LLC	L06620	ROSHARON	28	04/06/21
SAN ANGELO	SHANNON MEDICAL CENTER	L02174	SAN ANGELO	80	04/06/21
SAN ANTONIO	VHS SAN ANTONIO PARTNERS LLC DBA BAPTIST HEALTH SYSTEM	L00455	SAN ANTONIO	269	04/05/21
SUGAR LAND	LAKEFIELD PROFESSIONAL GROUP OF TEXAS PC	L06613	SUGAR LAND	04	04/13/21
THROUGHOUT TX	INTEGRITY TESTLABS LLC	L06756	CLUTE	07	04/07/21
THROUGHOUT TX	D&S ENGINEERING LABS LLC	L06677	DENTON	17	04/07/21
THROUGHOUT TX	FUGRO CONSULTANTS INC	L03461	GRAND PRAIRIE	34	04/09/21

AMENDMENTS TO EXISTING LICENSES ISSUED: (Continued)

THROUGHOUT TX	PROFESSIONAL SERVICE INDUSTRIES INC	L06332	GRAPEVINE	16	04/13/21
THROUGHOUT TX	HAIMO AMERICA INC	L06936	HOUSTON	10	04/06/21
THROUGHOUT TX	ATLAS TECHNICAL CONSULTANTS LLC	L06407	LUBBOCK	21	04/12/21
THROUGHOUT TX	LANDTEC ENGINEERS LLC	L05341	MANSFIELD	08	04/07/21
THROUGHOUT TX	HEALTHSCAN IMAGING LLC	L06856	MANSFIELD	14	04/12/21
THROUGHOUT TX	TURNER SPECIALTY SERVICES LLC	L05417	NEDERLAND	55	04/06/21

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
LEWISVILLE	TEXAS HEALTH PHYSICIANS GROUP	L05507	LEWISVILLE	26	04/05/21
TEXARKANA	COLLOM & CARNEY CLINIC ASSOCIATION	L05524	TEXARKANA	15	04/12/21
THROUGHOUT TX	ENCON INTERNATIONAL INC	L04528	EL PASO	17	04/09/21

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
EDINBURG	SUNSHINE MEDICAL SERVICES	L06742	EDINBURG	04	04/12/21
SAN ANTONIO	SALVATORE A BARBARO III MD PA	L05680	SAN ANTONIO	09	04/05/21

TRD-202102112

Barbara L. Klein
General Counsel
Department of State Health Services
Filed: May 27, 2021

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Texas Department of Insurance

Company Licensing

Application for Scott and White Health Plan, a domestic Health Maintenance Organization (HMO) DBA Baylor Scott & White Health Plan. The home office is in Temple, 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-202102154
James Person
General Counsel
Texas Department of Insurance
Filed: June 2, 2021

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Texas Lottery Commission

Scratch Ticket Game Number 2314 "CRAZY CASH"

1.0 Name and Style of Scratch Ticket Game.

A. The name of Scratch Ticket Game No. 2314 is "CRAZY CASH". The play style is "multiple games".

1.1 Price of Scratch Ticket Game.

A. The price for Scratch Ticket Game No. 2314 shall be \$5.00 per Scratch Ticket.

1.2 Definitions in Scratch Ticket Game No. 2314.

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: STAR SYMBOL, CHERRY SYMBOL, HEART SYMBOL, MOON SYMBOL, DIAMOND SYMBOL, LEMON SYMBOL, SUN SYMBOL, GOLD BAR SYMBOL, HORSESHOE SYMBOL, ANCHOR SYMBOL, BOAT SYMBOL, COIN SYMBOL, LIGHTNING BOLT SYMBOL, DICE SYMBOL, CACTUS SYMBOL, CLUB SYMBOL, RAINBOW SYMBOL, BANANA SYMBOL, PINEAPPLE SYMBOL, ELEPHANT SYMBOL, UMBRELLA SYMBOL, WATERMELON SYMBOL, SPADE SYMBOL, WISHBONE SYMBOL, STRAWBERRY SYMBOL, DOLLAR BILL SYMBOL, POT OF GOLD SYMBOL, CROWN SYMBOL, FISH SYMBOL, BOOT SYMBOL, PIGGY BANK SYMBOL, AIRPLANE SYMBOL, LADYBUG SYMBOL, TREE SYMBOL, BIRD SYMBOL, TURTLE SYMBOL, HAT SYMBOL, GRAPES SYMBOL, TROPHY SYMBOL, MONEY BAG SYMBOL, WIN SYMBOL, 01, 02, 03, 04, 05, 06, 07, 08, 09, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, \$5.00, \$10.00, \$20.00, \$50.00, \$100, \$250, \$500, \$1,000 and \$100,000.

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

Figure 1: GAME NO. 2314 - 1.2D

PLAY SYMBOL	CAPTION
STAR SYMBOL	STAR
CHERRY SYMBOL	CHERRY
HEART SYMBOL	HEART
MOON SYMBOL	MOON
DIAMOND SYMBOL	DIAMND
LEMON SYMBOL	LEMON
SUN SYMBOL	SUN
GOLD BAR SYMBOL	BAR
HORSESHOE SYMBOL	HRSHOE
ANCHOR SYMBOL	ANCHOR
BOAT SYMBOL	BOAT
COIN SYMBOL	WIN\$
LIGHTNING BOLT SYMBOL	BOLT
DICE SYMBOL	DICE
CACTUS SYMBOL	CACTUS
CLUB SYMBOL	CLUB
RAINBOW SYMBOL	RAINBW
BANANA SYMBOL	BANANA
PINEAPPLE SYMBOL	PNAPLE
ELEPHANT SYMBOL	ELPHT
UMBRELLA SYMBOL	UMBRLA
WATERMELON SYMBOL	WTRMLN
SPADE SYMBOL	SPADE
WISHBONE SYMBOL	WSHBNE
STRAWBERRY SYMBOL	STRWBY

DOLLAR BILL SYMBOL	BILL
POT OF GOLD SYMBOL	GOLD
CROWN SYMBOL	CROWN
FISH SYMBOL	FISH
BOOT SYMBOL	BOOT
PIGGY BANK SYMBOL	PGYBNK
AIRPLANE SYMBOL	AIRPLN
LADYBUG SYMBOL	LDYBUG
TREE SYMBOL	TREE
BIRD SYMBOL	BIRD
TURTLE SYMBOL	TURTLE
HAT SYMBOL	HAT
GRAPES SYMBOL	GRAPES
TROPHY SYMBOL	TROPHY
MONEY BAG SYMBOL	BAG
WIN SYMBOL	WINALL
01	ONE
02	TWO
03	THR
04	FOR
05	FIV
06	SIX
07	SVN
08	EGT
09	NIN
10	TEN
11	ELV
12	TLV

13	TRN
14	FTN
15	FFN
16	SXN
17	SVT
18	ETN
19	NTN
20	TWY
21	TWON
22	TWTO
23	TWTH
24	TWFR
25	TWV
26	TWSX
27	TWSV
28	TWET
29	TWNI
30	TRTY
\$5.00	FIV\$
\$10.00	TEN\$
\$20.00	TWY\$
\$50.00	FFTY\$
\$100	ONHN
\$250	TOFF
\$500	FVHN
\$1,000	ONTH
\$100,000	100TH

E. Serial Number - A unique thirteen (13) digit number appearing under the latex scratch-off covering on the front of the Scratch Ticket. The Serial Number is for validation purposes and cannot be used to play the game. The format will be: 000000000000.

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 (2314), a seven (7) digit Pack number, and a three (3) digit Ticket number. Ticket numbers start with 001 and end with 075 within each Pack. The format will be: 2314-000001-001.

H. Pack - A Pack of the "CRAZY CASH" Scratch Ticket Game contains 075 Tickets, packed in plastic shrink-wrapping and fanfolded in pages of one (1). Ticket 001 will be shown on the front of the Pack; the back of Ticket 075 will be revealed on the back of the Pack. All Packs will be tightly shrink-wrapped. There will be no breaks between the Tickets in a Pack. Every other Pack will reverse; i.e., reverse order will be: the back of Ticket 001 will be shown on the front of the Pack and the front of Ticket 075 will be shown on the back of the Pack.

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

J. Scratch Ticket Game, Scratch Ticket or Ticket - Texas Lottery "CRAZY CASH" Scratch Ticket Game No. 2314.

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 "CRAZY CASH" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose fifty-four (54) Play Symbols. GAME 1: If a player reveals a "COIN" Play Symbol, the player wins the prize for that symbol. GAME 2: If the player reveals 3 "DOLLAR BILL" Play Symbols in any one row, column or diagonal line, the player wins the PRIZE. GAME 3: If the player reveals 3 "MONEY BAG" Play Symbols in any one row, column or diagonal line, the player wins the PRIZE. GAME 4: If a player matches any of the YOUR NUMBERS Play Symbols to either of the WINNING NUMBERS Play Symbols, the player wins the prize for that number. If the player reveals a "WIN" Play Symbol, the player WINS ALL 10 PRIZES INSTANTLY! No portion of the Display Printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Scratch Ticket.

2.1 Scratch Ticket Validation Requirements.

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

1. Exactly fifty-four (54) Play Symbols must appear under the Latex Overprint on the front portion of the Scratch Ticket;
2. Each of the Play Symbols must have a Play Symbol Caption underneath, unless specified, and each Play Symbol must agree with its Play Symbol Caption;
3. Each of the Play Symbols must be present in its entirety and be fully legible;

4. Each of the Play Symbols must be printed in black ink except for dual image games;

5. The Scratch Ticket shall be intact;

6. The Serial Number and Game-Pack-Ticket Number must be present in their entirety and be fully legible;

7. The Serial Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the Scratch Ticket;

8. The Scratch Ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted or tampered with in any manner;

9. The Scratch Ticket must not be counterfeit in whole or in part;

10. The Scratch Ticket must have been issued by the Texas Lottery in an authorized manner;

11. The Scratch Ticket must not have been stolen, nor appear on any list of omitted Scratch Tickets or non-activated Scratch Tickets on file at the Texas Lottery;

12. The Play Symbols, Serial Number and Game-Pack-Ticket Number must be right side up and not reversed in any manner;

13. The Scratch Ticket must be complete and not miscut, and have exactly fifty-four (54) Play Symbols under the Latex Overprint on the front portion of the Scratch Ticket, exactly one Serial Number and exactly one Game-Pack-Ticket Number on the Scratch Ticket;

14. The Serial Number of an apparent winning Scratch Ticket shall correspond with the Texas Lottery's Serial Numbers for winning Scratch Tickets, and a Scratch Ticket with that Serial Number shall not have been paid previously;

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

16. Each of the fifty-four (54) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the fifty-four (54) Play Symbols on the Scratch Ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the Scratch Ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Game-Pack-Ticket Number must be printed in the Game-Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;

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

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

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

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

2.2 Programmed Game Parameters.

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

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

C. GENERAL: A Ticket can win up to eighteen (18) times.

D. GENERAL: On winning and Non-Winning Tickets, the top cash prizes of \$1,000 and \$100,000 will each appear at least once, except on Tickets winning eighteen (18) times.

E. GENERAL: On all Tickets, a Prize Symbol will not appear more than three (3) times across all GAMES, except as required by the prize structure to create multiple wins.

F. GENERAL: Non-winning Prize Symbols will not match a winning Prize Symbol on a Ticket across all GAMES.

G. GAME 1: GAME 1 can win up to six (6) times.

H. GAME 1: The "COIN" (WIN\$) Play Symbol will win the corresponding prize for that symbol.

I. GAME 1: No matching non-winning Play Symbols will appear in GAME 1.

J. GAME 1: A Prize Symbol will not appear more than two (2) times in GAME 1, except as required by the prize structure to create multiple wins.

K. GAME 2: GAME 2 can win one (1) time.

L. GAME 2: On winning and non-winning GAMES, the "DOLLAR BILL" (BILL) Play Symbol will appear four (4) or five (5) times.

M. GAME 2: On winning and non-winning GAMES, there will not be more than two (2) matching Play Symbols other than the "DOLLAR BILL" (BILL) Play Symbol which appears four (4) or five (5) times.

N. GAME 2: Non-winning GAMES will not contain four (4) matching Play Symbols in all four (4) corners.

O. GAME 2: Winning GAMES will only contain one (1) winning combination.

P. GAME 2: Winning GAMES will have three (3) matching "DOLLAR BILL" (BILL) Play Symbols in the same row, column or diagonal line.

Q. GAME 3: GAME 3 can win one (1) time.

R. GAME 3: On winning and non-winning GAMES, the "MONEY BAG" (BAG) Play Symbol will appear four (4) or five (5) times.

S. GAME 3: On winning and non-winning GAMES, there will not be more than two (2) matching Play Symbols other than the "MONEY BAG" (BAG) Play Symbol which appears four (4) or five (5) times.

T. GAME 3: Non-winning GAMES will not contain four (4) matching Play Symbols in all four (4) corners.

U. GAME 3: Winning GAMES will only contain one (1) winning combination.

V. GAME 3: Winning GAMES will have three (3) matching "MONEY BAG" (BAG) Play Symbols in the same row, column or diagonal line.

W. GAME 4: GAME 4 can win up to ten (10) times.

X. GAME 4: No matching non-winning YOUR NUMBERS Play Symbols will appear on a Ticket.

Y. GAME 4: GAMES winning more than one (1) time will use as many WINNING NUMBERS play spots as possible to create matches, unless restricted by other parameters, play action or prize structure.

Z. GAME 4: No matching WINNING NUMBERS Play Symbols will appear in GAME 4.

AA. GAME 4: A Prize Symbol will not appear more than two (2) times in GAME 4, except as required by the prize structure to create multiple wins.

BB. GAME 4: The "WIN" (WINALL) Play Symbol will never appear as a WINNING NUMBERS Play Symbol.

CC. GAME 4: The "WIN" (WINALL) Play Symbol will instantly win all ten (10) prize amounts in GAME 4 and will win only as per the prize structure.

DD. GAME 4: The "WIN" (WINALL) Play Symbol will never appear more than once in GAME 4.

EE. GAME 4: The "WIN" (WINALL) Play Symbol will never appear on a non-winning GAME 4.

FF. GAME 4: On GAMES winning with the "WIN" (WINALL) Play Symbol, the YOUR NUMBERS Play Symbols will not match either of the WINNING NUMBERS Play Symbols.

GG. GAME 4: All YOUR NUMBERS Play Symbols will never equal the corresponding Prize Symbol (i.e., 5 and \$5, 10 and \$10 and 20 and \$20).

HH. GAME 4: On non-winning GAMES, a WINNING NUMBERS Play Symbol will never match a YOUR NUMBERS Play Symbol and the "WIN" (WINALL) Play Symbol will never appear.

2.3 Procedure for Claiming Prizes.

A. To claim a "CRAZY CASH" Scratch Ticket Game prize of \$5.00, \$10.00, \$20.00, \$50.00, \$100, \$250 or \$500, a claimant shall sign the back of the Scratch Ticket in the space designated on the Scratch Ticket and may present the winning Scratch Ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, if appropriate, make payment of the amount due the claimant and physically void the Scratch Ticket; provided that the Texas Lottery Retailer may, but is not required, to pay a \$50.00, \$100, \$250 or \$500 Scratch Ticket Game. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and Section 2.3.C of these Game Procedures.

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

C. As an alternative method of claiming a "CRAZY CASH" Scratch Ticket Game prize the claimant may submit the signed winning Scratch Ticket and a thoroughly completed claim form via mail. If a prize value is \$1,000,000 or more, the claimant must also provide proof of Social Security number or Tax Payer Identification (for U.S. Citizens or Resident Aliens). Mail all to: Texas Lottery Commission, P.O. Box 16600,

Austin, Texas 78761-6600. The Texas Lottery is not responsible for Scratch Tickets lost in the mail. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

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

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

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

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

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

2.5 Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a cash prize under \$600 from the "CRAZY CASH" Scratch Ticket Game, the Texas Lottery shall deliver to an adult member of the minor's family or the minor's guardian a check or warrant in the amount of the prize payable to the order of the minor.

2.6 If a person under the age of 18 years is entitled to a cash prize of \$600 or more from the "CRAZY CASH" Scratch Ticket Game, the

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

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

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

3.0 Scratch Ticket Ownership.

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

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

4.0 Number and Value of Scratch Prizes. There will be approximately 7,200,000 Scratch Tickets in Scratch Ticket Game No. 2314. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 2314 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$5.00	752,000	9.57
\$10.00	672,000	10.71
\$20.00	208,000	34.62
\$50.00	96,000	75.00
\$100	27,000	266.67
\$250	2,560	2,812.50
\$500	2,100	3,428.57
\$1,000	50	144,000.00
\$100,000	6	1,200,000.00

*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 4.09. 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. 2314 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. 2314, 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-202102147
 Bob Biard
 General Counsel
 Texas Lottery Commission
 Filed: June 1, 2021

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Public Utility Commission of Texas

Notice of Application to Relinquish Designation as an Eligible Telecommunications Carrier and Amend a Designation as an Eligible Telecommunications Carrier

Notice is given to the public of applications filed with the Public Utility Commission of Texas on May 21, 2021, to relinquish a designation as an eligible telecommunications carrier (ETC) and to amend a designation as an ETC under 47 U.S.C. § 214(e) and 16 Texas Administrative Code §26.418.

Docket Title and Number: Application of Echo Wireless Broadband, Inc. to Relinquish its ETC Designation and Application of Resound Networks, LLC to Amend its ETC Designation, Docket Number 52147.

The Application: In late 2011, the Federal Communications Commission (FCC) established the Connect America Fund (CAF) to support the deployment of broadband and related advanced services in unserved and underserved areas in the United States. Following the most recent round of funding grants in the CAF Phase II Auctions (Auction 903), Echo Wireless was awarded support to deploy and operate broadband and voice over internet-protocol networks in the areas of Texas for which it was awarded support. Echo Wireless was awarded ETC designation in certain census blocks located in Dimmit, Uvalde, Duval, Zavala, Kinney, Maverick, Gaines, Ward, and Winkler counties, in Docket No. 49050. The census blocks are further identified in Exhibit A of the Echo Wireless and Resound Networks' applications. Resound Networks was awarded an ETC designation in Docket No. 51679. Echo Wireless now seeks to relinquish its ETC designation so

that Resound Networks may amend its ETC designation for the areas of Texas for which Echo Wireless was previously awarded support.

Persons wishing to intervene or comment on the action sought should contact the commission as soon as possible as an intervention deadline will be imposed. A comment or request to intervene should be mailed to 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 52147.

TRD-202102105
Andrea Gonzalez
Rules Coordinator
Public Utility Commission of Texas
Filed: May 26, 2021

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Regional Water Planning Group - Area B

Public Notice Regional Water Planning Group - Area B
Solicitation of Nominations

The Regional Water Planning Group - Area B (RWPG-B) was established by state law, including Texas Water Code Chapter 16, 31 TAC Chapters 355, 357, and 358, and the Texas Water Development Board. Region B includes the following counties: Archer, Baylor, Clay, Cottle, Foard, Hardeman, King, Montague, Wichita, Wilbarger, and the part of Young County that encompasses the City of Olney. The purpose of the RWPG-B is to provide comprehensive regional water planning and to carry out the related responsibilities placed on regional water planning groups by statute. Foremost among those responsibilities is the development of a 50-year regional water plan that identifies both short and long-term water supply needs and recommends water management strategies for addressing those needs.

Notice is hereby given that the Regional Water Planning Group - Area B is soliciting nominations for the following interest category seats whose 5-year terms expire effective August 31, 2021:

- Public** - Jimmy Banks
- Water Districts** - Kyle Miller
- Counties** - Judge Mark Christopher
- Small Business** - Dean Myers
- Municipalities** - Darell Kennon
- Environmental** - Jerry Payne
- Electric Generating Utilities** - Vacant

Municipalities - Russell Schreiber

To qualify for voting membership on the RWPG-B, nominees must represent the interest category for which a member is sought within the Region B planning area, be willing to participate in the regional water planning process, and abide by the Bylaws of the planning group.

Nominations for a voting member representative of one of the interest categories listed above, may be submitted to the administrative agency - Red River Authority of Texas, Attention: Stacey Green, Post Office Box 240, Wichita Falls, Texas 76307-0240, or emailed to stacey.green@rra.texas.gov. **Nominations must include nominee's name and contact information and a resume and/or cover letter detailing interest/qualifications. Nominations must be received or postmarked by Thursday, July 15, 2021.** Nominations will be considered at the RWPG-B Public Meeting scheduled for Wednesday, August 11, 2021.

For additional information, please contact Red River Authority of Texas at (940) 723-2236.

TRD-202102127
Randy Whiteman
Chairman
Regional Water Planning Group - Area B
Filed: May 28, 2021

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Supreme Court of Texas

Final Approval and Adoption of Amendments to the Texas Disciplinary Rules of Professional Conduct and the Texas Rules of Disciplinary Procedure

(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 is not included in the print version of the Texas Register. The figure is available in the on-line version of the June 11, 2021, issue of the Texas Register.)

TRD-202102110
Jaclyn Daumerie
Rules Attorney
Supreme Court of Texas
Filed: May 27, 2021

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Order Adopting Comment to Texas Code of Judicial Conduct Canon 3

IN THE SUPREME COURT OF TEXAS

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Misc. Docket No. 21-9064
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**ORDER ADOPTING COMMENT TO
TEXAS CODE OF JUDICIAL CONDUCT CANON 3**
=====

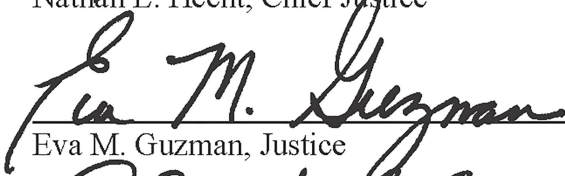
ORDERED that:

1. Canon 3 of the Texas Code of Judicial Conduct is amended to add the comment published in this Order, effective immediately.
2. The Clerk is directed to:
 - a. file a copy of this Order with the Secretary of State;
 - b. cause a copy of this Order to be mailed to each registered member of the State Bar of Texas by publication in the *Texas Bar Journal*;
 - c. send a copy of this Order to each elected member of the Legislature; and
 - d. submit a copy of this Order for publication in the *Texas Register*.

Dated: May 28, 2021.



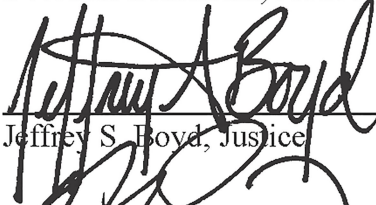
Nathan L. Hecht, Chief Justice



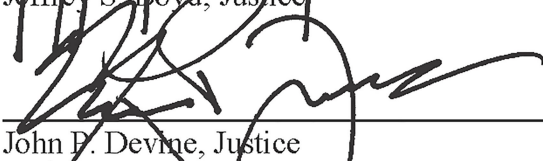
Eva M. Guzman, Justice



Debra H. Lehrmann, Justice



Jeffrey S. Boyd, Justice



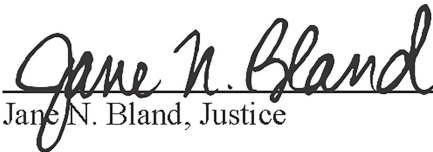
John F. Devine, Justice



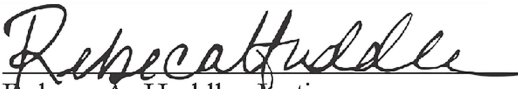
James D. Blacklock, Justice



J. Brett Busby, Justice



Jane N. Bland, Justice



Rebeca A. Huddle, Justice

Canon 3: Performing the Duties of Judicial Office Impartially and Diligently

B. Adjudicative Responsibilities.

(8) A judge shall accord to every person who has a legal interest in a proceeding, or that person's lawyer, the right to be heard according to law. A judge shall not initiate, permit, or consider *ex parte* communications or other communications made to the judge outside the presence of the parties between the judge and a party, an attorney, a guardian or attorney ad litem, an alternative dispute resolution neutral, or any other court appointee concerning the merits of a pending or impending judicial proceeding. A judge shall require compliance with this subsection by court personnel subject to the judge's direction and control. This subsection does not prohibit:

- (a) communications concerning uncontested administrative or uncontested procedural matters;
- (b) conferring separately with the parties and/or their lawyers in an effort to mediate or settle matters, provided, however, that the judge shall first give notice to all parties and not thereafter hear any contested matters between the parties except with the consent of all parties;
- (c) obtaining the advice of a disinterested expert on the law applicable to a proceeding before the judge if the judge gives notice to the parties of the person consulted and the substance of the advice, and affords the parties reasonable opportunity to respond;
- (d) consulting with other judges or with court personnel;
- (e) considering an *ex parte* communication expressly authorized by law.

COMMENT

It is not a violation of Canon 3B(8) for a judge presiding in a statutory specialty court, as defined in Texas Government Code section 121.001, to initiate, permit, or consider any ex parte communications in a matter pending in that court.

TRD-202102148
Jaclyn Daumerie
Rules Attorney
Supreme Court of Texas
Filed: June 1, 2021

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Order Amending Texas Rules of Appellate Procedure (Joint Order, Court of Criminal Appeals Misc. Docket No. 21-001)

(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 is not included in the print version of the Texas Register. The figure is available in the on-line version of the June 11, 2021, issue of the Texas Register.)

TRD-202102111
Jaclyn Daumerie
Rules Attorney
Supreme Court of Texas
Filed: May 27, 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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