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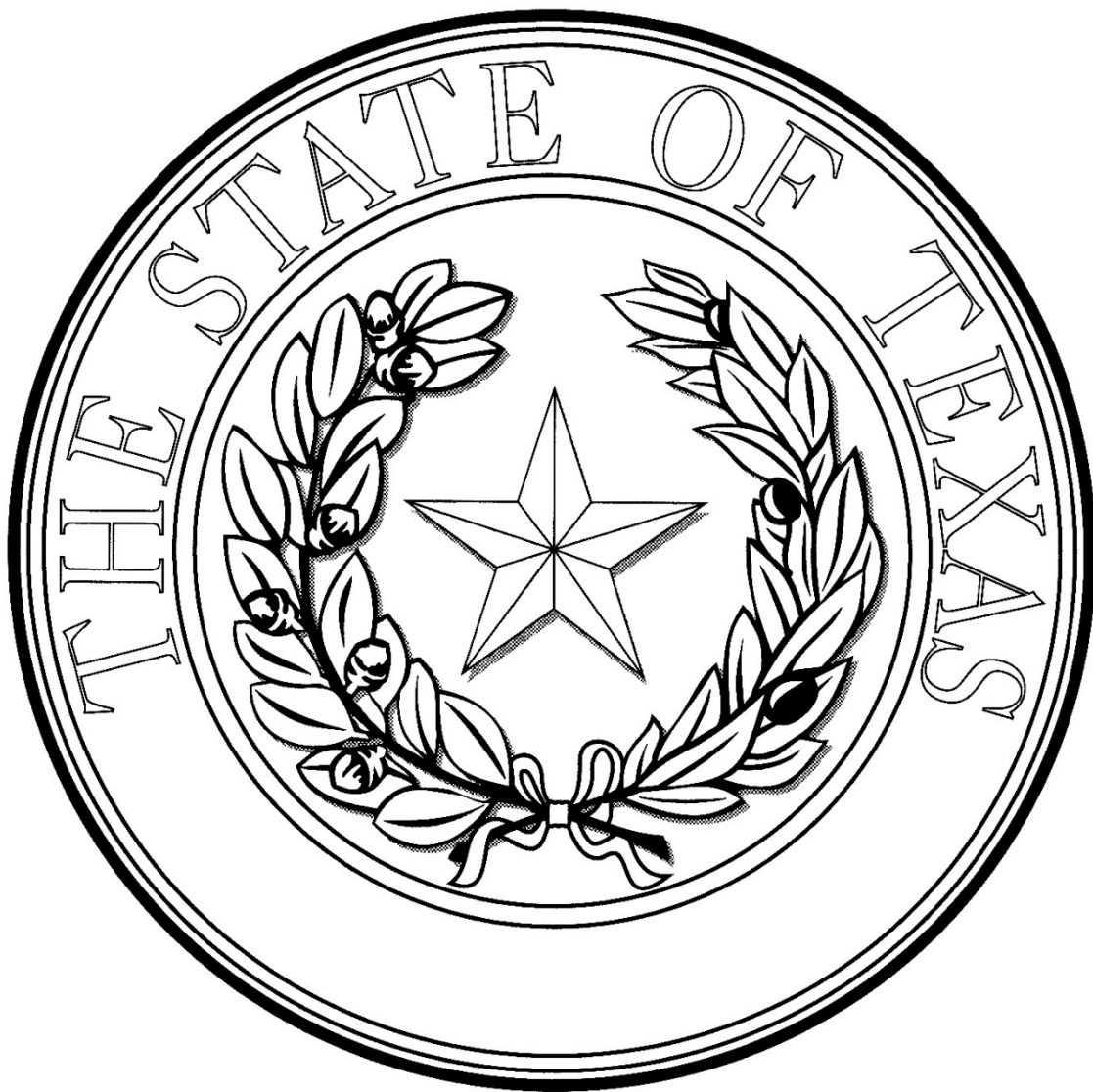
# TEXAS REGISTER

*Volume 47 Number 1*

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# TEXAS REGISTER

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***Secretary of State*** - John B. Scott

***Director*** - Robert Summers

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

**Editors**

Leti Benavides

Eddie Feng

Brandy M. Hammack

Belinda Kirk

Joy L. Morgan

Breanna Mutschler

Barbara Strickland

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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.

Proclamation 41-3869

**TO ALL TO WHOM THESE PRESENTS SHALL COME:**

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

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

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

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

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

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

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

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

IN TESTIMONY WHEREOF, I have hereunto signed my name and have officially caused the Seal of State to be affixed at my office in the City of Austin, Texas, this the 23rd day of December, 2021.

Greg Abbott, Governor

TRD-202105239



Proclamation 41-3870

**TO ALL TO WHOM THESE PRESENTS SHALL COME:**

WHEREAS, I, Greg Abbott, Governor of Texas, issued a disaster proclamation on May 31, 2021, certifying under Section 418.014 of the Texas Government Code that the surge of individuals unlawfully crossing the Texas-Mexico border posed an ongoing and imminent

threat of disaster for a number of Texas counties and for all state agencies affected by this disaster; and

WHEREAS, I amended the aforementioned proclamation on June 25, June 30, July 15, July 30, August 29, September 28, October 28, 2021, and November 27, 2021, including to modify the list of affected counties and therefore declare a state of disaster in those counties, and for all state agencies affected by this disaster; and

WHEREAS, the certified conditions continue to exist and pose an ongoing and imminent threat of disaster as set forth in the prior proclamations; and

WHEREAS, communications with county officials have confirmed that the certified conditions now also pose an ongoing and imminent threat of disaster in Duval and Kleberg Counties;

NOW, THEREFORE, in accordance with the authority vested in me by Section 418.014 of the Texas Government Code, I do hereby declare a state of disaster for Kleberg County, and I do hereby renew the disaster proclamation, as amended and renewed, for Bee, Brewster, Brooks, Chambers, Colorado, Crane, Crockett, Culberson, DeWitt, Dimmit, Duval, Edwards, Frio, Galveston, Goliad, Gonzales, Hudspeth, Jackson, Jeff Davis, Jim Hogg, Jim Wells, Kenedy, Kimble, Kinney, La Salle, Lavaca, Live Oak, Mason, Maverick, McCulloch, McMullen, Medina, Menard, Midland, Pecos, Presidio, Real, Refugio, Schleicher, Sutton, Terrell, Throckmorton, Uvalde, Val Verde, Victoria, Webb, Wharton, Wilbarger, Wilson, Zapata, and Zavala counties, and for all state agencies affected by this disaster. All orders, directions, suspensions, and authorizations provided in the Proclamation of May 31, 2021, as amended and renewed on June 25, June 30, July 15, July 30, August 29, September 28, October 28, and November 27, 2021, are in full force and effect.

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

IN TESTIMONY WHEREOF, I have hereunto signed my name and have officially caused the Seal of State to be affixed at my office in the City of Austin, Texas, this the 23rd day of December, 2021.

Greg Abbott, Governor

TRD-202105240



Proclamation 41-3871

**TO ALL TO WHOM THESE PRESENTS SHALL COME:**

WHEREAS, David Boyd Pool, D.O.B. September 23, 1947, was sentenced in the 56th Judicial District Court in Galveston County on March 11, 1965, to two years of probation for the offense of Theft Felony, Cause No. 29,832; and

WHEREAS, the Texas Board of Pardons and Paroles has recommended a Full Pardon and Restoration of Full Civil Rights of Citizenship;

NOW, THEREFORE, I, GREG ABBOTT, Governor of the State of Texas, by virtue of the authority vested in me under the Constitution

and laws of this State, and acting upon the recommendation of the Texas Board of Pardons and Paroles, do hereby grant unto the said:

DAVID BOYD POOL

A FULL PARDON AND RESTORATION OF FULL CIVIL RIGHTS OF CITIZENSHIP THAT MAY HAVE HERETOFORE BEEN LOST AS A RESULT OF HIS CONVICTION OF THE OFFENSE ABOVE SET OUT IN A COURT IN CAUSE NO. 29,832, IN GALVESTON COUNTY, TEXAS.

I HEREBY DIRECT that a copy of this proclamation be filed in the office of the Secretary of State.

IN TESTIMONY WHEREOF, I have hereunto signed my name and have officially caused the Seal of State to be affixed hereon, this the 23rd day of December, 2021.

Greg Abbott, Governor

TRD-202105253



Proclamation 41-3872

**TO ALL TO WHOM THESE PRESENTS SHALL COME:**

WHEREAS, Gary Lynn Dickey, D.O.B. August 19, 1979, was sentenced in the County Court at Law of Washington County on October 29, 1997, to twenty-four months of deferred adjudication probation for two counts of the offense of Burglary of a Vehicle, Cause No. 97-514; and

WHEREAS, the Texas Board of Pardons and Paroles has recommended a Full Pardon and Restoration of Full Civil Rights of Citizenship;

NOW, THEREFORE, I, GREG ABBOTT, Governor of the State of Texas, by virtue of the authority vested in me under the Constitution and laws of this State, and acting upon the recommendation of the Texas Board of Pardons and Paroles, do hereby grant unto the said:

GARY LYNN DICKEY

A FULL PARDON AND RESTORATION OF FULL CIVIL RIGHTS OF CITIZENSHIP THAT MAY HAVE HERETOFORE BEEN LOST AS A RESULT OF HIS CONVICTION OF THE OFFENSE ABOVE SET OUT IN A COURT IN CAUSE NO. 97-514, IN WASHINGTON COUNTY, TEXAS.

I HEREBY DIRECT that a copy of this proclamation be filed in the office of the Secretary of State.

IN TESTIMONY WHEREOF, I have hereunto signed my name and have officially caused the Seal of State to be affixed hereon, this the 23rd day of December, 2021.

Greg Abbott, Governor

TRD-202105254



Proclamation 41-3873

**TO ALL TO WHOM THESE PRESENTS SHALL COME:**

WHEREAS, Christina Marie Edgar, formerly Christina Marie Emmert, D.O.B. January 21, 1969, was sentenced in the 7th Criminal District Court of Dallas County on January 29, 2013, to three years of probation and a \$1,500 fine for the offense of Theft Aggregate 1500, Cause No. F-1000776-Y; and

WHEREAS, the Texas Board of Pardons and Paroles has recommended a Full Pardon and Restoration of Full Civil Rights of Citizenship;

NOW, THEREFORE, I, GREG ABBOTT, Governor of the State of Texas, by virtue of the authority vested in me under the Constitution and laws of this State, and acting upon the recommendation of the Texas Board of Pardons and Paroles, do hereby grant unto the said:

CHRISTINA MARIE EDGAR

A FULL PARDON AND RESTORATION OF FULL CIVIL RIGHTS OF CITIZENSHIP THAT MAY HAVE HERETOFORE BEEN LOST AS A RESULT OF HER CONVICTION OF THE OFFENSE ABOVE SET OUT IN A COURT IN CAUSE NO. F-1000776-Y, IN DALLAS COUNTY, TEXAS.

I HEREBY DIRECT that a copy of this proclamation be filed in the office of the Secretary of State.

IN TESTIMONY WHEREOF, have hereunto signed my name and have officially caused the Seal of State to be affixed hereon, this the 23rd day of December, 2021.

Greg Abbott, Governor

TRD-202105255



Proclamation 41-3874

**TO ALL TO WHOM THESE PRESENTS SHALL COME:**

WHEREAS, Subrina Macea Sophus-Collins, formerly Subrina Macea Sophus, D.O.B. July 19, 1967, was sentenced in the 230th District Court in Harris County on January 14, 1994, to two years of deferred adjudication probation and a \$500 fine for the offense of Unlawfully Carrying a Weapon on Alcohol Premises, Cause No. 675327; and

WHEREAS, the Texas Board of Pardons and Paroles has recommended a Full Pardon and Restoration of Full Civil Rights of Citizenship;

NOW, THEREFORE, I, GREG ABBOTT, Governor of the State of Texas, by virtue of the authority vested in me under the Constitution and laws of this State, and acting upon the recommendation of the Texas Board of Pardons and Paroles, do hereby grant unto the said:

SUBRINA MACEA SOPHUS-COLLINS

A FULL PARDON AND RESTORATION OF FULL CIVIL RIGHTS OF CITIZENSHIP THAT MAY HAVE HERETOFORE BEEN LOST AS A RESULT OF HER CONVICTION OF THE OFFENSE ABOVE SET OUT IN A COURT IN CAUSE NO. 675327, IN HARRIS COUNTY, TEXAS.

I HEREBY DIRECT that a copy of this proclamation be filed in the office of the Secretary of State.

IN TESTIMONY WHEREOF, I have hereunto signed my name and have officially caused the Seal of State to be affixed hereon, this the 23rd day of December, 2021.

Greg Abbott, Governor

TRD-202105256



Proclamation 41-3875

**TO ALL TO WHOM THESE PRESENTS SHALL COME:**

WHEREAS, Olukayode David Koleosho, D.O.B. December 23, 1975, was sentenced in the 240th Judicial District Court in Fort Bend County on March 18, 1996, to three years of deferred adjudication probation and a \$300 fine for the offense of Robbery, Cause No. 27,437; and

WHEREAS, the Texas Board of Pardons and Paroles has recommended a Full Pardon and Restoration of Full Civil Rights of Citizenship;

NOW, THEREFORE, I, GREG ABBOTT, Governor of the State of Texas, by virtue of the authority vested in me under the Constitution and laws of this State, and acting upon the recommendation of the Texas Board of Pardons and Paroles, do hereby grant unto the said:

OLUKAYODE DAVID KOLEOSHO

A FULL PARDON AND RESTORATION OF FULL CIVIL RIGHTS OF CITIZENSHIP THAT MAY HAVE HERETOFORE BEEN LOST AS A RESULT OF HIS CONVICTION OF THE OFFENSE ABOVE SET OUT IN A COURT IN CAUSE NO. 27,437, IN FORT BEND COUNTY, TEXAS.

I HEREBY DIRECT that a copy of this proclamation be filed in the office of the Secretary of State.

IN TESTIMONY WHEREOF, I have hereunto signed my name and have officially caused the Seal of State to be affixed hereon, this the 23rd day of December, 2021.

Greg Abbott, Governor  
TRD-202105257



Proclamation 41-3876

**TO ALL TO WHOM THESE PRESENTS SHALL COME:**

WHEREAS, David Anthony Mendes, D.O.B. April 2, 1975, was sentenced in the 366th Judicial District Court in Collin County on August 29, 1994, to three years of deferred adjudication probation for the offense of Theft, Cause No. 366-80541-94; and

WHEREAS, the Texas Board of Pardons and Paroles has recommended a Full Pardon and Restoration of Full Civil Rights of Citizenship;

NOW, THEREFORE, I, GREG ABBOTT, Governor of the State of Texas, by virtue of the authority vested in me under the Constitution and laws of this State, and acting upon the recommendation of the Texas Board of Pardons and Paroles, do hereby grant unto the said:

DAVID ANTHONY MENDES

A FULL PARDON AND RESTORATION OF FULL CIVIL RIGHTS OF CITIZENSHIP THAT MAY HAVE HERETOFORE BEEN LOST AS A RESULT OF HIS CONVICTION OF THE OFFENSE ABOVE SET OUT IN A COURT IN CAUSE NO. 366-80541-94, IN COLLIN COUNTY, TEXAS.

I HEREBY DIRECT that a copy of this proclamation be filed in the office of the Secretary of State.

IN TESTIMONY WHEREOF, I have hereunto signed my name and have officially caused the Seal of State to be affixed hereon, this the 23rd day of December, 2021.

Greg Abbott, Governor  
TRD-202105258



Proclamation 41-3877

**TO ALL TO WHOM THESE PRESENTS SHALL COME:**

WHEREAS, Joe Bob Wilcoxson, D.O.B. March 19, 1945, was sentenced in the 40th Judicial District Court in Ellis County on May 21,

2013, to three years of probation and a \$2,500 fine for the offense of Theft, Cause No. 37259CR; and

WHEREAS, the Texas Board of Pardons and Paroles has recommended a Full Pardon and Restoration of Full Civil Rights of Citizenship;

NOW, THEREFORE, I, GREG ABBOTT, Governor of the State of Texas, by virtue of the authority vested in me under the Constitution and laws of this State, and acting upon the recommendation of the Texas Board of Pardons and Paroles, do hereby grant unto the said:

JOE BOB WILCOXSON

A FULL PARDON AND RESTORATION OF FULL CIVIL RIGHTS OF CITIZENSHIP THAT MAY HAVE HERETOFORE BEEN LOST AS A RESULT OF HIS CONVICTION OF THE OFFENSE ABOVE SET OUT IN A COURT IN CAUSE NO. 37259CR, IN ELLIS COUNTY, TEXAS.

I HEREBY DIRECT that a copy of this proclamation be filed in the office of the Secretary of State.

IN TESTIMONY WHEREOF, I have hereunto signed my name and have officially caused the Seal of State to be affixed hereon, this the 23rd day of December, 2021.

Greg Abbott, Governor  
TRD-202105259



Proclamation 41-3878

**TO ALL TO WHOM THESE PRESENTS SHALL COME:**

WHEREAS, Joseph Edward Braithwaite, D.O.B. August 18, 1962, was sentenced in the United States District Court, Southern District of New York on October 7, 1999, to a \$150 assessment for the offense of Evasion of Income Taxes, Cause No. 1:96CR00535-001; and

WHEREAS, the Texas Board of Pardons and Paroles has recommended Restoration of Civil Rights of a Federal Offense;

NOW, THEREFORE, I, GREG ABBOTT, Governor of the State of Texas, by virtue of the authority vested in me under the Constitution and laws of this State, and acting upon the recommendation of the Texas Board of Pardons and Paroles, do hereby grant unto the said:

JOSEPH EDWARD BRAITHWAITE

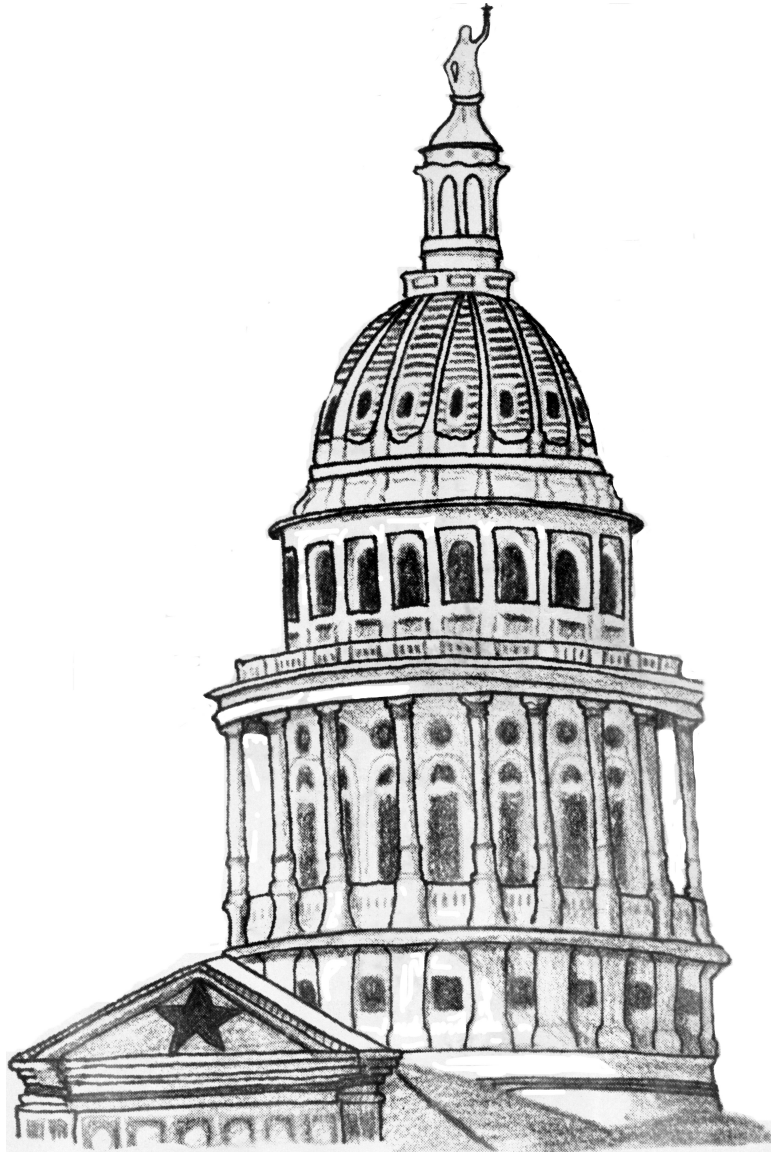
A RESTORATION OF CIVIL RIGHTS OF A FEDERAL OFFENSE THAT MAY HAVE HERETOFORE BEEN LOST AS A RESULT OF HIS CONVICTION OF THE OFFENSE ABOVE SET OUT IN A COURT IN CAUSE NO. 1:96CR00535-001, IN THE UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK.

I HEREBY DIRECT that a copy of this proclamation be filed in the office of the Secretary of State.

IN TESTIMONY WHEREOF, I have hereunto signed my name and have officially caused the Seal of State to be affixed hereon, this the 23rd day of December, 2021.

Greg Abbott, Governor  
TRD-202105260







# PROPOSED RULES

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

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

## TITLE 16. ECONOMIC REGULATION

### PART 8. TEXAS RACING COMMISSION

#### CHAPTER 313. OFFICIALS AND RULES OF HORSE RACING

##### SUBCHAPTER B. ENTRIES, SCRATCHES, AND ALLOWANCES

##### DIVISION 1. ENTRIES

###### 16 TAC §313.110

The Texas Racing Commission ("the Commission") proposes amendments to 16 TAC §313.110, Coupled Entries. The proposed amendments would allow certain entries that would previously have been coupled as a single wager to race as separate betting interests.

###### FISCAL IMPLICATIONS FOR STATE AND LOCAL GOVERNMENT

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

###### ANTICIPATED PUBLIC BENEFIT AND COST

Amy F. Cook, Executive Director, has determined that for each year of the first five years that the amendments are in effect, the anticipated public benefit will be more wagering options. There is no probable economic cost to persons required to comply with the amendments.

###### LOCAL EMPLOYMENT IMPACT STATEMENT

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

###### GOVERNMENT GROWTH IMPACT STATEMENT

For each year of the first five years that the proposed amendments are in effect, the government growth impact is as follows: the amendments do not create or eliminate a government program; the amendments do not create any new employee positions or eliminate any existing employee positions; implementation of the amendments does not require an increase or decrease in future legislative appropriations to the agency; the amendments do not require an increase or decrease in fees paid

to the agency; the amendments do not create new regulations; the amendments do not expand existing regulations; the amendments do not repeal existing regulations; the amendments do not increase or decrease the number of individuals subject to the rule's applicability; and the amendments are not expected to have an adverse effect on this state's economy.

###### EFFECT ON SMALL AND MICRO-BUSINESSES

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

###### IMPACT ON EMPLOYMENT CONDITIONS

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

###### ADVERSE ECONOMIC EFFECT ON RURAL COMMUNITIES

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

###### REGULATORY ANALYSIS OF MAJOR ENVIRONMENTAL RULES

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

###### TAKINGS IMPACT STATEMENT

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

###### EFFECT ON AGRICULTURAL, HORSE, AND GREYHOUND INDUSTRIES

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

###### PUBLIC COMMENTS

All comments or questions regarding the proposed amendments may be submitted in writing within 30 days following publication of this notice in the *Texas Register* by mail to Robert Elrod, Public Information Officer for the Texas Racing Commission, at P.O. Box 12080, Austin, Texas 78711-2080, by e-mail to

info@txrc.texas.gov, by telephone to (512) 833-6699, or by fax to (512) 833-6907.

## STATUTORY AUTHORITY

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

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

### §313.110. Coupled Entries.

(a) (No change.)

(b) In overnight races, the stewards may allow no more than two horses owned in whole or in part by the same individual or entity to race as separate wagering interests.

~~[(b) Except as provided by subsection (e) of this section, if two horses entered in a race are owned in whole or in part by the same individual or entity, the entry shall be coupled as a single wagering interest.]~~

(c) (No change.)

Filed with the Office of the Secretary of State on December 21, 2021.

TRD-202105191

Virginia Fields

General Counsel

Texas Racing Commission

Earliest possible date of adoption: February 6, 2022

For further information, please call: (512) 490-4009



## CHAPTER 321. PARI-MUTUEL WAGERING SUBCHAPTER C. REGULATION OF LIVE WAGERING

### DIVISION 1. GENERAL PROVISIONS

#### 16 TAC §321.207

The Texas Racing Commission ("the Commission") proposes amendments to 16 TAC §321.207, Betting Interests. The proposed amendments would allow certain entries that would previously have been coupled to race as separate betting interests.

#### FISCAL IMPLICATIONS FOR STATE AND LOCAL GOVERNMENT

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

#### ANTICIPATED PUBLIC BENEFIT AND COST

Amy F. Cook, Executive Director, has determined that for each year of the first five years that the amendments are in effect, the anticipated public benefit will be more wagering options. There is no probable economic cost to persons required to comply with the amendments.

#### LOCAL EMPLOYMENT IMPACT STATEMENT

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

#### GOVERNMENT GROWTH IMPACT STATEMENT

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

#### EFFECT ON SMALL AND MICRO-BUSINESSES

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

#### IMPACT ON EMPLOYMENT CONDITIONS

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

#### ADVERSE ECONOMIC EFFECT ON RURAL COMMUNITIES

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

#### REGULATORY ANALYSIS OF MAJOR ENVIRONMENTAL RULES

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

#### TAKINGS IMPACT STATEMENT

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

#### EFFECT ON AGRICULTURAL, HORSE, AND GREYHOUND INDUSTRIES

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

#### PUBLIC COMMENTS

All comments or questions regarding the proposed amendments may be submitted in writing within 30 days following publication of this notice in the *Texas Register* by mail to Robert El-

rod, Public Information Officer for the Texas Racing Commission, at P.O. Box 12080, Austin, Texas 78711-2080, by e-mail to [info@txrc.texas.gov](mailto:info@txrc.texas.gov), by telephone to (512) 833-6699, or by fax to (512) 833-6907.

#### STATUTORY AUTHORITY

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

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

#### §321.207. *Betting Interests.*

(a) Except as otherwise provided by the Rules, if the stewards or racing judges determine that two or more race animals entered in a race have common ties through ownership, the stewards or judges may [shall] join the animals as a coupled entry.

(b) - (d) (No change.)

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

Filed with the Office of the Secretary of State on December 21, 2021.

TRD-202105192

Virginia Fields

General Counsel

Texas Racing Commission

Earliest possible date of adoption: February 6, 2022

For further information, please call: (512) 490-4009



## TITLE 22. EXAMINING BOARDS

### PART 11. TEXAS BOARD OF NURSING

#### CHAPTER 213. PRACTICE AND PROCEDURE

##### 22 TAC §213.10

The Texas Board of Nursing (Board) proposes amendments to 22 Texas Administrative Code §213.10, relating to Notice and Service. The amendments are being proposed under the authority of the Occupations Code §301.151.

**Background.** The new Texas Nurse Portal (Portal), which was launched by the Board on June 15, 2020, is a paperless, confidential, and secure system that allows individuals to apply for nurse licensure by examination and endorsement and renew their licenses. The use of the Portal has moved the Board toward a paperless work flow in the Board's offices and allows the Board to communicate with applicants and licensees directly through the Portal. This online communication is often more efficient and reliable than more traditional methods, such as certified, registered, or first class mail. The proposed amendments add the Portal as a new avenue to provide notice to applicants and licensees in circumstances where state law does not specifically require notice to be sent via first class, registered, or certified mail. In those cases, Board notice will continue to be given as specified in existing subsections (a) - (e) of the rule. Notices sent via the Portal may include mandatory notices required by the Nursing Practice Act and the Nurse Licensure Compact for multistate privilege licensure, as well as courtesy notices and rou-

tine communication provided by the Board. Further, the Board has already adopted rules incorporating the use of the Portal into its communication with applicants and licensees as it relates to the change of an applicant or licensee's name and/or address (*Texas Register*, 46 TexReg 555). The proposed amendments are consistent with the Board's uniform transition to a more efficient online licensure system.

**Section by Section Overview.** Proposed new §213.10(f) provides that, notwithstanding subsections (a) - (e) of the section, notice required by a rule adopted by the Interstate Commission of Nurse Licensure Compact Administrators will be considered effective and service will be considered complete when made electronically through the Texas Nurse Portal accessible through the Board's website. Additionally, proposed new §213.10(g) provides that, notwithstanding subsections (a) - (e) of the section, notice not specifically required by state law to be provided through first class, certified, or registered mail, return receipt requested, may be made electronically through the Texas Nurse Portal accessible through the Board's website and will be considered effective and complete when made through this method. Subsections (a) - (e) contain provisions relate to notice provided via registered or certified mail and will not apply to notice provided under the proposed amendments.

**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 rules that increase the efficiency of the Board and its effectiveness in communicating with applicants and licensees. There are no anticipated costs of compliance with the proposal. The proposal relates to information provided by the Board and governs Board processes; there are no requirements for applicants or licensees to comply with.

**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. Pursuant to §2001.0045(c)(9), this prohibition does not apply to a rule that is necessary to implement legislation, unless the legislature specifically states §2001.0045 applies to the rule. Because there are no anticipated costs of compliance with the proposal, §2001.0045 is not implicated by this proposal.

**Economic Impact Statement and Regulatory Flexibility Analysis for Small and Micro Businesses.** 2 The Government Code §2006.002(c) and (f) require, that if a proposed rule may have an economic impact on small businesses, micro businesses, or rural communities, state agencies must prepare, as part of the rule-making process, an economic impact statement that assesses the potential impact of the proposed rule on these businesses and communities and a regulatory flexibility analysis that considers alternative methods of achieving the purpose of the rule. Because there are no anticipated costs of compliance associated with the proposal, 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 to improve Board communication and efficiency; (vi) the proposal does not expand, limit, or 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 Mark Majek, Director of Operations and James W. Johnston, General Counsel, Texas Board of Nursing, 333 Guadalupe, Suite 3-460, Austin, Texas 78701, or by e-mail to Mark.Majek@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.

Cross Reference To Statute. The following statutes are affected by this proposal: the Occupations Code §301.151.

§213.10. *Notice and Service.*

(a) - (e) (No change).

(f) Notwithstanding subsections (a) - (e) of this section, notice required by a rule adopted by the Interstate Commission of Nurse Licensure Compact Administrators is effective and service is complete when made electronically through the Texas Nurse Portal accessible through the Board's website.

(g) Notwithstanding subsections (a) - (e) of this section, notice not specifically required by state law to be provided through first class, certified, or registered mail, return receipt requested, may be made electronically through the Texas Nurse Portal accessible through the Board's website. Notice is effective and service is complete when made through this method.

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 December 21, 2021.

TRD-202105190

Jena Abel

Deputy General Counsel

Texas Board of Nursing

Earliest possible date of adoption: February 6, 2022

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



## CHAPTER 217. LICENSURE, PEER ASSISTANCE AND PRACTICE

### 22 TAC §217.5

The Texas Board of Nursing (Board) proposes amendments to 22 Texas Administrative Code §217.5, relating to Temporary License and Endorsement. The amendment is being proposed under the authority of the Occupations Code §301.151 and House Bill (HB) 139, effective September 1, 2021.

Background. HB 139, enacted during the 87th Regular Legislative Session, requires a state agency that issues a license that has a residency requirement for license eligibility to adopt rules regarding the documentation necessary for a military spouse applicant to establish residency, including by providing to the agency a copy of the permanent change of station order for the military service member to whom the spouse is married. Current Board Rule 217.5(h) includes in its eligibility requirements for a military spouse applicant proof of residency in Texas. However, proof of residency in Texas is not necessary for the issuance of single state licensure for these applicants. A military spouse applicant wishing to obtain a multistate license under the Nurse Licensure Compact must declare Texas as his/her home state on the application and submit proof of residency required under the Occupations Code Chapter 304 and related compact rules. However, a military spouse applicant is not required to obtain a multistate license to practice nursing in the State of Texas; a military spouse applicant may practice nursing in Texas by obtaining a single state license, which does not require proof of residency. In an effort to conform to the requirements of HB 139, remove any unnecessary impediments to single state licensure in Texas for military spouse applicants, and clarify the applicability of the existing rule, the proposed amendment eliminates the language in subsection (h)(1)(B) relating to proof of residency.

Section by Section Overview. Section 217.5(h) relates to out-of-state licensure of military spouse applicants. The proposed amendment eliminates the need for a military spouse applicant to submit proof of residency in Texas in order to obtain single state licensure and practice in Texas.

Fiscal Note. Katherine Thomas, Executive Director, has determined that for each year of the first five years the proposed amendment 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 amendment is in effect, the anticipated public benefit will be the adoption of rules that comply with HB 139, remove any unnecessary impediments to single state licensure in Texas for military spouse applicants, and clarify the applicability of the rule. There are no anticipated costs of compliance with the proposal. The proposal only applies to military spouse applicants applying for licensure in Texas. For these applicants, the proposed amendment removes an unnecessary requirement related to proof of residency in order to obtain single state licensure in Texas.

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. Pursuant to §2001.0045(c)(9), this prohibition does not apply to a rule that is necessary to implement legislation, unless the legislature specifically states §2001.0045 applies to the rule. There are no anticipated costs of compliance with the proposal, and the proposal is necessary for consistency with the statutory requirements of HB 139.

Economic Impact Statement and Regulatory Flexibility Analysis for Small and Micro Businesses. The Government Code §2006.002(c) and (f) require, that if a proposed rule may have an economic impact on small businesses, micro businesses, or rural communities, state agencies must prepare, as part of the rule-making process, an economic impact statement that assesses the potential impact of the proposed rule on these businesses and communities and a regulatory flexibility analysis that considers alternative methods of achieving the purpose of the rule. Because there are no anticipated costs of compliance associated with the proposal, 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 consistency with the statutory requirements of HB 139 and makes changes that result in less restrictive and clear rules; (vi) the proposal does not expand, limit, or 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 Mark Majek, Director of Operations and James W. Johnston, General Counsel, Texas Board of Nursing, 333 Guadalupe, Suite 3-460, Austin, Texas 78701, or by e-mail to Mark.Majek@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 amendment is proposed under the authority of the Occupations Code §301.151 and HB 139, which amends the Occupations Code §55.004.

Section 301.151 addresses the Board's rulemaking authority. Section 55.004 addresses residency requirements for license eligibility for military spouse applicants.

Cross Reference To Statute. The following statutes are affected by this proposal: the Occupations Code §301.151 and §55.004.

§217.5. *Temporary License and Endorsement*

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

(h) Out-of-State Licensure of Military Spouse.

(1) Pursuant to Texas Occupations Code §55.0041, a military spouse is eligible to practice nursing in Texas if the military spouse:

(A) (No change.)

(B) submits [~~proof of the military spouse's residency in Texas and~~] a copy of the spouse's military identification card;

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

(2) - (4) (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 December 21, 2021.

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Jena Abel

Deputy General Counsel

Texas Board of Nursing

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



## CHAPTER 228. PAIN MANAGEMENT

### 22 TAC §228.1

The Texas Board of Nursing (Board) proposes amendments to §228.1, relating to Standards of Practice. The amendments are being proposed under the authority of the Occupations Code §301.151 and Chapters 157 and 168.

Background. In April 2018, and in accordance with the Government Code §2001.039, the Texas Board of Nursing (Board) filed a notice of intention to review and consider for re-adoption, re-adoption with amendments, or repeal, §228.1 contained in Title 22, Part 11, of the Texas Administrative Code, pursuant to the 2015 rule review plan adopted by the Board at its July 2015 meeting. The proposed rule review was published in the *Texas Register* on April 6, 2018, (43 TexReg 2167) for public comment. Written comments were received from the APRN Alliance (Alliance). The Board considered the written comments at its July 2018 meeting and charged the Board's Advanced Practice Nursing Advisory Committee (APNAC) with reviewing the written comments and making recommendations to the Board regarding amendments to §228.1. The APNAC met on December 10, 2018, to consider the Board's charge. At its October 2021 Board meeting, the Board considered the Alliance's written comments; the APNAC's recommendations regarding amendments to §228.1; and Board Staff's recommendations regarding amendments to the rule. The Board decided to make some, but not all, of the Alliance's suggested changes to the rule. The Board re-adopted §228.1 without changes in the November 26,

2021, edition of the *Texas Register* to complete the outstanding rule review and is now proposing amendments to §228.1 to address some of the Alliance's written comments in this separate proposal.

#### Summary of Comments Received

The Alliance requested clarification regarding whether the rule applied to the management of chronic pain, acute pain, or both. The Alliance also requested that subsection (i)(1) and (2) be amended so as not to apply to advanced practice registered nurses (APRNs) for consistency with the Occupations Code Chapter 168. Finally, the Alliance recommended reversing the order of subsections (i)(4) and (5) for additional clarity in the rule.

#### Board Response

With regard to the Alliance's first comment, §228.1 applies to the provision of pain management services, which includes the treatment of both chronic and acute pain. This was an intentional choice by the Board when §228.1 was first adopted in 2014 (39 TexReg 989). The adopted standards were intended to protect patients and the public from inappropriate, non-therapeutic, non-evidenced based, and dangerous treatment practices in the context of pain management, which includes both chronic and acute pain. Further, the APNAC recognized, and the Board agreed, that the text of the rule includes the phrase "as appropriate" in subsections (c) - (f), which allows for appropriate flexibility in the applicability of the rule's requirements to the individualized treatment of pain and practice settings. Additionally, a practitioner's reported conduct will be examined in light of the current prevailing standard of care, which the APNAC determined, and the Board agrees is appropriately reflected by the text of the current rule. As such, the APNAC did not recommend making any changes to the rule with regard to clarifying the applicability of the rule to chronic or acute pain. The Board agreed with the recommendations of the APNAC and declined to make amendments to the rule in this regard in response to written comments. However, the Board has determined that some amendments are necessary to subsection (i) of the rule in response to the Alliance's written comments, as well as recent changes to the Occupations Code Chapter 168.

Subsection (i) applies to pain management clinics, as that term is defined in the Occupations Code §168.001. The Occupations Code §168.201(c) requires the owner or operator of a pain management clinic to be on-site at the clinic at least 33% of the clinic's total number of operating hours and to review at least 33% of the total number of patient files of the clinic, including the patient files of a clinic employee or contractor to whom authority for patient care has been delegated by the clinic. The original enactment of §228.1 made these requirements applicable to APRNs. The owner or operator of a pain management clinic, as defined by statute, does not include an APRN.

Section 228.1 was originally enacted during the height of the operation of pill mills, and the Board received complaints involving clinics where APRNs were working without any physician involvement, in some cases with no delegation agreement or physician collaboration. Requiring on-site presence and additional chart review was intended, at that time, to ensure appropriate delegation and collaboration in the interest of patient safety. Since the enactment of the rule, however, the Board has seen a reduction in pill mill activity due to increased enforcement efforts, regulation of schedule II medications, and increased awareness at both the state and federal level. Further, APRNs who pre-

scribe are currently required by the Occupations Code Chapter 157 to meet prescriptive authority agreement and chart review requirements with their delegating physicians. Those requirements still apply to APRNs working in pain management clinics. Based on these factors, the APNAC felt the requirements in §228.1 for additional chart review were unnecessarily duplicative. Further, the APNAC felt that requiring an APRN to be on-site with a physician at a pain management clinic more often than what was required by statute would be overly restrictive and unlikely to promote a safer patient environment. As such, the APNAC recommended striking subsections (i)(1) and (2) from the rule. The Board agrees with the recommendations of the APNAC in this regard and proposes striking these subsections from the rule for these reasons.

Finally, the APNAC recommended reversing the order of subsections (i)(4) and (5) for additional clarity as suggested by the Alliance and adding the phrase "otherwise would" to subsection (i)(4) to further clarify the applicable statutory exemption. However, since the APNAC's meeting in 2018, the Occupations Code §168.002 was amended in September 2019 by House Bill (HB) 3285 to eliminate the prior exemption from which subsection (i)(4) was derived. Under the prior law, a clinic owned or operated by an APRN who treated patients in the nurse's area of specialty and who personally used other forms of treatment with the issuance of a prescription for a majority of the patient was exempt from the requirements of the chapter. HB 3285 eliminated that exemption from the statute. For consistency with this statutory change, the Board proposes eliminating (i)(4) from the rule in its entirety. Additionally, the Board proposes minor editorial changes to subsection (i)(5) for additional clarity in the rule text.

Section by Section Overview. The proposed amendments to §228.1(i) eliminate existing paragraphs (1), (2), and (4) from the subsection and re-arrange the remainder of the subsection accordingly. The proposed amendment to §228.1(i)(5) clarifies that an APRN cannot own or operate a pain management clinic that is subject to the certification requirements of the Occupations Code Chapter 168.

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 rules that eliminate duplicative and unnecessarily restrictive requirements and are consistent with recent changes made by HB 3285. There are no anticipated costs of compliance with the proposal. First, the proposal only applies to APRNs that work in a pain management clinic, as that term is defined by the Occupations Code §168.001. For these APRNs, the proposed amendments may result in a cost benefit. Because the proposal removes the restrictive requirements related to additional chart review and on site presence with the APRN's delegating physician, an APRN may have additional time and resources to devote to other patient care and staff activities. The APRN will still be required to meet the existing prescriptive authority agreement and chart review requirements in the Occupations Code Chapter 157, but will no longer be required to meet the additional requirements of subsections (i)(4) and (5).

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. Pursuant to §2001.0045(c)(9), this prohibition does not apply to a rule that is necessary to implement legislation, unless the legislature specifically states §2001.0045 applies to the rule. There are no anticipated costs of compliance with the proposal, and the proposal is necessary for consistency with the statutory amendments to the Occupations Code §168.002.

Economic Impact Statement and Regulatory Flexibility Analysis for Small and Micro Businesses. The Government Code §2006.002(c) and (f) require, that if a proposed rule may have an economic impact on small businesses, micro businesses, or rural communities, state agencies must prepare, as part of the rule-making process, an economic impact statement that assesses the potential impact of the proposed rule on these businesses and communities and a regulatory flexibility analysis that considers alternative methods of achieving the purpose of the rule. Because there are no anticipated costs of compliance associated with the proposal, 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 Administration 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 in order to implement the statutory requirements of HB 3285 and make changes that result in less restrictive and clear rules; (vi) the proposal does not expand, limit, or 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 James W. Johnston, General Counsel, Texas Board of Nursing, 333 Guadalupe, Suite 3-460, Austin, Texas 78701, or by e-mail to [Dusty.Johnston@bon.texas.gov](mailto: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 and Chapters 157 and 168, in particular §§168.001, 168.002, and 168.201.

Section 301.151 addresses the Board's rulemaking authority. Chapter 168 addresses the statutory requirements related to

pain management clinics. Chapter 157 addresses physician delegation and prescriptive authority agreement requirements.

Cross Reference To Statute. The following statutes are affected by this proposal: the Occupations Code §301.151 and Chapters 157 and 168.

§228.1. *Standards of Practice.*

(a) - (h) (No change).

(i) Pain management clinics in the state of Texas. Prior to providing pain management services in these settings, APRNs who practice in pain management clinics shall verify that the clinic has been properly certified as a pain management clinic by the Texas Medical Board and that the certification is current.

~~{(1) The APRN shall be available on site with the physician at least 33 percent of a pain management clinic's total operating hours.}~~

~~{(2) The APRN shall comply with the requirements of §168.201, Occupations Code for review of 33 percent of patient charts in pain management clinics.}~~

(1) ~~{(3)}~~ The APRN shall ensure that s/he is in compliance with all other requirements for delegation of prescriptive authority for medications as set forth in Board rule.

~~{(4) An APRN who owns or operates a clinic in this state that meets the definition of a pain management clinic under this section is exempt from the certification requirements of the Occupations Code Chapter 168 and the Texas Medical Board if:}~~

~~{(A) the APRN is treating patients in the APRN's area of specialty; and }~~

~~{(B) the APRN personally uses other forms of treatment with the issuance of a prescription to the majority of the APRN's patients. A treatment under this subparagraph must be within the current standard of care, supported by evidence based research, and consistent with the treatment plan.}~~

(2) ~~{(5)}~~ APRNs shall not own or operate a pain management clinic. This prohibition does not apply to an APRN who owns or operates a clinic in this state that does not fall within ~~[is exempt from]~~ the certification requirements of the Occupations Code Chapter 168 and the Texas Medical Board.

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

Filed with the Office of the Secretary of State on December 21, 2021.

TRD-202105188

Jena Abel  
Deputy General Counsel  
Texas Board of Nursing

Earliest possible date of adoption: February 6, 2022

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



## TITLE 34. PUBLIC FINANCE

### PART 3. TEACHER RETIREMENT SYSTEM OF TEXAS

#### CHAPTER 25. MEMBERSHIP CREDIT

## SUBCHAPTER B. COMPENSATION

### 34 TAC §25.21

The Teacher Retirement System of Texas (TRS) proposes to amend §25.21, relating to Compensation Subject to Deposit and Credit, under Subchapter A (relating to Compensation) of Chapter 25 in Part 3 of Title 34 of the Texas Administrative Code.

#### BACKGROUND AND PURPOSE

TRS is proposing to amend §25.21 in order to conform with legislation passed during the regular session of the 87th Legislature. Specifically, House Bill 1525 amended Government Code §822.201 to provide that any increased compensation paid to a teacher by a school district using funds received by the district under the teacher incentive allotment (TIA) is creditable compensation for TRS purposes.

The TIA is an optional compensation program established by House Bill 3 during 2019 legislative session that entitles school districts to additional state funds for employee compensation based on the high performance of certain teachers within the district. In some cases, employees that receive additional compensation under the TIA can greatly increase their current salaries as one purpose of the program is to provide a viable pathway for highly-qualified classroom teachers to earn six-figure salaries. This means that the additional compensation that an employee receives under the TIA could have a substantial impact on that employee's TRS pension if that compensation is creditable compensation under TRS laws and rules.

Prior to House Bill 1525, TRS had to review the compensation plan for each district participating in the TIA to determine if the compensation the district paid its employees under the program qualified as creditable compensation. House Bill 1525 now provides, however, that any increased compensation paid under the TIA qualifies as creditable compensation for TRS purposes, and TRS proposes to amend §25.21 to conform with this change. In addition, TRS proposes other minor conforming changes to §25.21.

#### FISCAL NOTE

Don Green, TRS Chief Financial Officer, has determined that for each year of the first five years the proposed amended §25.21 will be in effect, there will be no foreseeable fiscal implications for state or local governments as a result of administering the proposed amended rule.

#### PUBLIC COST/BENEFIT

For each year of the first five years proposed amended §25.21 will be in effect, Mr. Green also has determined that the public benefit anticipated as a result of adopting proposed amended §25.21 will be that the rule will conform with recent statutory changes under House Bill 1525 as discussed above.

Mr. Green has also determined that the public will incur no new costs as a result of proposed amended §25.21.

#### ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS

TRS has determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities as a result of proposed amended §25.21. Therefore, neither an economic impact statement nor a regulatory flexibility analysis is required under Government Code §2006.002.

#### LOCAL EMPLOYMENT IMPACT STATEMENT

TRS has determined that there will be no effect on local employment because of proposed amended §25.21. Therefore, no local employment impact statement is required under Government Code §2001.022.

#### GOVERNMENT GROWTH IMPACT STATEMENT

TRS has determined that for the first five years the proposed amended rule is in effect, proposed amended §25.21 will not create or eliminate any TRS programs; will not require the creation or elimination of employee positions; will not require an increase or decrease in future legislative appropriations to TRS; will not eliminate any fees currently paid to TRS; will not create a new regulation; will not repeal or limit an existing regulation; will not increase or decrease the number of individuals subject to the rule's applicability; and will not affect the state's economy.

Proposed amended §25.21 will expand the scope of the rule, but only to the extent necessary for the rule to conform with statute.

#### TAKINGS IMPACT ASSESSMENT

TRS has determined that there are no private real property interests affected by proposed amended §25.21, therefore, a takings impact assessment is not required under Government Code §2007.043.

#### COSTS TO REGULATED PERSONS

TRS has determined that Government Code §2001.0045 does not apply to proposed amended §25.21 because it does not impose a cost on regulated persons.

#### COMMENTS

Comments may be submitted in writing to Brian Guthrie, TRS Executive Director, 1000 Red River Street, Austin, Texas 78701-2698. Written comments must be received by TRS no later than 30 days after publication of this notice in the *Texas Register*.

#### STATUTORY AUTHORITY

Proposed amended §25.21 is proposed under the authority of Government Code § 822.201, which provides that increased compensation paid to a teacher by a school district using funds received by the district under the teacher incentive allotment under Section 48.112, Education Code qualifies as "salary and wages" for TRS purposes and is, therefore, subject to deposit and credit by TRS, and Government Code §825.102, which authorizes the board of trustees to adopt rules for administration of the funds of the retirement system and eligibility for membership.

#### CROSS-REFERENCE TO STATUTE

Proposed amended §25.21 affects the following statutes: Government Code §822.201, relating to member compensation.

§25.21. *Compensation Subject to Deposit and Credit.*

(a) - (b) (No change.)

(c) The following types of monetary compensation are to be included in annual compensation:

(1) - (9) (No change.)

(10) compensation designated as health care supplementation by an employee under Subchapter D, Chapter 22, Education Code; [and]



(11) workers' compensation paid as temporary wage replacement pay and reported or verified to TRS and with member contributions paid on the amount of workers' compensation, by the end of the school year following the year in which it was paid. Workers' compensation paid as temporary wage replacement pay and not reported or verified to TRS with member contributions paid on the workers' compensation in the time period provided may be verified and purchased as provided in §25.45 of this title (relating to Verification of Unreported Compensation or Service) and §25.43 of this title (relating to Cost for Unreported Service or Compensation) no later than the end of the fifth year following the school year in which it may be reported or verified under this paragraph; and[-]

(12) increased compensation paid by a school district using funds received by the district under the teacher incentive allotment under §48.112, Education Code.

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

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

Filed with the Office of the Secretary of State on December 22, 2021.

TRD-202105223

Don Green

Chief Financial Officer

Teacher Retirement System of Texas

Earliest possible date of adoption: February 6, 2022

For further information, please call: (512) 542-6560



## TITLE 37. PUBLIC SAFETY AND CORRECTIONS

### PART 1. TEXAS DEPARTMENT OF PUBLIC SAFETY

#### CHAPTER 6. LICENSE TO CARRY HANDGUNS

##### SUBCHAPTER A. GENERAL PROVISIONS

###### 37 TAC §6.2

The Texas Department of Public Safety (the department) proposes new §6.2, concerning Approved First Responder Handgun Storage Device. New §6.2 is necessary to implement House Bill 1069, 87th Legislative Session. House Bill 1069 requires the department approve by rule the devices a first responder may use to secure and store a handgun while on duty, if the first responder is required to enter a location where carrying a handgun is prohibited by federal law or otherwise. New §6.2 provides the requirements such devices must meet in order to be approved by the department.

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

Ms. Whittenton has also determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities required to comply with the section as pro-

posed. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed. There is no anticipated negative impact on local employment.

Ms. Whittenton has determined that for each year of the first five-year period the rule is in effect the public benefit anticipated as a result of this rule will be a clearer understanding of the information required of first responders required to enter a location where carrying a handgun is prohibited by federal law or otherwise.

The department has determined this proposal is not a "major environmental rule" as defined by Texas Government Code, §2001.0225. "Major environmental rule" is defined to mean a rule that the specific intent of which is to protect the environment or reduce risk to human health from environmental exposure and that may adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment or the public health and safety of a state or a sector of the state. This proposal is not specifically intended to protect the environment or reduce risks to human health from environmental exposure.

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

The department prepared a Government Growth Impact Statement assessment for this proposed rulemaking. The proposed rulemaking does not create or eliminate a government program; will not require the creation of new employee positions nor eliminate current employee positions; will not require an increase or decrease in future legislative appropriations to the agency; nor will it require an increase or decrease in fees paid to the agency. The proposed rulemaking does not create a new regulation. The proposed rulemaking does not expand, limit or repeal an existing regulation. The proposed rule does not increase or decrease the number of individuals subject to the rule's applicability. During the first five years the proposed rule is in effect the proposed rule should not impact positively or negatively the state's economy.

Comments on the proposal may be submitted to Steve Moninger, Regulatory Services Division, Department of Public Safety, by email at [RSD.Rule.Comments@dps.texas.gov](mailto:RSD.Rule.Comments@dps.texas.gov). Comments must be received no later than thirty (30) days from the date of publication of this proposal.

This proposal is made pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work and Texas Government Code §411.184 (added by House Bill 1067, 87th Leg. Sess.) which requires the director to adopt rules establishing minimum standards for an initial training course and an annual continuing education course for first responders who hold licenses to carry.

Texas Government Code, §411.004(3) and §411.184, are affected by this proposal.

###### §6.2. Approved First Responder Handgun Storage Devices.

(a) A handgun storage device is approved by the department for use by an on-duty first responder entering a location where handguns are prohibited by federal law or otherwise if the handgun is stored in a lockbox safe, or container designed by the manufacturer to safely secure and store a handgun using a key, keycode, combination, biomet-

rics, proximity sensor, or other similar means to prevent unauthorized access or theft.

(b) The approved storage device must be secured in a manner that prevents the device from being easily removed.

(c) To prevent an unintentional discharge, only weapons and weapon accessories should be stored in the approved device.

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 December 21, 2021.

TRD-202105196

D. Phillip Adkins

General Counsel

Texas Department of Public Safety

Earliest possible date of adoption: February 6, 2022

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



## SUBCHAPTER B. ELIGIBILITY AND APPLICATION PROCEDURES FOR A LICENSE TO CARRY A HANDGUN

### 37 TAC §6.14, §6.18

The Texas Department of Public Safety (the department) proposes amendments to §6.14, concerning Proficiency Requirements, extending the time period during which applicants for a license to carry can submit their certificates of training from one year to two. The department also proposes new §6.18, concerning First Responder Certification; Renewal of Certification, which is necessary to implement House Bill 1069, 87th Legislative Session. House Bill 1069 requires the department to establish by rule minimum standards for a training course to be completed by first responders who also hold a license to carry, the successful completion of which authorizes certain first responders under certain conditions to carry a handgun while on duty. New §6.18 provides the procedures for the issuance and renewal of the first responder certification.

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

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

Ms. Whittenton has determined that for each year of the first five-year period the rule is in effect the public benefit anticipated as a result of this rule will be the simplification of the application process and a clearer understanding of the certain conditions a first responder can carry a handgun while on duty.

The department has determined this proposal is not a "major environmental rule" as defined by Texas Government Code, §2001.0225. "Major environmental rule" is defined to mean a rule that the specific intent of which is to protect the environment

or reduce risk to human health from environmental exposure and that may adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment or the public health and safety of a state or a sector of the state. This proposal is not specifically intended to protect the environment or reduce risks to human health from environmental exposure.

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

The department prepared a Government Growth Impact Statement assessment for this proposed rulemaking. The proposed rulemaking does not create or eliminate a government program; will not require the creation of new employee positions nor eliminate current employee positions; will not require an increase or decrease in future legislative appropriations to the agency; nor will it require an increase or decrease in fees paid to the agency. The proposed rulemaking does not create a new regulation. The proposed rulemaking does not expand, limit or repeal an existing regulation. The proposed rule does not increase or decrease the number of individuals subject to the rule's applicability. During the first five years the proposed rule is in effect the proposed rule should not impact positively or negatively the state's economy.

Comments on the proposal may be submitted to Steve Moninger, Regulatory Services Division, Department of Public Safety, by email at [RSD.Rule.Comments@dps.texas.gov](mailto:RSD.Rule.Comments@dps.texas.gov). Comments must be received no later than thirty (30) days from the date of publication of this proposal.

This proposal is made pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work and Texas Government Code §411.184 (added by House Bill 1067, 87th Leg. Sess.) which requires the director to adopt rules establishing minimum standards for an initial training course and an annual continuing education course for first responders who hold licenses to carry.

Texas Government Code, §411.004(3) and §411.184, are affected by this proposal.

#### §6.14. Proficiency Requirements.

(a) The figure in this section provides the proficiency demonstration requirements applicable to applicants for either a license to carry a handgun or certification as a qualified handgun instructor. Figure: 37 TAC §6.14(a) (No change.)

(b) A handgun license applicant must score at least 70% on both the written examination and the proficiency examination.

(c) A handgun license applicant will have three opportunities to pass the written examination and the proficiency examination within a 12 month period.

(d) The qualified handgun instructor or approved online course provider must submit all examination failures to the department on the class completion notification. The notification must indicate if the failure occurred after the handgun license applicant had been given three opportunities to pass the examinations.

(e) On successful completion of the written or proficiency examinations, the qualified handgun instructor or approved online course provider, as applicable, shall certify the handgun license applicant has

established his or her proficiency on the form and in the manner determined by the department.

(f) All LTC-100 and LTC-101 certificates of training [~~LTC-100 or LTC-101~~] are valid for two years [~~one year~~] from the date of issuance. Any certificate of training that is required in conjunction with an application must be valid on the date the completed application is submitted to the department.

(g) The qualified handgun instructor shall require all handgun license applicants complete the range instruction part of the handgun proficiency course before allowing a physical demonstration of handgun proficiency.

§6.18. First Responder Certification; Renewal of Certification.

(a) A handgun license holder who is also a first responder, as defined in Section 46.01, Penal Code, may obtain the first responder certification by:

(1) successfully completing the first responder certification course offered by a qualified handgun instructor who is certified as a first responder instructor; and

(2) submitting a request for a first responder certification, including the certificate of completion (LTC-103) provided by the first responder instructor and any documentation requested by the department establishing the requestor's employment as a first responder.

(b) The first responder certificate of training (LTC-103) may be submitted to the department within one year from the date of issuance. The first responder certificate of training must be valid on the date it is submitted to the department.

(c) The first responder certification must be renewed annually by completing the required continuing education course provided by a certified first responder instructor and submitting the certificate of training (LTC-103) to the department. The certificate of continuing education training is valid for six months from the date of issuance. The certificate of continuing education training must be valid on the date the original first responder certificate expires.

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 December 21, 2021.

TRD-202105197

D. Phillip Adkins

General Counsel

Texas Department of Public Safety

Earliest possible date of adoption: February 6, 2022

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



## SUBCHAPTER F. SUSPENSION AND REVOCATION PROCEDURES

### 37 TAC §6.95, §6.96

The Texas Department of Public Safety (the department) proposes new §6.95 and §6.96, concerning First Responder Instructor Certification. These new rules are necessary to implement House Bill 1069, 87th Legislative Session. House Bill 1069 requires the department establish by rule minimum standards for a training course to be completed by first responders who also hold a license to carry, the successful completion of which autho-

rizes certain first responders under certain conditions to carry a handgun while on duty. New §6.95 and §6.96 provide the application procedures and training requirements to enable qualified license to carry handgun instructors to obtain the training and certification required to offer the first responder training course to first responders who hold a license to carry.

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

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

Ms. Whittenton has determined that for each year of the first five-year period the rule is in effect the public benefit anticipated as a result of this rule will be the simplification of the application process and a clearer understanding of the application procedures and training requirements to enable qualified license to carry handgun instructors to obtain the training and certification required to offer the first responder training course to first responders who hold a license to carry.

The department has determined this proposal is not a "major environmental rule" as defined by Texas Government Code, §2001.0225. "Major environmental rule" is defined to mean a rule that the specific intent of which is to protect the environment or reduce risk to human health from environmental exposure and that may adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment or the public health and safety of a state or a sector of the state. This proposal is not specifically intended to protect the environment or reduce risks to human health from environmental exposure.

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

The department prepared a Government Growth Impact Statement assessment for this proposed rulemaking. The proposed rulemaking does not create or eliminate a government program; will not require the creation of new employee positions nor eliminate current employee positions; will not require an increase or decrease in future legislative appropriations to the agency; nor will it require an increase or decrease in fees paid to the agency. The proposed rulemaking does not create a new regulation. The proposed rulemaking does not expand, limit or repeal an existing regulation. The proposed rule does not increase or decrease the number of individuals subject to the rule's applicability. During the first five years the proposed rule is in effect the proposed rule should not impact positively or negatively the state's economy.

Comments on the proposal may be submitted to Steve Moninger, Regulatory Services Division, Department of Public Safety, by email at RSD.Rule.Comments@dps.texas.gov. Comments must be received no later than thirty (30) days from the date of publication of this proposal.

This proposal is made pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to

adopt rules considered necessary for carrying out the department's work and Texas Government Code §411.184 (added by House Bill 1067, 87th Leg. Sess.) which requires the director to adopt rules establishing minimum standards for an initial training course and an annual continuing education course for first responders who hold licenses to carry.

Texas Government Code, §411.004(3) and §411.184, are affected by this proposal.

§6.95. Application for First Responder Instructor Certification.

(a) A qualified handgun instructor may apply for an instructor of the first responder certification course if their qualified handgun instructor certification is current and they have no suspension, revocation or other disciplinary actions pending.

(b) A first responder instructor certification applicant is required to attend the department's training course in person. If the applicant is unable to attend their original scheduled first responder instructor course in person, the applicant may request to be rescheduled for a second first responder instructor course. If the applicant fails to attend the second scheduled course, the application will be terminated, and the applicant is required to submit a new application to attend a first responder instructor course in the future.

(c) A first responder instructor certification applicant is required to pass a prequalifying written examination consisting of material from the current license to carry a handgun course. A passing score of 90% or better must be achieved on the first attempt. A student scoring less than 90% is not permitted to continue the training and must reapply as a new applicant for a future course.

(d) A first responder instructor certification applicant who passes the prequalifying written examination is required to demonstrate handgun proficiency using the current license to carry a handgun course of fire. A passing score of 90% or better must be achieved on the first attempt. A second attempt may be allowed at the discretion of the department if the prior failure was the result of a weapon malfunction. A student may use only one handgun, and the handgun must meet the requirements of the Act and of this chapter. A student who scores less than 90% will not be permitted to continue the training and must reapply as a new applicant for a future course.

(e) Only those first responder instructor certification applicants who pass the prequalifying written examination and the proficiency demonstration will be allowed to attend the first responder instructor certification course. A student may be removed from course for reasons described in §6.37 of this title (relating to Conduct During Training). Students must pass the department approved final written examination for certification with a score of 90% or better. Failing students must reapply as a new applicant for a future course.

(f) Applicants who pass the course will be provided a certificate in the form approved by the department.

(g) The first responder instructor certification remains valid so long as the instructor's qualified handgun instructor certification remains valid and is continuously renewed prior to expiration.

(h) The applicant's qualified handgun instructor certification must be current as of the date the first responder instructor certification course begins. If the qualified handgun instructor certification has expired course attendance will not be permitted.

(i) There are no fees associated with the first responder instructor certification.

§6.96. First Responder Certification Courses.

(a) The first responder training course described in Government Code, §411.184 may only be provided by a certified first respon-

der instructor, and must be taught using the department approved curriculum, training materials, and examinations.

(b) Following the classroom portion and the practical exercises, students must pass both the department approved final written examination and proficiency demonstration with a score of 90% or better on each. Students with a score of less than 90% on the final written examination and the proficiency demonstration will not receive a first responder certificate from the department.

(c) On completion of the first responder training course, the certified first responder instructor who conducted the course shall submit a report within five business days to the department indicating whether the participants in the course passed or failed. The report must be submitted in the manner determined by the department.

(d) Certified first responder instructors must comply with this chapter's rules relating to license to a qualified handgun instructor license course scheduling, reporting, and record retention unless otherwise provided in this section.

(e) Certified first responder instructors must submit all failures of written examinations and proficiency demonstrations to the department on the class completion notification. The notification must indicate whether the failure occurred after the handgun license applicant had been given three opportunities to pass the examinations.

(f) On successful completion of the written examinations or proficiency demonstrations, the qualified handgun instructor, shall certify the applicant has established the applicant's proficiency on the form and in the manner determined by the department.

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 December 21, 2021.

TRD-202105198

D. Phillip Adkins

General Counsel

Texas Department of Public Safety

Earliest possible date of adoption: February 6, 2022

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



CHAPTER 15. DRIVER LICENSE RULES  
SUBCHAPTER B. APPLICATION  
REQUIREMENTS--ORIGINAL, RENEWAL,  
DUPLICATE, IDENTIFICATION CERTIFICATES

**37 TAC §15.25**

The Texas Department of Public Safety (the department) proposes amendments to §15.25, concerning Address. The Eighty-seventh Texas Legislature enacted House Bill 368, which amended Texas Transportation Code, §521.1211 and Senate Bill 1134, which amended Texas Transportation Code, §521.054, requiring the department to provide eligible applicants (prosecutors, federal bankruptcy judges, U.S. Marshals, U.S. Attorneys, and family members) with the option of providing an alternate address for display on their driver license or identification card. The amendments to §15.25 detail the process to be followed for an eligible applicant interested in providing an alternate address.

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

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

Ms. Whittenton has determined that for each year of the first five-year period the rule is in effect the public benefit anticipated as a result of this rule will be a clearer understanding of the information required of applicants for issuance of an eligible applicant's driver license with an alternate address.

The department has determined this proposal is not a "major environmental rule" as defined by Texas Government Code, §2001.0225. "Major environmental rule" is defined to mean a rule that the specific intent of which is to protect the environment or reduce risk to human health from environmental exposure and that may adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment or the public health and safety of a state or a sector of the state. This proposal is not specifically intended to protect the environment or reduce risks to human health from environmental exposure.

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

The department prepared a Government Growth Impact Statement assessment for this proposed rulemaking. The proposed rulemaking does not create or eliminate a government program; will not require the creation of new employee positions nor eliminate current employee positions; will not require an increase or decrease in future legislative appropriations to the agency; nor will it require an increase or decrease in fees paid to the agency. The proposed rulemaking does not create a new regulation. The proposed rulemaking does not expand, limit or repeal an existing regulation. The proposed rule does not increase or decrease the number of individuals subject to the rule's applicability. During the first five years the proposed rule is in effect the proposed rule should not impact positively or negatively the state's economy.

Comments on the proposal may be submitted to Ron Coleman, Driver License Division, Texas Department of Public Safety, P.O. Box 4087 (MSC 0300), Austin, Texas 78773; by fax to (512) 424-5233; or by email to [DLDrulecomments@dps.texas.gov](mailto:DLDrulecomments@dps.texas.gov). Comments must be received no later than thirty (30) days from the date of publication of this proposal.

This proposal is made pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work and Texas Transportation Code, §521.005, which authorizes the department to adopt rules necessary to administer Chapter 521 of the Texas Transportation Code.

Texas Government Code, §411.004(3), and Texas Transportation Code, §521.005, are affected by this proposal.

§15.25. *Address.*

The address requirement for a driver license and identification certificate is:

(1) The applicant's Texas residence address must be given. A business address is not acceptable. Applicants may be required by the department to provide proof satisfactory to the department to establish the Texas residence address provided. All documents must be verifiable.

(2) The complete street address including apartment numbers and such terms as street, circle, drive, or court should be used whenever possible. The city, state, zip code, and type of residence must be shown as part of the address on all applications for driver licenses and identification certificates. The zip code may be a five or nine digit number until such time as the nine digit number is required by the department or postal authorities. In rural areas, route number and box number should be given.

(3) The application form also provides space for a mailing address. If there is no mail delivery at the address shown, then a post office box number or other mailing address must be shown in conjunction with the Texas residence address provided. If an applicant has a mailing address in addition to the Texas residence address, which may include post office boxes or other mailing locations, it may be provided in this space.

(4) A general delivery address must not be used except in very small communities when no street or route addresses are available.

(5) A post office box number is not acceptable if a better address can be obtained. The post office box number may only be listed in addition to a Texas residence address.

(6) Military personnel and the spouse or dependent of a member of the armed forces should give a complete address such as: John Henry Smith, Co. B, 25th Inf., Camp Barkeley, Abilene, Texas. If a member of the armed forces or the spouse or dependent of a member of the armed forces has a residence address in Texas, it should be provided and used. A member of the armed forces and the spouse or dependent of a member of the armed forces may provide a residence address outside of Texas.

(7) The department has incorporated an address validation program that presents addresses using United States Postal Service (USPS) standards.

(A) Standardized addresses will be displayed on licenses and identification certificates and used for mailing purposes.

(B) Addresses that do not conform to USPS standards or do not validate may be used if the customer can verify that he/she receives mail at that address.

(8) The department shall conduct an audit of driver license and identification certificate address information provided by driver license customers. This audit shall:

(A) validate that the addresses being reviewed are residential addresses; and/or

(B) determine if the same address has been provided by ten (10) or more driver license or identification certificate holders.

(9) The department may require each driver license or identification certificate holder whose address of record is being audited to present documentation required by §15.49 of this title (relating to Proof of Domicile) and §16.7 of this title (relating to Proof of Domicile) to demonstrate the holder resides at the address of record. An acceptable list of documentation may be found in §15.49 and §16.7.

(10) The department shall cancel any driver license or identification certificate issued to a person who does not prove that he/she resides at the address on record.

(11) An alternate address may be used on a driver license per Texas Transportation Code, §521.121 and §521.1211. An applicant who is eligible to use an alternate address must apply in person for an original, renewal, or duplicate driver license and surrender any other driver license issued to the applicant by the department or another state. No online transactions will be allowed for issuance of duplicate or renewed licenses issued under this paragraph. [Peace officers and special investigators, as defined in the Code of Criminal Procedure, Article 2.12 and Article 2.122, may use an alternate address on their driver license under Texas Transportation Code, §521.1211. An eligible officer must:]

(A) A peace officer or special investigator, as defined in the Code of Criminal Procedure, Article 2.12 and Article 2.122 respectively, may use the address of the county courthouse in their county of residence or their business address as the alternate address on their driver license. [apply in person for an original or duplicate driver license and surrender any other driver license issued to the applicant by the department or another state. No online transactions will be allowed for issuance of duplicate or renewed licenses issued under this paragraph.]

(i) Peace officers must present a license issued by the Texas Commission on Law Enforcement (TCOLE) and a Peace Officer Identification Card and Badge issued by the officer's employing agency to establish eligibility.

(ii) Special investigators must present a federal ID and badge issued by the officer's employing agency.;

(B) A county attorney, district attorney, criminal district attorney, assistant county attorney, assistant district attorney, or assistant criminal district attorney may use their business address as the alternate address on their driver license. These applicants must present either their oath of office documentation or a letter from the elected prosecutor for their office affirming employment. [provide the actual current residence address for department records and mailing purposes:]

(C) A federal or state judge, as defined by Texas Election Code, §1.005, a United States Marshall, or a United States Attorney may use the address of the courthouse or office building where they work as the alternate address on their driver license. [not later than 30 days after the license holder ceases to be a peace officer, apply to the department for issuance of a duplicate license that displays the person's actual current residence address:]

(i) A federal judge must present an official identification card issued by the Administrative Office of the United States courts.

(ii) A state judge must present an official identification card issued by the office of the Texas Secretary of State.

(iii) A municipal court judge or justices of the peace must present their business card along with additional documentation identifying the judge issued by a state agency affiliated with the judiciary, including the Office of Court Administration, Office of the Attorney General, Secretary of State, and Texas courts.

(iv) A U.S. Marshal must present a federal identification card or badge issued by the officer's employing agency or a letter with required information if a federal ID card cannot be copied or scanned.

(v) A U.S. Attorney or an assistant U.S. attorney must present a letter from the elected prosecutor for their office affirming employment or an Oath of Office documentation.

(D) A spouse or a child of a federal judge, state judge, U.S. Marshall, or U.S. Attorney, who reside at the same residence, may also use the address of the courthouse or office building where the eligible official works as the alternate address on their driver license. [not later than 30 days after a name change and/or residence address change, notify the department of the change and obtain a duplicate license; and]

(E) An applicant who is eligible to use an alternate address must provide the actual current residence address for department records and mailing purposes. [pay the required fee for changes to the driver license.]

(F) A person who has been issued a driver license with an alternate address must apply to the department for issuance of a duplicate driver license that displays the person's actual current residence address not later than 30 days after the license holder ceases to be eligible to use an alternate address.

(G) A person who has been issued a driver license or identification card with an alternate address must notify the department of the change and obtain a duplicate driver license not later than 30 days after a name change and/or residence address change.

(H) An applicant who is eligible to use an alternate address must pay the required fee for changes to the driver license.

(12) All documents submitted by the applicant must be acceptable to the department. The department has the discretion to reject or require additional evidence for alternate address eligibility.

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 December 21, 2021.

TRD-202105199

D. Phillip Adkins

General Counsel

Texas Department of Public Safety

Earliest possible date of adoption: February 6, 2022

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



## SUBCHAPTER K. INTERAGENCY AGREEMENTS

### 37 TAC §15.171

The Texas Department of Public Safety (the department) proposes amendments to §15.171, concerning Identifying Document for Offenders/Memorandum of Understanding. The Eighty-seventh Texas Legislature enacted House Bill 4544, which amended Texas Human Resources Code, §245.0536, requiring the department, the Texas Juvenile Justice Department (TJJD), and the Department of State Health Services (DSHS) by rule, to adopt a memorandum of understanding that establishes their respective responsibilities with respect to the issuance of state identification to a minor offender, prior to release, including responsibilities related to the verification of the person's identity.

Suzu Whittenton, Chief Financial Officer, has determined that for each year of the first five-year period this rule is in effect there

will be no fiscal implications for state or local government, or local economies.

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

Ms. Whittenton has determined that for each year of the first five-year period the rule is in effect the public benefit anticipated as a result of this rule will be a minor offender meeting requirements for issuance of state identification prior to discharge or release.

The department has determined this proposal is not a "major environmental rule" as defined by Texas Government Code, §2001.0225. "Major environmental rule" is defined to mean a rule that the specific intent of which is to protect the environment or reduce risk to human health from environmental exposure and that may adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment or the public health and safety of a state or a sector of the state. This proposal is not specifically intended to protect the environment or reduce risks to human health from environmental exposure.

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

The department prepared a Government Growth Impact Statement assessment for this proposed rulemaking. The proposed rulemaking does not create or eliminate a government program; will not require the creation of new employee positions nor eliminate current employee positions; will not require an increase or decrease in future legislative appropriations to the agency; nor will it require an increase or decrease in fees paid to the agency. The proposed rulemaking does not create a new regulation. The proposed rulemaking does not expand, limit or repeal an existing regulation. The proposed rule does not increase or decrease the number of individuals subject to the rule's applicability. During the first five years the proposed rule is in effect the proposed rule should not impact positively or negatively the state's economy.

Comments on the proposal may be submitted to Ron Coleman, Driver License Division, Texas Department of Public Safety, P.O. Box 4087 (MSC 0300), Austin, Texas 78773; by fax to (512) 424-5233; or by email to [DLDrulecomments@dps.texas.gov](mailto:DLDrulecomments@dps.texas.gov). Comments must be received no later than thirty (30) days from the date of publication of this proposal.

This proposal is made pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to

adopt rules considered necessary for carrying out the department's work and Texas Transportation Code, §521.005, which authorizes the department to adopt rules necessary to administer Chapter 521 of the Texas Transportation Code.

Texas Government Code, §411.004(3), and Texas Transportation Code §521.005, are affected by this proposal.

§15.171. *Identifying Document for Offenders/Memorandum of Understanding.*

(a) The Texas Department of Public Safety (DPS) adopts a memorandum of understanding with the Texas Department of Criminal Justice (TDCJ) and Department of State Health Services (DSHS) concerning the respective responsibilities of DPS, TDCJ and DSHS in implementing the issuance of personal identification certificates to qualified inmates preparing for release.

(1) [(b)] The memorandum of understanding is required by Texas Government Code, §501.0165.

(2) [(e)] Copies of the memorandum of understanding are filed with the TDCJ, 8610 Shoal Creek Boulevard, Austin, Texas 78758; DSHS, 1100 West 49th Street, Austin, Texas 78756; and with DPS, 5805 N. Lamar Boulevard, Austin, Texas 78752 and may be reviewed during regular business hours.

(b) DPS adopts a memorandum of understanding with the Texas Juvenile Justice Department (TJJD) and DSHS concerning the respective responsibilities of DPS, TJJD, and DSHS in implementing the issuance of state identification to qualified minor offenders prior to discharge or release.

(1) The memorandum of understanding is required by Texas Human Resources Code, §245.0536.

(2) Copies of the memorandum of understanding are filed with the TJJD, 1711 San Jacinto Boulevard, Austin, Texas 78758; DSHS, 1100 West 49th Street, Austin, Texas 78756; and with DPS, 5805 N. Lamar Boulevard, Austin, Texas 78752 and may be reviewed during regular business hours.

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 December 21, 2021.

TRD-202105200

D. Phillip Adkins

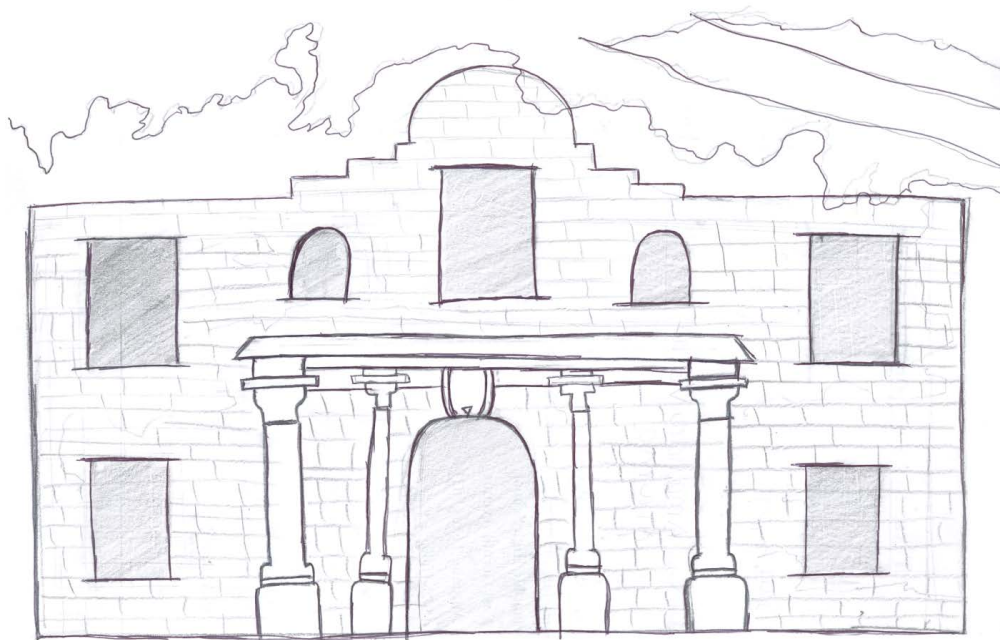
General Counsel

Texas Department of Public Safety

Earliest possible date of adoption: February 6, 2022

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







# ADOPTED RULES

Adopted rules include new rules, amendments to existing rules, and repeals of existing rules. A rule adopted by a state agency takes effect 20 days after the date on which it is filed with the Secretary of State unless a later date is required by statute or specified in the rule (Government Code, §2001.036). If a rule is adopted without change to the text of the proposed rule, then the *Texas Register* does not republish the rule text here. If a rule is adopted with change to the text of the proposed rule, then the final rule text is included here. The final rule text will appear in the Texas Administrative Code on the effective date.

## TITLE 10. COMMUNITY DEVELOPMENT

### PART 1. TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

#### CHAPTER 24. TEXAS BOOTSTRAP LOAN PROGRAM RULE

##### 10 TAC §24.13

The Texas Department of Housing and Community Affairs (the Department) adopts the repeal of 10 TAC Chapter 24, Texas Bootstrap Loan Program Rule Texas Bootstrap Loan Program Rule, §24.13, Nonprofit Owner-Builder Housing Program Certification, without changes to the proposed text as published in the September 17, 2021, issue of the *Texas Register* (46 TexReg 6166). The rule will not be republished. The purpose of the repeal is to eliminate an outdated rule while adopting a new updated rule under separate action.

The Department has analyzed this proposed rulemaking and the analysis is described below for each category of analysis performed.

##### a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.

1. Mr. Bobby Wilkinson, Executive Director, has determined that, for the first five years the repeal would be in effect, the repeal does not create or eliminate a government program, but relates to the repeal, and simultaneous re-adoption making changes to an existing activity, administration of the Texas Bootstrap Loan Program.

2. The repeal does not require a change in work that would require the creation of new employee positions, nor is the repeal significant enough to reduce work load to a degree that any existing employee positions are eliminated.

3. The repeal does not require additional future legislative appropriations.

4. The repeal does not result in an increase in fees paid to the Department, nor a decrease in fees paid to the Department.

5. The repeal is not creating a new regulation, except that it is being replaced by a new rule simultaneously to provide for revisions.

6. The action will repeal an existing regulation, but is associated with a simultaneous re-adoption making changes to an existing activity, the administration of the Texas Bootstrap Loan Program.

7. The repeal will not increase or decrease the number of individuals subject to the rule's applicability.

8. The repeal will not negatively or positively affect the state's economy.

##### b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.

The Department has evaluated this repeal and determined that the repeal will not create an economic effect on small or micro-businesses or rural communities.

##### c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The repeal does not contemplate or authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

##### d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).

The Department has evaluated the repeal as to its possible effects on local economies and has determined that for the first five years the repeal would be in effect there would be no economic effect on local employment; therefore, no local employment impact statement is required to be prepared for the rule.

##### e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has also determined that, for each year of the first five years the repeal is in effect, the public benefit anticipated as a result of the repealed section would be an updated and more germane rule. There will not be economic costs to individuals required to comply with the repealed section.

##### f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the repeal is in effect, enforcing or administering the repeal does not have any foreseeable implications related to costs or revenues of the state or local governments.

**SUMMARY OF PUBLIC COMMENTS AND STAFF REASONED RESPONSE.** The Department accepted public comment between September 17, 2021, and October 18, 2021. Comments regarding the proposed repeal were accepted in writing and via e-mail; no comments on the repeal were received.

**STATUTORY AUTHORITY.** The repeal is adopted pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules. Except as described herein the repealed sections affect no other code, article, or statute.

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

Filed with the Office of the Secretary of State on December 29, 2021.

TRD-202105247

Bobby Wilkinson  
Executive Director

Texas Department of Housing and Community Affairs

Effective date: January 18, 2022

Proposal publication date: September 17, 2021

For further information, please call: (512) 475-3959



## TITLE 19. EDUCATION

### PART 2. TEXAS EDUCATION AGENCY

#### CHAPTER 97. PLANNING AND ACCOUNTABILITY

##### SUBCHAPTER EE. ACCREDITATION

##### STATUS, STANDARDS, AND SANCTIONS

##### DIVISION 1. STATUS, STANDARDS, AND SANCTIONS

##### 19 TAC §§97.1055, 97.1057, 97.1059, 97.1072, 97.1073

The Texas Education Agency (TEA) adopts amendments to §§97.1055, 97.1057, 97.1059, 97.1072, and 97.1073, concerning accreditation status, standards, and sanctions. The amendments are adopted without changes to the proposed text as published in the October 8, 2021 issue of the *Texas Register* (46 TexReg 6658) and will not be republished. The adopted amendments modify the rules to clarify the applicability of a district's last issued accreditation status during years in which a district's accreditation status is withheld pending completion of an appeal or review and to indicate which academic accountability ratings and accreditation statuses are consecutive as a result of the learning disruptions caused by the COVID-19 pandemic. The adopted amendments also implement Senate Bill (SB) 1365, 87th Texas Legislature, Regular Session, 2021, by reflecting changes related to the Not Rated accountability rating and updating statutory references.

**REASONED JUSTIFICATION:** Section 97.1055(a)(1) requires the commissioner to annually assign each school district an accreditation status. Subsections (a)(1)(A) and (b)-(e) set forth the requirements a school district must meet each school year to receive the status of Accredited and states how the accreditation statuses of Accredited-Warned, Accredited-Probation, and Not Accredited-Revoked are determined.

The adopted amendment to §97.1055 adds new subsection (a)(8) to clarify that when a district's accreditation status is withheld pending completion of an appeal or review, the district's last issued accreditation status remains in effect until otherwise finalized or changed. The subsequent paragraphs were renumbered due to the addition of new subsection (a)(8).

Due to the learning disruptions caused by the extraordinary public health and safety circumstances related to COVID-19, academic accountability ratings were not issued for the 2019-2020 and 2020-2021 school years. The adopted amendment to §97.1055 amends renumbered subsection (a)(10) to clarify that the academic accountability ratings issued for

the 2018-2019 and 2021-2022 school years are consecutive when determining multiple years of academically unacceptable or insufficient performance for the purposes of accreditation. In addition, renumbered subsection (a)(12) was amended to clarify that accreditation statuses issued for the 2019-2020 and 2022-2023 school years are consecutive.

Due to the passage of SB 1365, 87th Texas Legislature, Regular Session, 2021, the adopted amendment to §97.1055 incorporates the accountability label of Not Rated as it relates to the commissioner's authority to withhold the assignment of an accreditation status or withdraw a previously issued accreditation status. Previously, only the label of Not Rated-Data Integrity was specified in this section. SB 1365 enables the commissioner to assign an accountability rating of Not Rated for reasons inclusive of but not limited to data integrity. The adopted amendment to renumbered subsections (a)(13) and (14) reflects this change and clarifies that when a rating of Not Rated or similar rating is issued to a school district, the commissioner may withhold or withdraw a previously issued accreditation rating. In the following school year, the commissioner will issue an accreditation rating based on the applicable school years.

The adopted amendments to §§97.1055, 97.1057, 97.1059, and 97.1073 update statutory references to align with SB 1365, 87th Texas Legislature, Regular Session, 2021, which recodified TEC, Chapter 39, §39.057, into TEC, Chapter 39, §39.003, and changed "Special Accreditation Investigation" to "Special Investigation." In addition, the adopted amendments to §97.1059 and §97.1072 update the title of 19 TAC §97.1071.

**SUMMARY OF COMMENTS AND AGENCY RESPONSES:** The public comment period on the proposal began October 8, 2021, and ended November 8, 2021. No public comments were received.

**STATUTORY AUTHORITY.** The amendments are adopted under Texas Education Code (TEC), §39.051, which requires the commissioner to determine accreditation statuses; TEC, §39.052, which establishes the requirements for the commissioner to consider when determining accreditation statuses; and TEC §39.054(a-5), as added by Senate Bill 1365, 87th Texas Legislature, Regular Session, 2021, which states that when a "not rated" rating is issued, the "not rated" rating is not included in the count of consecutive unacceptable ratings and is also not considered to be a break in the count of consecutive unacceptable ratings.

**CROSS REFERENCE TO STATUTE.** The amendments implement Texas Education Code, TEC, §§39.051, 39.052, and 39.054(a-5).

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

Filed with the Office of the Secretary of State on December 22, 2021.

TRD-202105214

Cristina De La Fuente-Valadez  
Director, Rulemaking

Texas Education Agency

Effective date: January 11, 2022

Proposal publication date: October 8, 2021

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

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CHAPTER 101. ASSESSMENT  
SUBCHAPTER CC. COMMISSIONER'S  
RULES CONCERNING IMPLEMENTATION OF  
THE ACADEMIC CONTENT AREAS TESTING  
PROGRAM  
DIVISION 3. SECURITY OF ASSESSMENTS,  
REQUIRED TEST ADMINISTRATION  
PROCEDURES AND TRAINING ACTIVITIES  
**19 TAC §101.3031**

The Texas Education Agency (TEA) adopts an amendment to §101.3031, concerning required test administration procedures and training activities to ensure validity, reliability, and security of assessments. The amendment is adopted with changes to the proposed text as published in the October 15, 2021 issue of the *Texas Register* (46 TexReg 7009) and will be republished. The adopted amendment modifies the rule to implement Senate Bill (SB) 1267, 87th Texas Legislature, Regular Session, 2021, which removed the requirement for annual security and test administration training for all test administration personnel.

**REASONED JUSTIFICATION:** Section 101.3031 specifies that individuals with access to secure test materials must be school district or charter school employees who have received annual training in security and test administration procedures. With changes to TEC, §39.0304, introduced by SB 1267, 87th Texas Legislature, Regular Session, 2021, TEA may now only require the employee at each district campus who oversees the administration of assessment instruments to be trained annually. TEA will still require test administration personnel to receive initial training in security and test administration procedures, but the adopted amendment to §101.3031(a)(2)(D)(ii) removes the requirement of annual training for personnel other than an employee overseeing assessment instrument administration at a campus.

At adoption, a reference to Texas Education Code (TEC), §39.057, was changed to TEC, §39.003, to reflect the renumbering of statute by SB 1365, 87th Texas Legislature, Regular Session, 2021.

**SUMMARY OF COMMENTS AND AGENCY RESPONSES:** The public comment period on the proposal began October 15, 2021, and ended November 15, 2021. Following is a summary of the public comments received and the corresponding agency responses.

**Comment:** The Texas Classroom Teachers Association commented in support of the changes to the rule and stated that the changes could benefit teachers.

**Response:** The agency agrees.

**Comment:** Eleven Texas administrators stated that they are concerned that the lack of annual training could negatively impact teachers who are involved with matters of test security and who could be held accountable if protocols are broken.

**Response:** The agency agrees that teachers involved with matters of test security should be aware of security protocols and the consequences of breaking protocol. The agency also encour-

ages campus leaders to assign training as needed according to TEC, §39.0304.

**Comment:** Eight Texas administrators commented that not requiring annual training for all personnel involved in administering state assessments could lead to an increase in security irregularities and negatively impact the validity of test scores.

**Response:** The agency agrees that in order to maintain valid test results, test security procedures need to be followed. The agency requires campus and district leadership to continue to ensure that security protocols are followed and any security incidents are reported to maintain the validity of state tests.

**Comment:** The Texas State Teachers Association commented that the language would better reflect the law and the intent of the legislation if the rule text distinguished between the requirements of the campus testing coordinator and his or her flexibilities to determine training requirements of test administrators locally.

**Response:** The agency disagrees. TEC, §39.0304(a), permits the commissioner to require the initial training of personnel involved in testing. Initial training is vital to maintaining test security and the validity of test results. Further details regarding the distinction in responsibilities relative to training can be found in the District and Campus Coordinator Resources at <https://txassessmentdocs.atlassian.net/wiki/spaces/OD-CCM/pages/2547985789/Campus+Coordinator+Training>.

**STATUTORY AUTHORITY.** The amendment is adopted under Texas Education Code, §39.0304, as amended by Senate Bill 1267, 87th Texas Legislature, Regular Session, 2021, which allows only the employee at each district campus who oversees the administration of assessment instruments to be trained annually in security and test administration procedures and allows that employee to require other personnel to be trained at their discretion.

**CROSS REFERENCE TO STATUTE.** The amendment implements Texas Education Code, §39.0304.

*§101.3031. Required Test Administration Procedures and Training Activities to Ensure Validity, Reliability, and Security of Assessments.*

(a) Security and confidentiality.

(1) All assessment instruments included in the student assessment program are considered secure, and the contents of these tests, including student information used or obtained in their administration, are confidential.

(2) School districts and campuses, the superintendent and campus principals in each school district, open-enrollment charter schools and campuses, and the chief administrative officer and campus principals of each charter school shall:

(A) implement and ensure compliance with state test administration procedures and training activities;

(B) notify the Texas Education Agency (TEA) as soon as the school district or charter school becomes aware of any alleged or suspected violation of the security or confidential integrity of a test as listed in paragraph (3) of this subsection;

(C) report all confirmed testing violations to TEA within 10 working days of the school district or charter school becoming aware of the violation in accordance with the reporting process stipulated in the test administration materials;

(D) ensure that the only individuals with access to secure test materials are school district or charter school employees who have:

(i) met the requirements to participate in the student assessment program;

(ii) received training in test security and test administration procedures; and

(iii) signed an oath affirming they understand their obligation to maintain and preserve the security and confidentiality of all state assessments and student information, acknowledge their responsibility to report any suspected testing violation, and are aware of the range of penalties that may result from a violation of test security and confidentiality or a departure from test administration procedures; and

(E) ensure the security of the test materials by:

(i) verifying that all boxes of testing materials have been accounted for and match the school district or charter school shipping notices upon receipt from the state's testing contractor(s);

(ii) requiring campuses to immediately inventory all testing materials received and to notify the school district or charter school testing coordinator of any shortages or discrepancies;

(iii) immediately notifying the state's testing contractor(s) of any discrepancies between the materials received and the school district, charter school, and campus shipping notices;

(iv) placing test booklets and answer documents in secure, limited-access, locked storage when not in use;

(v) collecting and destroying any scratch paper, graph paper, or reference materials that students have written on, as well as any recordings, after the completion of a test administration;

(vi) requiring that all secure materials assigned to individual campuses have been accounted for and packaged in accordance with the procedures for returning materials as detailed in the test administration materials;

(vii) requiring that all test item image cards and photocopies or reproductions of secure test materials have been collected and returned to the school district or charter school testing coordinator for return to the testing contractor(s); and

(viii) maintaining inventory and shipping records for five years.

(3) Violations of the security and confidential integrity of a test include:

(A) directly or indirectly assisting students with responses to test questions;

(B) tampering with student responses;

(C) falsifying holistic ratings or student responses;

(D) viewing secure test content before, during, or after an administration unless specifically authorized by TEA or by the procedures outlined in the test administration materials;

(E) discussing or disclosing secure test content or student responses;

(F) scoring students' tests, either formally or informally;

(G) duplicating, recording, or electronically capturing confidential test content unless specifically authorized by TEA or by the procedures outlined in the test administration materials;

(H) responding to secure test questions;

(I) fraudulently exempting or preventing a student from participating in the administration of a required state assessment;

(J) receiving or providing unallowable assistance during calibration activities (e.g., taking notes, providing answer sheets, or sharing answers);

(K) encouraging or assisting an individual to engage in the conduct described in subparagraphs (A)-(J) of this paragraph or in any other serious violation of security and confidentiality;

(L) failing to report to an appropriate authority that an individual has engaged or is suspected of engaging in conduct described in subparagraphs (A)-(K) of this paragraph or in any other serious violation of security and confidentiality under this section;

(M) failing to implement sufficient procedures to prevent student cheating; and

(N) failing to implement sufficient procedures to prevent alteration of test documents by anyone other than the student.

(4) If a school district or charter school determines that a student has cheated or attempted to cheat on a state assessment either by providing or receiving direct assistance, the school district or charter school shall invalidate the student's test results.

(5) Any violation of test security or confidential integrity may result in the TEA:

(A) invalidating student test results;

(B) referring certified educators to the State Board for Educator Certification for sanctions in accordance with Chapter 247 of this title (relating to Educators' Code of Ethics) and Chapter 249 of this title (relating to Disciplinary Proceedings, Sanctions, and Contested Cases); and

(C) lowering the school district's or charter school's accreditation status or a school district's, charter school's, or campus's accountability rating in accordance with Texas Education Code (TEC), §39.003(d), or appointment of a monitor, conservator, or management team to the school district or charter school in accordance with TEC, Chapter 39A.

(b) Test administration procedures. Test administration procedures shall be delineated in the test administration materials provided to school districts and charter schools annually. Districts and charter schools must comply with all of the applicable requirements specified in the test administration materials. Test administration materials shall include, but are not limited to, the following:

(1) general testing program information;

(2) procedures for maintaining the security and confidentiality of state assessments;

(3) procedures for test administration;

(4) responsibilities of personnel involved in test administration; and

(5) procedures for materials control.

(c) Training activities. School districts and charter schools shall ensure that test coordinators and administrators receive training to ensure that testing personnel have the necessary skills and knowledge required to administer assessment instruments in a valid, standardized, and secure manner.

(d) Records retention. As part of test administration procedures, the commissioner shall require school districts and charter

schools to maintain records related to the security of assessment instruments for five years.

(e) *Applicability.* The required test administration procedures and training activities established annually in the test administration manuals and test security supplements for prior years remain in effect for all purposes with respect to the prior year to which they apply.

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

Filed with the Office of the Secretary of State on December 22, 2021.

TRD-202105215

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

Effective date: January 11, 2022

Proposal publication date: October 15, 2021

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



## **TITLE 34. PUBLIC FINANCE**

### **PART 1. COMPTROLLER OF PUBLIC ACCOUNTS**

#### **CHAPTER 3. TAX ADMINISTRATION**

##### **SUBCHAPTER O. STATE AND LOCAL SALES AND USE TAXES**

###### **34 TAC §3.322**

The Comptroller of Public Accounts adopts amendments to §3.322, concerning exempt organizations, without changes to the proposed text as published in the November 19, 2021, issue of the *Texas Register* (46 TexReg 7860). The rule will not be republished.

The comptroller amends the section to reflect the changes in Tax Code, §151.3102 (Sale by Nonprofit Organization at County Fair) made by House Bill 2684, 86th Legislature, 2019, effective September 1, 2019 and House Bill 3799, 87th Legislature, 2021, effective October 1, 2021. The comptroller also amends the section to memorialize longstanding agency policy on qualification as a religious organization.

The comptroller amends subsection (b)(3) to memorialize policy as provided in Publication 96-122, Nonprofit and Exempt Organizations - Purchases and Sales, that a religious organization must have a designated physical location from which worship services are held.

The comptroller amends subsection (h)(3) to reflect the current title of §3.286 as Seller's and Purchaser's Responsibilities.

The comptroller adds new subsection (h)(4) to exempt the sale of a taxable item if the seller or retailer is a county fair association or another nonprofit organization that is exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, by being listed as an exempt organization in Section 501(c)(3) of that code, the sale takes place at a county fair operated by a county fair association on property owned by the

county, and the purchaser is a person attending or participating in the fair.

The comptroller adds new subsection (h)(5)(A) to define a "county fair association" as an organization that is exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, by being listed as an exempt organization in Section 501(c)(3) of that code and that organizes a county fair that is primarily for the exhibition of local horticultural or agricultural products or livestock. A county fair association does not include an association that holds a license issued after January 1, 2001, under Subtitle A-1, Title 13, Occupations Code (Texas Racing Act); or an association that organizes events other than a county fair, including an exhibition of arts and crafts or state fair.

The comptroller adds new subsection (h)(5)(B) to state that livestock includes poultry, cattle, sheep, swine, horses, mules, donkeys, and goats. Livestock does not include domesticated animals such as dogs, cats, guinea pigs, hamsters, or other similar animals.

Subsequent paragraphs are renumbered accordingly.

The comptroller amends subsection (i) to reflect the current title of §3.316 as Occasional Sales; Transfers Without Change in Ownership; Sales by Senior Citizens' Organizations; Sales by University and College Student Organizations; and Sales by Nonprofit Animal Shelters.

The comptroller did not receive any comments regarding adoption of the amendment.

The amendments are adopted under Tax Code, §111.002 (Comptroller's Rules, Compliance, Forfeiture), which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of Tax Code, Title 2.

The amendments implement Tax Code, §151.3102 (Sale by Nonprofit Organization at County Fair).

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

Filed with the Office of the Secretary of State on December 22, 2021.

TRD-202105222

William Hamner

Special Counsel for Tax Administration

Comptroller of Public Accounts

Effective date: January 11, 2022

Proposal publication date: November 19, 2021

For further information, please call: (512) 475-2220



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

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

#### **CHAPTER 8. CAPITOL COMPLEX**

##### **SUBCHAPTER A. PROTECTION OF STATE BUILDINGS AND GROUNDS**

### 37 TAC §8.7

The Texas Department of Public Safety (the department) adopts amendments to §8.7, concerning Prohibited Weapons. This rule is adopted without changes to the proposed text as published in the October 29, 2021, issue of the *Texas Register* (46 TexReg 7363). The rule will not be republished.

The Eighty-seventh Texas Legislature enacted House Bill 1927, which expanded the ability of individuals who are 21 years of age or older to carry a firearm unless otherwise prohibited by state or federal law from possessing the firearm. The amendments make §8.7(a) consistent with the expanded right to carry available under House Bill 1927.

No comments were received regarding the adoption of this rule.

This rule is adopted pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work and §411.062(d), which authorizes the department to adopt rules relating to the security of persons and property of the state within the Capitol Complex.

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

Filed with the Office of the Secretary of State on December 21, 2021.

TRD-202105202

D. Phillip Adkins

General Counsel

Texas Department of Public Safety

Effective date: January 10, 2022

Proposal publication date: October 29, 2021

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



## CHAPTER 23. VEHICLE INSPECTION

### SUBCHAPTER D. VEHICLE INSPECTION ITEMS, PROCEDURES, AND REQUIREMENTS

#### 37 TAC §23.41

The Texas Department of Public Safety (the department) adopts amendments to §23.41, concerning Passenger (Non-Commercial) Vehicle Inspection Items. This rule is adopted without changes to the proposed text as published in the October 29, 2021, issue of the *Texas Register* (46 TexReg 7364) and will not be republished.

This rule change requires the vehicle inspector to input the vehicle's odometer reading to the department's inspection database at the time of inspection. The amendment also exempts fully autonomous vehicles from certain inspection requirements, as required to implement House Bill 3026, 87th Legislative Session. Finally, the amendment exempts fully electric vehicles from certain inspection requirements.

No comments were received regarding the adoption of this rule.

This rule is adopted pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; and Texas Transportation Code, §548.002, which

authorizes the Department of Public Safety to adopt rules to enforce Chapter 548.

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

Filed with the Office of the Secretary of State on December 21, 2021.

TRD-202105203

D. Phillip Adkins

General Counsel

Texas Department of Public Safety

Effective date: January 10, 2022

Proposal publication date: October 29, 2021

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



## SUBCHAPTER F. VIOLATIONS AND ADMINISTRATIVE PENALTIES

#### 37 TAC §23.62

The Texas Department of Public Safety (the department) adopts amendments to §23.62, concerning Violations and Penalty Schedule. This rule is adopted without changes to the proposed text as published in the October 29, 2021, issue of the *Texas Register* (46 TexReg 7366) and will not be republished.

The rule change authorizes the department to take administrative action against a licensee for disclosing or selling the private information of a vehicle inspection customer, reflecting the elements of the offense created by Senate Bill 15, 87th Legislative Session, amending Transportation Code, §548.601(a). In addition, the rule amendment authorizes the department to suspend the license following the licensee's refusal to pay a finally adjudicated administrative penalty.

No comments were received regarding the adoption of this rule.

This rule is adopted pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; and Texas Transportation Code, §548.002, which authorizes the Department of Public Safety to adopt rules to enforce Chapter 548.

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

Filed with the Office of the Secretary of State on December 21, 2021.

TRD-202105204

D. Phillip Adkins

General Counsel

Texas Department of Public Safety

Effective date: January 10, 2022

Proposal publication date: October 29, 2021

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



## CHAPTER 35. PRIVATE SECURITY

## SUBCHAPTER A. GENERAL PROVISIONS

### 37 TAC §§35.5, 35.8, 35.10

The Texas Department of Public Safety (the department) adopts amendments to §35.5 and §35.8 and new §35.10, concerning General Provisions. These rules are adopted without changes to the proposed text as published in the October 29, 2021, issue of the *Texas Register* (46 TexReg 7369) and will not be republished.

The changes to §35.5 are required by Senate Bill 968, 87th Legislative Session, and prohibit licensees from refusing entry by or service to a customer who does not certify as having received a COVID-19 vaccination or as being in post-transmission recovery. The amendments to §35.8 clarify that the rule applies only to company license holders and not individuals, and establishes an express rule of conduct regarding misrepresentation and causing confusion among clients. New §35.10 establishes guidelines for private investigators and commissioned security officers executing capias or arrest warrants.

No comments were received regarding the adoption of these rules.

These rules are adopted pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; §411.506, which authorizes the commission to adopt rules establishing procedures for the informal resolution of complaints filed against private security licensees; and Texas Occupations Code, §1702.061(a), which authorizes the Public Safety Commission to adopt rules to guide the department in its administration of Texas Occupations Code, Chapter 1702.

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

Filed with the Office of the Secretary of State on December 21, 2021.

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D. Phillip Adkins  
General Counsel  
Texas Department of Public Safety  
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For further information, please call: (512) 424-5848



## SUBCHAPTER D. DISCIPLINARY ACTIONS

### 37 TAC §35.52

The Texas Department of Public Safety (the department) adopts amendments to §35.52, concerning Administrative Penalties. This rule is adopted without changes to the proposed text as published in the October 29, 2021, issue of the *Texas Register* (46 TexReg 7370) and will not be republished.

These amendments authorize the department to suspend the license following the licensee's refusal to pay a finally adjudicated administrative penalty, clarify the consequences of revocation for purposes of reapplication, clarify that the actions of the company representative are to be construed as the actions of the company, and clarify the distinction between the violations of operating with an expired license and of operating without a

license. Changes to the penalty schedule (attached graphic) are proposed to simplify and clarify the specific violations and the related penalties.

No comments were received regarding the adoption of this rule.

This rule is adopted pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; §411.506, which authorizes the commission to adopt rules establishing procedures for the informal resolution of complaints filed against private security licensees; and Texas Occupations Code, §1702.061(a), which authorizes the Public Safety Commission to adopt rules to guide the department in its administration of Texas Occupations Code, Chapter 1702.

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

Filed with the Office of the Secretary of State on December 21, 2021.

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D. Phillip Adkins  
General Counsel  
Texas Department of Public Safety  
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For further information, please call: (512) 424-5848



## SUBCHAPTER E. ADMINISTRATIVE HEARINGS

### 37 TAC §35.62

The Texas Department of Public Safety (the department) adopts amendments to §35.62, concerning Preliminary Hearing; Settlement Conference. This rule is adopted without changes to the proposed text as published in the October 29, 2021, issue of the *Texas Register* (46 TexReg 7371) and will not be republished.

These rule changes remove a reference to a previously repealed rule and simplifies the language.

No comments were received regarding the adoption of this rule.

This rule is adopted pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; §411.506, which authorizes the commission to adopt rules establishing procedures for the informal resolution of complaints filed against private security licensees; and Texas Occupations Code, §1702.061(a), which authorizes the Public Safety Commission to adopt rules to guide the department in its administration of Texas Occupations Code, Chapter 1702.

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

Filed with the Office of the Secretary of State on December 21, 2021.

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D. Phillip Adkins  
General Counsel  
Texas Department of Public Safety  
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For further information, please call: (512) 424-5848



## SUBCHAPTER I. COMPANY RECORDS

### 37 TAC §35.111, §35.112

The Texas Department of Public Safety (the department) adopts amendments to §35.111 and §35.112, concerning Company Records. These rules are adopted without changes to the proposed text as published in the October 29, 2021, issue of the *Texas Register* (46 TexReg 7372) and will not be republished.

These rule changes clarify the application of the rule to security departments of private businesses and political subdivisions, and authorize electronic storage and transmission of out of state company records. In addition, changes to §35.111 are intended to consolidate the requirements of §35.111 and §35.113, enabling the repeal of the latter.

No comments were received regarding the adoption of these rules.

These rules are adopted pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; §411.506, which authorizes the commission to adopt rules establishing procedures for the informal resolution of complaints filed against private security licensees; and Texas Occupations Code, §1702.061(a), which authorizes the Public Safety Commission to adopt rules to guide the department in its administration of Texas Occupations Code, Chapter 1702.

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

Filed with the Office of the Secretary of State on December 21, 2021.

TRD-202105209  
D. Phillip Adkins  
General Counsel  
Texas Department of Public Safety  
Effective date: January 10, 2022  
Proposal publication date: October 29, 2021  
For further information, please call: (512) 424-5848



### 37 TAC §35.113

The Texas Department of Public Safety (the department) adopts the repeal of §35.113, concerning Records Required on Commissioned Security Officers. This repeal is adopted without changes to the proposed text as published in the October 29, 2021, issue of the *Texas Register* (46 TexReg 7373) and will not be republished.

The rule is being consolidated by moving the content of §35.113 to §35.111.

No comments were received regarding the adoption of this repeal.

This repeal is adopted pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; §411.506, which authorizes the commission to adopt rules establishing procedures for the informal resolution of complaints filed against private security licensees; and Texas Occupations Code, §1702.061(a), which authorizes the Public Safety Commission to adopt rules to guide the department in its administration of Texas Occupations Code, Chapter 1702.

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

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TRD-202105210  
D. Phillip Adkins  
General Counsel  
Texas Department of Public Safety  
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For further information, please call: (512) 424-5848



## SUBCHAPTER L. TRAINING

### 37 TAC §35.143, §35.145

The Texas Department of Public Safety (the department) adopts amendments to §35.143 and §35.145, concerning Training. These rules are adopted without changes to the proposed text as published in the October 29, 2021, issue of the *Texas Register* (46 TexReg 7374) and will not be republished.

These rule changes simplify the manner in which certain instructors may establish the necessary experience and provide a simplified process by which retired law enforcement officers who are licensed as commissioned security or personal protection officers may establish firearm proficiency.

No comments were received regarding the adoption of these rules.

These rules are adopted pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; and Texas Occupations Code, §1702.061(a) and §1702.1675(f), which authorizes the Public Safety Commission to adopt rules to guide the department in its administration of Texas Occupations Code, Chapter 1702.

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

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TRD-202105211



D. Phillip Adkins  
General Counsel  
Texas Department of Public Safety  
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For further information, please call: (512) 424-5848



**SUBCHAPTER M. CONTINUING EDUCATION**  
**37 TAC §35.161, §35.162**

The Texas Department of Public Safety (the department) adopts amendments to §35.161 and §35.162, concerning Continuing Education. These rules are adopted without changes to the proposed text as published in the October 29, 2021, issue of the *Texas Register* (46 TexReg 7376) and will not be republished.

The changes to §35.161, concerning Continuing Education Requirements, clarify that the renewal portion of Level III and IV training courses (the specifically required of commissioned security officers and personal protection officers) are required in order to comply with the continuing education requirements of those officers and that continuing education credits are only valid if completed within the two year period preceding the license's current expiration date. In addition, an outdated reference to alarm salespersons is to be removed, as such individuals are no longer regulated pursuant to Senate Bill 616, 86th Legislative Session. The changes to §35.162, concerning Continuing Education Schools, create limited exceptions to the requirement

that continuing education credits be earned through department approved schools.

No comments were received regarding the adoption of these rules.

These rules are adopted pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; and Texas Occupations Code, §1702.061(a), §1702.308 and §1702.309(a), which authorizes the Public Safety Commission to adopt rules to guide the department in its administration of Texas Occupations Code, Chapter 1702.

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

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D. Phillip Adkins  
General Counsel  
Texas Department of Public Safety  
Effective date: January 10, 2022  
Proposal publication date: October 29, 2021  
For further information, please call: (512) 424-5848





# 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 Assistive and Rehabilitative 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(a), specified the Department of Assistive and Rehabilitative Services (DARS) be abolished September 1, 2017, after all its functions were transferred to HHSC or the Department of Family and Protective Services in accordance with Texas Government Code, §531.0201. The former DARS rules in Texas Administrative Code (TAC), Title 40, Part 2, Chapter 106, Division for Blind Services, Subchapter I, Blind Children's Vocational Discovery and Development Program, and Subchapter J, Blindness Education, Screening, and Treatment Program are being transferred to 26 TAC Part 1, Chapter 359, Division for Blind Services.

The rules will be transferred in the Texas Administrative Code effective February 1, 2022.

The following table outlines the rule transfer:

Figure: 40 TAC Chapter 106, Subchapters I and J

TRD-202105236



## Texas 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(a), specified the Department of Assistive and Rehabilitative Services (DARS) be abolished September 1, 2017, after all its functions were transferred to HHSC or the Department of Family and Protective Services in accordance with Texas Government Code, §531.0201. The former DARS rules in Texas Administrative Code (TAC), Title 40, Part 2, Chapter 106, Division for Blind Services, Subchapter I, Blind Children's Vocational Discovery and Development Program, and Subchapter J, Blindness Education, Screening, and Treatment Program are being transferred to 26 TAC Part 1, Chapter 359, Division for Blind Services.

The rules will be transferred in the Texas Administrative Code effective February 1, 2022.

The following table outlines the rule transfer:

Figure: 40 TAC Chapter 106, Subchapters I and J

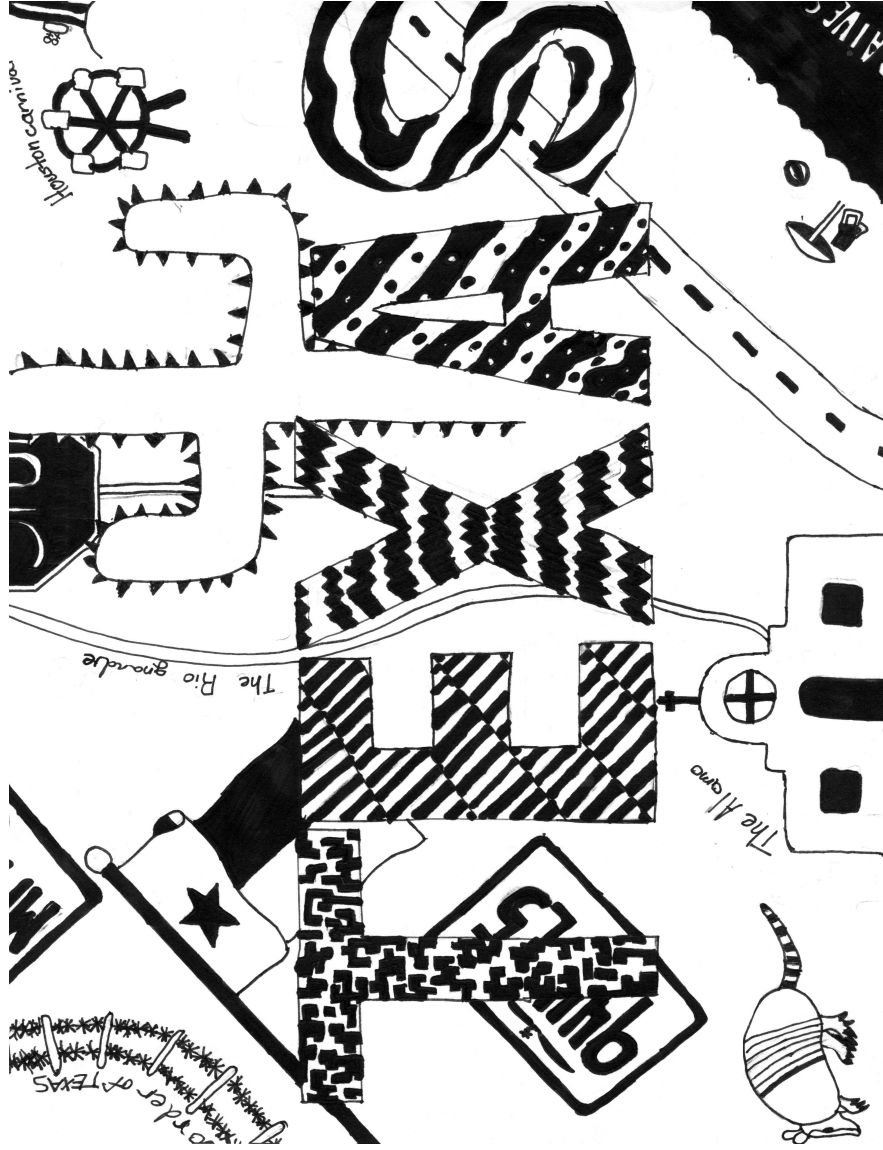
TRD-202105237



Figure: 40 TAC Chapter 106, Subchapters I and J

<b>Current Rules</b>	<b>Move to</b>
<b>Title 40. Social Services and Assistance</b>	<b>Title 26. Health and Human Services</b>
<b>Part 2. Department of Assistive and Rehabilitative Services</b>	<b>Part 1. Texas Health and Human Services Commission</b>
<b>Chapter 106. Division for Blind Services</b>	<b>Chapter 359. Division for Blind Services</b>
<b>Subchapter I. Blind Children's Vocational Discovery and Development Program</b>	<b>Subchapter A. Blind Children's Vocational Discovery and Development Program</b>
<b>Division 1. General Rules</b>	<b>Division 1. General Rules</b>
§106.1401. Purpose.	§359.1. Purpose.
§106.1403. Legal Authority.	§359.3. Legal Authority.
§106.1405. Definitions.	§359.5. Definitions.
§106.1407. Public Access to Information, Forms, and Documents.	§359.7. Public Access to Information, Forms, and Documents.
§106.1409. Comparable Services and Benefits.	§359.9. Comparable Services and Benefits.
§106.1411. Services Provided by Schools.	§359.11. Services Provided by Schools.
§106.1413. Confidentiality of Records.	§359.13. Confidentiality of Records.
§106.1415. Service Delivery.	§359.15. Service Delivery.
<b>Division 2. Eligibility and Assessment</b>	<b>Division 2. Eligibility and Assessment</b>
§106.1421. Referral and Application.	§359.51. Referral and Application.
§106.1423. Eligibility.	§359.53. Eligibility.
§106.1425. Prior Authorization of Services.	§359.55. Prior Authorization of Services.
§106.1427. Assessment.	§359.57. Assessment.
§106.1429. Family Service Plan.	§359.59. Family Service Plan.
§106.1431. Case Closure.	§359.61. Case Closure.
§106.1433. Reopening Closed Cases.	§359.63. Reopening Closed Cases.
<b>Division 3. Services</b>	<b>Division 3. Services</b>
§106.1441. Scope of Services.	§359.101. Scope of Services.
§106.1443. Assessment.	§359.103. Assessment.
§106.1445. Physical Examinations and Other Medical Specialty Examinations.	§359.105. Physical Examinations and Other Medical Specialty Examinations.
§106.1447. Diagnostic Evaluations.	§359.107. Diagnostic Evaluations.
§106.1449. Restoration.	§359.109. Restoration.
§106.1451. Travel.	§359.111. Travel.
§106.1453. Child Care.	§359.113. Child Care.
§106.1455. Habilitation.	§359.115. Habilitation.
§106.1457. Case Management Services.	§359.117. Case Management Services.
§106.1459. Eligibility for BCVDD Program Case Management Services.	§359.119 Eligibility for BCVDD Program Case Management Services.
§106.1461. Due Process.	§359.121. Due Process.
§106.1463. Case Management Reimbursement Charges.	§359.123. Case Management Reimbursement Charges.

<b>Division 4. Economic Resources and Consumer Participation</b>	<b>Division 4. Economic Resources and Consumer Participation</b>
§106.1471. Determination of Economic Resources.	§359.151. Determination of Economic Resources.
<b>Division 5. Methods of Administration of BCVDD Program</b>	<b>Division 5. Methods of Administration of BCVDD Program</b>
§106.1481. Purpose.	§359.201. Purpose.
§106.1483. Application of an Order of Selection.	§359.203. Application of an Order of Selection.
<b>Division 6. Complaint Resolution Process</b>	<b>Division 6. Complaint Resolution Process</b>
§106.1491. BCVDD Program Complaint Resolution Process.	§359.251. BCVDD Program Complaint Resolution Process.
<b>Subchapter J. Blindness Education, Screening, and Treatment Program</b>	<b>Subchapter B. Blindness Education, Screening, and Treatment Program</b>
§106.1601. Purpose.	§359.501. Purpose.
§106.1603. Legal Authority.	§359.503. Legal Authority.
§106.1605. Definitions.	§359.505. Definitions.
§106.1607. Vision Screening Services.	§359.507. Vision Screening Services.
§106.1609. Treatment Services.	§359.509. Treatment Services.



# IN ADDITION

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

## Office of Consumer Credit Commissioner

### Notice of Rate Ceilings

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

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 01/03/22 - 01/09/22 is 18% for Consumer<sup>1</sup>/Agricultural/Commercial<sup>2</sup> credit through \$250,000.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 01/03/22 - 01/09/22 is 18% for Commercial over \$250,000.

<sup>1</sup> Credit for personal, family or household use.

<sup>2</sup> Credit for business, commercial, investment or other similar purpose.

TRD-202105230

Leslie L. Pettijohn

Commissioner

Office of Consumer Credit Commissioner

Filed: December 28, 2021



## Credit Union Department

### Correction of Error

The Credit Union Department (department) published an Application for a Merger or Consolidation in the December 24, 2021, issue of the *Texas Register* (46 TexReg 9113). Due to an error by the department, incorrect text was included in the second paragraph of the application. The second paragraph of the application should have read as follows:

An application was received from First Service Credit Union (Houston) seeking approval to merge with People's Trust Federal Credit Union (Houston), with First Service Credit Union being the surviving credit union.

TRD-202105249



## Deep East Texas Council of Governments

### Solicitation for Public Comment

Notice is hereby given that the Deep East Texas Council of Governments (DETCOG) is seeking input on the Method of Distribution (MOD) for \$161,542,000.00 in Community Development Block Grant Mitigation ("CDBG-MIT") funds to provide financial assistance for necessary expenses for activities related to disaster relief, long-term recovery, restoration of infrastructure and housing, economic revitalization, mitigation, and affirmatively furthering fair housing in the most impacted and distressed areas resulting from Presidentially-declared disasters that occurred in 2015, 2016, and 2017. Written and oral comments regarding the MOD will be taken at public hearings scheduled for the following dates, times, and locations:

Thursday, January 13, 2022, at 7:00 p.m. at the Tyler County Senior Citizens Center - 201 Veterans Way, Woodville, Texas 75979.

Tuesday, April 5, 2022, at 7:00 p.m. at the Tyler County Senior Citizens Center - 201 Veterans Way, Woodville, Texas 75979

Additional written comments must be received by DETCOG by 4:30 p.m. on Tuesday, April 5, 2022, Attn: Bob Bashaw, Regional Planner, 1405 Kurth Drive, Lufkin, Texas 75904.

DETCOG will provide for reasonable accommodations for persons attending DETCOG functions. Requests from persons needing special accommodations should be received by DETCOG staff 24-hours prior to the function. The public hearing will be conducted in English and requests for language interpreters or other special communication needs should be made at least 48 hours prior to a function. Please call (936) 634-2247 for assistance.

For information about this posting, please call (936) 634-2247.

### Solicitud de comentario público

Por la presente se notifica que el Consejo de Gobiernos del Deep East Texas (DETCOG) está buscando información sobre el Método de Distribución (MOD) por \$ 161,542,000.00 en fondos de Mitigación de Subvenciones en Bloque para el Desarrollo Comunitario ("CDBG-MIT") para proporcionar asistencia financiera para los gastos necesarios para actividades relacionadas con el socorro en casos de desastre, la recuperación a largo plazo, la restauración de la infraestructura y la vivienda, la revitalización económica, la mitigación y la promoción afirmativa de la vivienda justa en las áreas más afectadas y afectadas como resultado de los principales desastres declarados que ocurrieron en 2015, 2016 y 2017. Escrito y se tomarán comentarios orales sobre el MOD en las audiencias públicas programadas para las siguientes fechas, horas y lugares:

Jueves 13 de enero de 2022, a las 7:00 p.m. en el Centro de Ciudadanos Mayores del Condado de Tyler - 201 Veterans Way, Woodville, Texas 75979.

Martes 5 de abril de 2022, a las 7:00 p.m. en el Centro de Ciudadanos Mayores del Condado de Tyler - 201 Veterans Way, Woodville, Texas 75979

DETCOG debe recibir comentarios adicionales por escrito antes de las 4:30 p.m. el martes 5 de abril de 2022, a la atención de: Bob Bashaw, Regional Planner, 1405 Kurth Drive, Lufkin, Texas 75904.

DETCOG proporcionará adaptaciones razonables para las personas que asistan a las funciones de DETCOG. Las solicitudes de personas que necesiten adaptaciones especiales deben ser recibidas por el personal de DETCOG 24 horas antes de la función. La audiencia pública se llevará a cabo en inglés y las solicitudes de intérpretes de idiomas u otras necesidades especiales de comunicación deben realizarse al menos 48 horas antes de una función. Llame al (936) 634-2247 para obtener ayuda.

Para obtener información sobre esta publicación, llame al (936) 634-2247.

TRD-202105250

◆ ◆ ◆  
**Texas Commission on Environmental Quality**

**Agreed Orders**

The Texas Commission on Environmental Quality (TCEQ or commission) staff is providing an opportunity for written public comment on the listed Agreed Orders (AOs) in accordance with Texas Water Code, (TWC), §7.075. TWC, §7.075, requires that before the commission may approve the AOs, the commission shall allow the public an opportunity to submit written comments on the proposed AOs. TWC, §7.075, requires that notice of the proposed orders and the opportunity to comment must be published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **February 8, 2022**. 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 **February 8, 2022**. 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: El Paso Water Utilities Public Service Board; DOCKET NUMBER: 2021-0537-PWS-E; IDENTIFIER: RN109218115; LOCATION: El Paso, El Paso County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.43(d)(2), by failing to provide the facility's pressure tanks with a pressure release device and an easily readable pressure gauge; 30 TAC §290.44(i)(2)(D), by failing to provide a tank vent that faces downward and is located to minimize the possibility of drawing contaminants into the stored water with a 16-mesh or finer corrosion-resistant screen; 30 TAC §290.44(i)(2)(E), by failing to provide the openings of connections for filling and emptying the tank with caps and keeper chains to ensure they are properly protected to prevent the possible entrance of contamination; 30 TAC §290.44(i)(2)(G), by failing to ensure that the discharge side of the pump is properly protected between uses by a protective cap and keeper chains; 30 TAC §290.44(i)(2)(H), by failing to ensure hoses used for the transfer of drinking water to and from the tank are used only for that purpose, are labeled for drinking water only, that the hoses conform to American National Standards Institute/National Sanitation Foundation Standard 61 and are certified by an entity recognized by the commission, that hoses and related appurtenances are cleaned and disinfected on a regular basis during prolonged use

or before start-up during intermittent use, and are properly stored between uses and provided with caps and keeper chains or have the ends connected together; and 30 TAC §290.44(i)(2)(L), by failing to maintain operational records detailing the amount of water hauled, purchases, microbiological sampling results, chlorine residual readings, dates of disinfection, and source of water; PENALTY: \$9,660; ENFORCEMENT COORDINATOR: Ryan Byer, (512) 239-2571; REGIONAL OFFICE: 401 East Franklin Avenue, Suite 560, El Paso, Texas 79901-1212, (915) 834-4949.

(2) COMPANY: Exxon Mobil Corporation; DOCKET NUMBER: 2021-1028-AIR-E; IDENTIFIER: RN102579307; LOCATION: Baytown, Harris County; TYPE OF FACILITY: petrochemical refinery; RULES VIOLATED: 30 TAC §§101.20(3), 116.715(a), and 122.143(4), Flexible Permit Numbers 18287, PSDTX730M4, and PAL7, Special Conditions Number 1, Federal Operating Permit Number O1229, General Terms and Conditions and Special Terms and Conditions Numbers 32 and 36.A, and Texas Health and Safety Code, §382.085(b), by failing to prevent unauthorized emissions; PENALTY: \$50,000; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$25,000; ENFORCEMENT COORDINATOR: Margarita Dennis, (817) 588-5892; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(3) COMPANY: Exxon Mobil Corporation; DOCKET NUMBER: 2020-0394-AIR-E; IDENTIFIER: RN102579307; LOCATION: Baytown, Harris County; TYPE OF FACILITY: petrochemical refinery; RULES VIOLATED: 30 TAC §§101.20(3), 116.715(a), and 122.143(4), Flexible Permit Numbers 18287, PSDTX730M4, and PAL7, Special Conditions Number 1, Federal Operating Permit Number O1229, General Terms and Conditions and Special Terms and Conditions Numbers 32 and 36.A, and Texas Health and Safety Code, §382.085(b), by failing to prevent unauthorized emissions; PENALTY: \$26,250; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT: \$10,500; ENFORCEMENT COORDINATOR: Margarita Dennis, (817) 588-5892; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(4) COMPANY: Katco Vacuum Truck Service, L.P.; DOCKET NUMBER: 2021-0384-MSW-E; IDENTIFIER: RN101686665; LOCATION: Hebronville, Jim Hogg County; TYPE OF FACILITY: oil field services facility; RULES VIOLATED: 30 TAC §§324.15, 327.5(a)(5) and (6), 334.75(b), and 40 Code of Federal Regulations §279.22(d), by failing to immediately remove and manage waste from discharges or spills of used oil, and failing to immediately abate and contain discharges or spills of petroleum products that are less than 25 gallons from aboveground storage tanks; and 30 TAC §328.23(a), by failing to store used oil filters in a manner that does not result in a discharge of oil into soil; PENALTY: \$3,150; ENFORCEMENT COORDINATOR: Ken Moller, (512) 239-6111; REGIONAL OFFICE: 1804 West Jefferson Avenue, Harlingen, Texas 78550-5247, (956) 425-6010.

(5) COMPANY: K-Solv Chemicals, LLC; DOCKET NUMBER: 2021-1006-AIR-E; IDENTIFIER: RN100616721; LOCATION: Channelview, Harris County; TYPE OF FACILITY: a bulk petrochemical transfer and storage terminal; 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 150670, and THSC, §382.085(b), by failing to prevent unauthorized emissions; PENALTY: \$11,413; ENFORCEMENT COORDINATOR: Yuliya Dunaway, (210) 403-4077; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.



(6) COMPANY: Magna Properties, Ltd.; DOCKET NUMBER: 2021-0395-PWS-E; IDENTIFIER: RN105736474; LOCATION: Orange, Orange County; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.41(c)(1)(F), by failing to obtain a sanitary control easement that covers the land within 150 feet of the facility's well; 30 TAC §290.41(c)(3)(K), by failing to provide a well casing vent for the well that is covered with a 16-mesh or finer corrosion-resistant screen, facing downward, elevated, and located so as to minimize the drawing of contaminants into the well; 30 TAC §290.41(c)(3)(M), by failing to provide a suitable sampling tap on the discharge pipe of the facility's well pump prior to any treatment; 30 TAC §290.41(c)(3)(N), by failing to provide flow-measuring devices for each well to measure production yields and provide for the accumulation of water production data; 30 TAC §290.41(c)(3)(O) and §290.42(m), by failing to provide an intruder-resistant fence or well house around each treatment plant, well unit, and related appurtenances that remains locked during periods of darkness and when the facility is unattended; 30 TAC §290.42(e)(5), by failing to properly cover the hypochlorination solution container to prevent the entrance of dust, insects, and other contaminants; 30 TAC §290.42(l), by failing to compile and maintain a thorough and up-to-date plant operations manual for operator review and reference; 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 a backflow prevention assembly, as identified in 30 TAC §290.47(f); 30 TAC §290.46(d)(2)(A) and §290.110(b)(4) and Texas Health and Safety Code, §341.0315(c), by failing to maintain a minimum disinfectant residual of 0.2 milligram per liter of free chlorine throughout the distribution system at all times; 30 TAC §290.46(f)(2) and (3)(A)(i)(III), by failing to maintain water works operation and maintenance records and make them readily available for review by the executive director upon request; 30 TAC §290.46(m)(1)(B), by failing to inspect the facility's pressure tank annually; 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; 30 TAC §290.46(t), by failing to post a legible sign at the facility's production, treatment, and storage facilities that contains the name of the facility and an emergency telephone number where a responsible official can be contacted; 30 TAC §290.46(v), by failing to securely install all water system electrical wiring in compliance with a local or national electrical code; 30 TAC §290.110(c)(4)(A), by failing to monitor the disinfectant residual at representative locations throughout the distribution system at least once every seven days; and 30 TAC §290.121(a) and (b), by failing to develop and maintain an up-to-date chemical and microbiological monitoring plan that identifies all sampling locations, describes the sampling frequency, and specifies the analytical procedures and laboratories that the public water system will use to comply with the monitoring requirements; PENALTY: \$20,457; ENFORCEMENT COORDINATOR: Epifanio Villarreal, (361) 825-3421; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1830, (409) 898-3838.

(7) COMPANY: San Miguel Electric Cooperative, Incorporated; DOCKET NUMBER: 2020-0622-AIR-E; IDENTIFIER: RN100226539; LOCATION: Christine, Atascosa County; TYPE OF FACILITY: electric power generation plant; RULES VIOLATED: 30 TAC §§101.20(2), 113.1300, 116.115(b)(2)(F) and (c), and 122.143(4), 40 Code of Federal Regulations §63.10005(a), New Source Review Permit Number 4180A, Special Conditions Number 1, Federal Operating Permit Number O85, General Terms and Conditions and Special Terms and Conditions Numbers 1 and 10, and Texas Health and Safety Code, §382.085(b), by failing to comply with the emissions limit and maximum allowable emissions rate; PENALTY: \$18,600; SUPPLEMENTAL ENVIRONMENTAL PROJECT OFFSET AMOUNT:

\$14,880; ENFORCEMENT COORDINATOR: Johnnie Wu, (512) 239-2524; REGIONAL OFFICE: 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

(8) COMPANY: THE MILESTONE VENTURES LLC dba Lakeway Country Store; DOCKET NUMBER: 2021-0383-PST-E; IDENTIFIER: RN105869853; LOCATION: Texarkana, Bowie County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.49(c)(4)(C) and TWC, §26.3475(d), by failing to inspect and test the corrosion protection system for operability at a frequency of at least once every three years; and 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: \$6,875; ENFORCEMENT COORDINATOR: Ken Moller, (512) 239-6111; REGIONAL OFFICE: 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

(9) COMPANY: Vander Horst Enterprises, LLC; DOCKET NUMBER: 2021-0883-AGR-E; IDENTIFIER: RN102095635; LOCATION: Dublin, Erath County; TYPE OF FACILITY: concentrated animal feeding operation; RULES VIOLATED: 30 TAC §305.125(1) and (4) and §321.31(a), TWC, §26.121(a)(1), and Texas Pollutant Discharge Elimination System Permit Number WQ0003094000, Part VI.A, by failing to prevent the unauthorized discharge of agricultural waste into or adjacent to any water in the state; PENALTY: \$2,813; ENFORCEMENT COORDINATOR: Steven Van Landingham, (512) 239-5717; REGIONAL OFFICE: 580-D West Lingleville Road, Stephenville, Texas 76401-2209, (817) 588-5800.

TRD-202105232

Charmaine Backens

Deputy Director, Litigation

Texas Commission on Environmental Quality

Filed: December 28, 2021



Combined Notice of Public Meeting, Notice of Receipt of Application and Intent to Obtain Water Quality Permit and Notice of Application and Preliminary Decision for TPDES Permit for Municipal Wastewater New Permit No. WQ0015977001

APPLICATION AND PRELIMINARY DECISION. FM 2920 Land Company, Ltd., 2000 West Parkwood Avenue, Friendswood, Texas 77546, has applied to the Texas Commission on Environmental Quality (TCEQ) for new Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0015977001, to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 120,000 gallons per day. TCEQ received this application on April 15, 2021.

This combined notice is being issued to ensure all persons on the county wide mailing list for Harris County receive notice of draft TPDES Permit No. WQ0015977001. The Notice of Receipt of Application and Intent to Obtain Water Quality Permit and Notice of Application and Preliminary Decision for TPDES Permit for Municipal Wastewater New were previously mailed to the county wide mailing list for Galveston County.

The facility will be located on Farm-to-Market Road 2920 approximately 550 feet east of the intersection of Farm-to-Market Road 2920 and Three Pines Drive, in Harris County, Texas 77447. The treated effluent will be discharged to a man-made ditch, thence to Spring Creek in

Segment No. 1008 of the San Jacinto River Basin. The unclassified receiving water uses are minimal aquatic life use for the man-made ditch and high aquatic life use for Spring Creek. The designated uses for Segment No. 1008 are primary contact recreation, public water supply, and high aquatic life use. In accordance with 30 Texas Administrative Code §307.5 and the TCEQ implementation procedures (June 2010) for the Texas Surface Water Quality Standards, an antidegradation review of the receiving waters was performed. A Tier 1 antidegradation review has preliminarily determined that existing water quality uses will not be impaired by this permit action. Numerical and narrative criteria to protect existing uses will be maintained. A Tier 2 review has preliminarily determined that no significant degradation of water quality is expected in Spring Creek, which has been identified as having high aquatic life use. Existing uses will be maintained and protected. The preliminary determination can be reexamined and may be modified if new information is received. This link to an electronic map of the site or facility's general location is provided as a public courtesy and is not part of the application or notice. For the exact location, refer to the application.

<https://tceq.maps.arcgis.com/apps/webappviewer/index.html?id=db5bac44afbc468bbddd360f8168250f&marker=-95.743055%2C30.079722&level=12>

The TCEQ Executive Director has completed the technical review of the application and prepared a draft permit. The draft permit, if approved, would establish the conditions under which the facility must operate. The Executive Director has made a preliminary decision that this permit, if issued, meets all statutory and regulatory requirements. The permit application, Executive Director's preliminary decision, and draft permit are available for viewing and copying at Northwest Branch Library, 11355 Regency Green Drive, Cypress, Texas.

**PUBLIC COMMENT / PUBLIC MEETING.** You may submit public comments about this application. The TCEQ will hold a public meeting on this application because it was requested by a local legislator.

The purpose of a public meeting is to provide the opportunity to submit comments or to ask questions about the application. A public meeting will be held and will consist of two parts, an Informal Discussion Period and a Formal Comment Period. A public meeting is not a contested case hearing under the Administrative Procedure Act. During the Informal Discussion Period, the public will be encouraged to ask questions of the applicant and TCEQ staff concerning the permit application. The comments and questions submitted orally during the Informal Discussion Period will not be considered before a decision is reached on the permit application and no formal response will be made. Responses will be provided orally during the Informal Discussion Period. During the Formal Comment Period on the permit application, members of the public may state their formal comments orally into the official record. A written response to all timely, relevant and material, or significant comments will be prepared by the Executive Director. All formal comments will be considered before a decision is reached on the permit application. A copy of the written response will be sent to each person who submits a formal comment or who requested to be on the mailing list for this permit application and provides a mailing address. Only relevant and material issues raised during the Formal Comment Period can be considered if a contested case hearing is granted on this permit application.

The Public Meeting is to be held:

Monday, February 7, 2022 at 7:00 p.m.

Members of the public who would like to ask questions or provide comments during the meeting may access the meeting via webcast by following this link: <https://www.gotomeeting.com/webinar/join-webinar> and entering Webinar ID 492-287-019. It is recommended that you

join the webinar and register for the public meeting at least 15 minutes before the meeting begins. You will be given the option to use your computer audio or to use your phone for participating in the webinar.

Those without internet access must call (512) 239-1201 at least one day prior to the meeting to register for the meeting and to obtain information for participating telephonically. Members of the public who wish to only listen to the meeting may call, toll free, (562) 247-8422 and enter access code 441-900-719. 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>.

Persons with disabilities who need special accommodations at the meeting should call the Office of the Chief Clerk at (512) 239-3300 or (800) RELAY-TX (TDD) at least five business days prior to the meeting.

**OPPORTUNITY FOR A CONTESTED CASE HEARING.** After the deadline for submitting public comments, the Executive Director will consider all timely comments and prepare a response to all relevant and material, or significant public comments. Unless the application is directly referred for a contested case hearing, the response to comments will be mailed to everyone who submitted public comments and to those persons who are on the mailing list for this application. If comments are received, the mailing will also provide instructions for requesting a contested case hearing or reconsideration of the Executive Director's decision. A contested case hearing is a legal proceeding similar to a civil trial in a state district court.

**TO REQUEST A CONTESTED CASE HEARING, YOU MUST INCLUDE THE FOLLOWING ITEMS IN YOUR REQUEST:** your name, address, phone number; applicant's name and proposed permit number; the location and distance of your property/activities relative to the proposed facility; a specific description of how you would be adversely affected by the facility in a way not common to the general public; a list of all disputed issues of fact that you submit during the comment period; and the statement "[I/we] request a contested case hearing." If the request for contested case hearing is filed on behalf of a group or association, the request must designate the group's representative for receiving future correspondence; identify by name and physical address an individual member of the group who would be adversely affected by the proposed facility or activity; provide the information discussed above regarding the affected member's location and distance from the facility or activity; explain how and why the member would be affected; and explain how the interests the group seeks to protect are relevant to the group's purpose.

Following the close of all applicable comment and request periods, the Executive Director will forward the application and any requests for reconsideration or for a contested case hearing to the TCEQ Commissioners for their consideration at a scheduled Commission meeting.

The Commission may only grant a request for a contested case hearing on issues the requestor submitted in their timely comments that were not subsequently withdrawn. If a hearing is granted, the subject of a hearing will be limited to disputed issues of fact or mixed questions of fact and law relating to relevant and material water quality concerns submitted during the comment period. TCEQ may act on an application to renew a permit for discharge of wastewater without providing an opportunity for a contested case hearing if certain criteria are met.

**EXECUTIVE DIRECTOR ACTION.** The Executive Director may issue final approval of the application unless a timely contested case hearing request or request for reconsideration is filed. If a timely hearing request or request for reconsideration is filed, the Executive Director will not issue final approval of the permit and will forward the appli-

cation and request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting.

**MAILING LIST.** If you submit public comments, a request for a contested case hearing or a reconsideration of the Executive Director's decision, you will be added to the mailing list for this specific application to receive future public notices mailed by the Office of the Chief Clerk. In addition, you may request to be placed on: (1) the permanent mailing list for a specific applicant name and permit number; and/or (2) the mailing list for a specific county. If you wish to be placed on the permanent and/or the county mailing list, clearly specify which list(s) and send your request to TCEQ Office of the Chief Clerk at the address below.

All written public comments and public meeting requests must be submitted to the Office of the Chief Clerk, MC 105, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087 or electronically at [www14.tceq.texas.gov/epic/eComment/](http://www14.tceq.texas.gov/epic/eComment/) within 30 days from the date of newspaper publication of this notice or by the date of the public meeting, whichever is later.

**INFORMATION AVAILABLE ONLINE.** For details about the status of the application, visit the Commissioners' Integrated Database at [www.tceq.texas.gov/goto/cid](http://www.tceq.texas.gov/goto/cid). Search the database using the permit number for this application, which is provided at the top of this notice.

**AGENCY CONTACTS AND INFORMATION.** Public comments and requests must be submitted either electronically at [www14.tceq.texas.gov/epic/eComment/](http://www14.tceq.texas.gov/epic/eComment/), or in writing to the Texas Commission on Environmental Quality, Office of the Chief Clerk, MC-105, P.O. Box 13087, Austin, Texas 78711-3087. Any personal information you submit to the TCEQ will become part of the agency's record; this includes email addresses. For more information about this permit application or the permitting process, please call the TCEQ Public Education Program, Toll Free, at (800) 687-4040 or visit their website at [www.tceq.texas.gov/goto/pep](http://www.tceq.texas.gov/goto/pep). Si desea información en español, puede llamar al (800) 687-4040.

Further information may also be obtained from FM 2920 Land Company, Ltd. at the address stated above or by calling Mr. Phi Nguyen, P.E., Senior Project Engineer, Ward, Getz & Associates, at (713) 489-9568.

Issuance Date: December 29, 2021

TRD-202105251

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: December 29, 2021



#### Enforcement Orders

An agreed order was adopted regarding BEST DEVELOPMENT COMPANY, LLC, Docket No. 2020-0282-WQ-E on December 28, 2021, assessing \$7,500 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Tracy Chandler, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding BEST DEVELOPMENT COMPANY, LLC, Docket No. 2020-0931-WQ-E on December 28, 2021, assessing \$7,500 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Tracy Chandler, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was adopted regarding 3AR INC dba Handy Stop, Docket No. 2020-1384-PST-E on December 28, 2021, assessing \$6,101 in administrative penalties. Information concerning any aspect of this order may be obtained by contacting Cynthia Sirois, Staff Attorney at (512) 239-3400, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

TRD-202105244

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: December 28, 2021



#### Notice of Application and Preliminary Decision for TPDES Permit for Municipal Wastewater Renewal and Notice of Pretreatment Program Substantial Modification

Notice Issued December 28, 2021

APPLICATION NO. WQ0014416001; City of Denton, 1100 South Mayhill Road, Denton, Texas 76208, has applied to the Texas Commission on Environmental Quality (TCEQ) for a renewal of Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0014416001 which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 950,000 gallons per day. TCEQ received this application on April 30, 2021. The facility is located approximately 1,200 feet east of Farm-to-Market Road 428 and north of Hartlee Field Road, in Denton County, Texas 76208. The treated effluent is discharged to Pond, thence to Pond 2, thence to Clear Creek, thence to Lewisville Lake in Segment No. 0823 of the Trinity River Basin. The unclassified receiving water use is high aquatic life use for Clear Creek. The designated uses for Segment No. 0823 are primary contact recreation, public water supply, and high aquatic life use. All determinations are preliminary and subject to additional review and/or revisions. This link to an electronic map of the site or facility's general location is provided as a public courtesy and is not part of the application or notice. For the exact location, refer to the application.

<https://tceq.maps.arcgis.com/apps/webappviewer/index.html?id=db5bac44afbc468bbddd360f8168250f&marker=-97.065833%2C33.28&level=12>

The applicant has also applied to the TCEQ for approval of a substantial modification to its approved pretreatment program under the TPDES program. Approval of the request for modification to the pretreatment program will allow the applicant to incorporate the Streamlining Rule requirements and revise the ordinance, enforcement response plan, and standard operating procedures (including forms) which incorporate such revisions. The request for approval complies with both federal and State requirements. The substantial modification will be approved without change if no substantive comments are received within 30 days of notice publication. The TCEQ Executive Director has completed the technical review of the application, pretreatment program substantial modification, and prepared a draft permit. The draft permit, if approved, would establish the conditions under which the facility must operate. The Executive Director has made a preliminary decision that this permit, if issued, meets all statutory and regulatory requirements. The Executive Director has also made a preliminary decision that the requested substantial modification to the approved pretreatment program, if approved, meets all statutory and regulatory requirements. The permit application, Executive Director's preliminary decision, pretreatment program substantial modification, and draft permit are available for viewing and copying at City of Denton Service Center, 901 Texas Street, Suite A, Denton, Texas.

You may submit public comments or request a public meeting about this application or on the application for substantial modification of the pretreatment program. The purpose of a public meeting is to provide the opportunity to submit comments or to ask questions about the application or the application for substantial modification of the pretreatment program. TCEQ holds a public meeting if the Executive Director determines that there is a significant degree of public interest in the application, or the application for substantial modification of the pretreatment program, or if requested by a local legislator. A public meeting is not a contested case hearing.

After the deadline for submitting public comments, the Executive Director will consider all timely comments and prepare a response to all relevant and material, or significant public comments. Unless the application is directly referred for a contested case hearing, the response to comments will be mailed to everyone who submitted public comments and to those persons who are on the mailing list for this application. If comments are received, the mailing will also provide instructions for requesting a contested case hearing or reconsideration of the Executive Director's decision. There is no opportunity to request a contested case hearing on the application for substantial modification of the pretreatment program. A contested case hearing is a legal proceeding similar to a civil trial in a state district court.

TO REQUEST A CONTESTED CASE HEARING, YOU MUST INCLUDE THE FOLLOWING ITEMS IN YOUR REQUEST: your name, address, phone number; applicant's name and proposed permit number; the location and distance of your property/activities relative to the proposed facility; a specific description of how you would be adversely affected by the facility in a way not common to the general public; a list of all disputed issues of fact that you submit during the comment period; and the statement "[I/we] request a contested case hearing."

If the request for contested case hearing is filed on behalf of a group or association, the request must designate the group's representative for receiving future correspondence; identify by name and physical address an individual member of the group who would be adversely affected by the proposed facility or activity; provide the information discussed above regarding the affected member's location and distance from the facility or activity; explain how and why the member would be affected; and explain how the interests the group seeks to protect are relevant to the group's purpose. Following the close of all applicable comment and request periods, the Executive Director will forward the application and any requests for reconsideration or for a contested case hearing to the TCEQ Commissioners for their consideration at a scheduled Commission meeting.

The Commission may only grant a request for a contested case hearing on issues the requestor submitted in their timely comments that were not subsequently withdrawn. If a hearing is granted, the subject of a hearing will be limited to disputed issues of fact or mixed questions of fact and law relating to relevant and material water quality concerns submitted during the comment period. TCEQ may act on an application to renew a permit for discharge of wastewater without providing an opportunity for a contested case hearing if certain criteria are met.

The Executive Director may issue final approval of the application unless a timely contested case hearing request or request for reconsideration is filed. If a timely hearing request or request for reconsideration is filed, the Executive Director will not issue final approval of the permit and will forward the application and request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting.

If you submit public comments, a request for a contested case hearing or a reconsideration of the Executive Director's decision, you will be added to the mailing list for this specific application to receive future

public notices mailed by the Office of the Chief Clerk. In addition, you may request to be placed on: (1) the permanent mailing list for a specific applicant name and permit number; and/or (2) the mailing list for a specific county. If you wish to be placed on the permanent and/or the county mailing list, clearly specify which list(s) and send your request to TCEQ Office of the Chief Clerk at the address below.

All written public comments and public meeting requests must be submitted to the Office of the Chief Clerk, MC 105, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087 or electronically at [www14.tceq.texas.gov/epic/eComment/](http://www14.tceq.texas.gov/epic/eComment/) within 30 days from the date of newspaper publication of this notice.

For details about the status of the application, visit the Commissioners' Integrated Database at [www.tceq.texas.gov/goto/cid](http://www.tceq.texas.gov/goto/cid). Search the database using the permit number for this application, which is provided at the top of this notice.

Public comments and requests must be submitted either electronically at [www14.tceq.texas.gov/epic/eComment/](http://www14.tceq.texas.gov/epic/eComment/), or in writing to the Texas Commission on Environmental Quality, Office of the Chief Clerk, MC-105, P.O. Box 13087, Austin, Texas 78711-3087. Any personal information you submit to the TCEQ will become part of the agency's record; this includes email addresses.

For more information about this permit application, the application for a substantial modification of the pretreatment program, or the permitting process, please call the TCEQ Public Education Program, toll free, at (800) 687-4040 or visit their website at [www.tceq.texas.gov/goto/pep](http://www.tceq.texas.gov/goto/pep). Si desea información en español, puede llamar al (800) 687-4040. Further information may also be obtained from City of Denton at the address stated above or by calling Mr. William "Rusty" Willard, City of Denton, at (940) 349-8601.

TRD-202105246

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: December 28, 2021



### Notice of Correction to Agreed Order Number 3

In the August 6, 2021, issue of the *Texas Register* (46 TexReg 4863), the Texas Commission on Environmental Quality (commission) published notice of Agreed Orders, specifically Item Number 3, for DOLPHIN WORLD, INCORPORATED, Docket Number 2021-0265-PST-E. The error is as submitted by the commission.

The reference to the penalty should be corrected to read: "\$8,223".

For questions concerning the error, please contact Michael Parrish at (512) 239-2548.

TRD-202105233

Charmaine Backens

Deputy Director, Litigation

Texas Commission on Environmental Quality

Filed: December 28, 2021



### Notice of Hearing; Fernando Silos; SOAH Docket No. 582-22-1008; TCEQ Docket No. 2021-1412-LIC

**APPLICATION.** Fernando Silos, 3031 Karla Drive, Mesquite, Texas 75150, has applied to the Texas Commission on Environmental Quality (TCEQ) for a Backflow Prevention Assembly License. The Executive Director denied Mr. Silos's application for cause. Mr. Silos

has requested a formal hearing on the Executive Director's decision. During the review of Mr. Silos's application, the Executive Director discovered that Mr. Silos received deferred adjudication for a Class B Misdemeanor, a First-Degree Felony, three Third Degree Felonies and was convicted of a State Jail Felony. The Executive Director denied Mr. Silos's application because he was convicted of a misdemeanor and felonies that directly relate to the duties and responsibilities of the licensed occupation.

**CONTESTED CASE HEARING.** The State Office of Administrative Hearings (SOAH) will conduct a preliminary hearing via Zoom video-conference. A Zoom meeting is a secure, free meeting held over the internet that allows video, audio, or audio/video conferencing.

10:00 a.m. - January 27, 2022

To join the Zoom meeting via computer:

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

**Meeting ID:** 160 457 3166

**Password:** gVhkR3

or

To join the Zoom meeting via telephone:

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

**Meeting ID:** 160 457 3166

**Password:** 275094

The purpose of a preliminary hearing is to establish jurisdiction, name the parties, establish a procedural schedule for the remainder of the proceeding, provide an opportunity for settlement discussions, and address other matters as determined by the administrative law judge. The preliminary hearing will be held unless all timely hearing requests are withdrawn or the parties agree to waive the preliminary hearing.

The evidentiary phase of the contested case hearing, to be held at a later date, will be a legal proceeding similar to a civil trial in state district court to determine whether Mr. Silos should be issued a Backflow Prevention Assembly. 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. **If Fernando Silos fails to appear at the preliminary hearing or evidentiary hearing, the Executive Director will request that the hearing be canceled, and that appeal of the Executive Director's decision be dismissed.**

**SOAH's rules allow for participation by telephone or videoconference. Permission must be obtained from SOAH at least ten days before the hearing.**

Legal Authority: Texas Water Code Chapters 5 and 37; Texas Occupations Code Chapter 53; Texas Government Code, Chapter 2001; 30 Texas Administrative Code (TAC) Chapter 30, and the procedural rules of the TCEQ and SOAH, including 30 TAC Chapters 70 and 80 and 1 TAC Chapter 155.

**INFORMATION.** For information concerning the hearing process, please contact the TCEQ Office of Public Interest Counsel, MC 103, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-6363. Further information regarding this hearing may be obtained by contacting Hollis Henley, Staff Attorney, TCEQ, Environmental Law Division, MC 173, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2253. General information about the TCEQ can be found at our web site at [www.tceq.texas.gov](http://www.tceq.texas.gov). General information about SOAH can be found on its website at [www.soah.texas.gov/index.asp](http://www.soah.texas.gov/index.asp), or by calling (512) 475-4993.

**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](http://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](http://www.soah.texas.gov), or in printed format upon request to SOAH."**

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

Issued: December 23, 2021

TRD-202105245

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: December 28, 2021



### Notice of Opportunity to Comment on a Default Order of Administrative Enforcement Actions

The Texas Commission on Environmental Quality (TCEQ or commission) staff is providing an opportunity for written public comment on the listed Default Order (DO). The commission staff proposes a DO when the staff has sent the Executive Director's Preliminary Report and Petition (EDPRP) to an entity outlining the alleged violations; the proposed penalty; the proposed technical requirements necessary to bring the entity back into compliance; and the entity fails to request a hearing on the matter within 20 days of its receipt of the EDPRP or requests a hearing and fails to participate at the hearing. Similar to the procedure followed with respect to Agreed Orders entered into by the executive director of the commission, in accordance with Texas Water Code (TWC), §7.075, this notice of the proposed order and the opportunity to comment is published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **February 8, 2022**. The commission will consider any written comments received, and the commission may withdraw or withhold approval of a DO if a comment discloses facts or considerations that indicate that consent to the proposed DO is inappropriate, improper, inadequate, or inconsistent with the requirements of the statutes and rules within the commission's jurisdiction, or the commission's orders and permits issued in accordance with the commission's regulatory authority. Additional notice of changes to a proposed DO is not required to be published if those changes are made in response to written comments.

A copy of the 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 February 8, 2022**. Comments may also be sent by facsimile machine to the attorney at (512) 239-3434. The commission's attorney is available to discuss the DO

and/or the comment procedure at the listed phone number; however, TWC, §7.075, provides that comments on the DO shall be submitted to the commission in **writing**.

(1) COMPANY: Thirsty Parrot, LLC; DOCKET NUMBER: 2019-0200-PWS-E; TCEQ ID NUMBER: RN105232177; LOCATION: 13200 Farm-to-Market Road 359 near Monaville, Waller County; TYPE OF FACILITY: public water system; RULES VIOLATED: 30 TAC §290.41(c)(3)(M), by failing to provide a suitable sampling cock on the discharge pipe of the facility's well pump prior to treatment; 30 TAC §290.46(m), by failing to initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of the system's facilities and equipment; 30 TAC §290.41(c)(3)(N), by failing to provide a flow-measuring device for the well to measure production yields and provide for the accumulation of water production data; Texas Health and Safety Code, §341.035(a), 30 TAC §290.39(e)(1) and (h)(1), and TCEQ Agreed Order (AO) Docket Number 2013-0215-PWS-E, Ordering Provision Number 2.b.ii, by failing to submit plans and specifications to the executive director (ED) for review and approval prior to the construction of a new public water supply; 30 TAC §290.41(c)(3)(A) and TCEQ AO Docket Number 2013-0215-PWS-E, Ordering Provision Number 2.b.i, by failing to submit well completion data for review and approval prior to placing the facility's public drinking water well into service; and 30 TAC §290.110(e)(4)(B), by failing to retain Disinfectant Level Quarterly Operating Reports and provide a copy if requested by the ED; PENALTY: \$820; STAFF ATTORNEY: John S. Mercurief II, Litigation, MC 175, (512) 239-6944; REGIONAL OFFICE: Houston Regional Office, 5425 Polk Street, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

TRD-202105238

Charmaine Backens

Deputy Director, Litigation

Texas Commission on Environmental Quality

Filed: December 28, 2021



#### Notice of Opportunity to Comment on Agreed Orders of Administrative Enforcement Actions

The Texas Commission on Environmental Quality (TCEQ or commission) staff is providing an opportunity for written public comment on the listed Agreed Orders (AOs) in accordance with Texas Water Code (TWC), §7.075. TWC, §7.075, requires that before the commission may approve the AOs, the commission shall allow the public an opportunity to submit written comments on the proposed AOs. TWC, §7.075, requires that notice of the opportunity to comment must be published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **February 8, 2022**. TWC, §7.075, also requires that the commission promptly consider any written comments received and that the commission may withdraw or withhold approval of an AO if a comment discloses facts or considerations that indicate that consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the statutes and rules within the commission's jurisdiction or the commission's orders and permits issued in accordance with the commission's regulatory authority. Additional notice of changes to a proposed AO is not required to be published if those changes are made in response to written comments.

A copy of each proposed AO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building A, 3rd Floor, Austin, Texas 78753, (512) 239-3400 and at the applicable regional office listed as follows. Written comments about an AO should be sent to the attorney designated for the AO at the commission's

central office at P.O. Box 13087, MC 175, Austin, Texas 78711-3087 and must be **received by 5:00 p.m. on February 8, 2022**. 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: MAUKA WATER, LTD.; DOCKET NUMBER: 2020-0700-PWS-E; TCEQ ID NUMBER: RN101174977; LOCATION: 3305 Westview Drive, Venus, Johnson County; TYPE OF FACILITY: public water system; RULES VIOLATED: Texas Health and Safety Code, §341.0315(c), 30 TAC §290.45(b)(1)(D)(i), and TCEQ Default Order Docket Number 2017-1658-PWS-E, Ordering Provision Number 3.c.ii, by failing to provide two or more wells having a total well capacity of 0.6 gallons per minute per connection; PENALTY: \$937; STAFF ATTORNEY: Judy Bohr, Litigation, MC 175, (512) 239-5807; REGIONAL OFFICE: Dallas-Fort Worth Regional Office, 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(2) COMPANY: YGRIEGA ENVIRONMENTAL SERVICES, LLC; DOCKET NUMBER: 2019-1579-MSW-E; TCEQ ID NUMBER: RN107742637; LOCATION: 410 North 87th Street, Edinburg, Hidalgo County; TYPE OF FACILITY: used oil transfer facility; RULES VIOLATED: 40 Code of Federal Regulations (CFR) §112.3 and §112.7, 30 TAC §328.28 and TCEQ AO Docket Number 2014-1887-MSW-E, Ordering Provision Number 2.b.i, by failing to develop a plan to prevent spills and respond to spills in accordance with the federal spill prevention, control, and countermeasure requirements provided by 40 CFR Part 112; and 30 TAC §§37.2011, 324.22(c), and 328.24(e) and TCEQ AO Docket Number 2014-1887-MSW-E, Ordering Provision Number 2.b.vii, by failing to provide evidence of financial responsibility to assure that the facility has sufficient assets to provide for proper soil remediation and closure; PENALTY: \$20,039; STAFF ATTORNEY: Clayton Smith, Litigation, MC 175, (512) 239-6224; REGIONAL OFFICE: Harlingen Regional Office, 1804 West Jefferson Avenue, Harlingen, Texas 78550-5247, (956) 425-6010.

TRD-202105235

Charmaine Backens

Deputy Director, Litigation

Texas Commission on Environmental Quality

Filed: December 28, 2021



#### Notice of Water Quality Application

The following notice was issued on December 23, 2021.

The following notice does not require publication in a newspaper. Written comments or requests for a public meeting may be submitted to the Office of the Chief Clerk, Mail Code 105, P.O. Box 13087, Austin Texas 78711-3087 **WITHIN 30 DAYS OF THE ISSUED DATE OF THE NOTICE**.

#### INFORMATION SECTION

SWWC Utilities, Inc. has applied for a minor amendment to the TPDES Permit No. WQ0015837001 to authorize an increase in the Interim I phase from a daily average flow of 0.10 MGD to a daily average flow of 0.135 MGD and the Interim II phase from a daily average flow of 0.20 MGD to a daily average flow of 0.27 MGD. The existing permit authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 500,000 gallons per day. The facility will be located approximately 2,450 feet south of

Brazoria County Road 51 (Cannon Road) and 1,100 feet west of State Highway 288, in Brazoria County, Texas 77583.

TRD-202105227

Laurie Gharis

Chief Clerk

Texas Commission on Environmental Quality

Filed: December 27, 2021



## Texas Health and Human Services Commission

### Criminal History Requirements for Child Care Operations

*(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 charts are not included in the print version of the Texas Register. The charts are available in the on-line version of the January 7, 2022, issue of the Texas Register.)*

26 Texas Administrative Code §745.661 (relating to What types of criminal convictions may affect a subject's ability to be present at an operation?) states that the three charts listed in subsection (a) of the section will be updated annually and published every January for public comment in the *Texas Register* as an "In Addition" document. Questions or comments about the content of the proposed changes may be directed to Child Care Regulation at (512) 438-3269.

Written comments may be submitted by email to [ryan.malsbary@hhs.texas.gov](mailto:ryan.malsbary@hhs.texas.gov) or mailed to:

Ryan Malsbary, Policy and Program Operations Program Specialist

Child Care Regulation, Health and Human Services Commission

P.O. Box 149030

Mail Code E550

Austin, Texas 78751

Any comments must be received within 30 days of publication in the *Texas Register*.

The three charts are titled: (1) Licensed or Certified Child Care Operations: Criminal History Requirements; (2) Foster or Adoptive Placements: Criminal History Requirements; and (3) Registered Child Care Homes and Listed Family Homes: Criminal History Requirements. Each chart has three parts: an introduction that identifies the types of operations each chart covers, defines certain terms used in the chart, and clarifies certain assumptions; a Table of Contents; and the applicable chart.

Changes made to the charts include:

- (1) deleting a reference to independent foster homes in the introduction of the chart for Licensed or Certified Child Care Operations;
- (2) changing the responses for both felony and misdemeanor level offenses to Penal Code §43.02, Prostitution, in the chart for Licensed or Certified Child Care Operations;
- (3) changing the response for the felony level offense to Penal Code §43.02, Prostitution, in the chart for Registered Child Care Homes and Listed Family Homes;
- (4) adding Penal Code §43.021, Solicitation of Prostitution, to all three charts;
- (5) adding Penal Code §46.04 Unlawful Possession of Firearm, to all three charts;

(6) correcting the offense title for Penal Code §46.05, Prohibited Weapons, in all three charts, so that the reference includes a misdemeanor in addition to a felony;

(7) relocating Penal Code §46.08, Hoax Bombs, in the chart for Foster or Adoptive Homes;

(8) incorporating Family Code §107.111, Child Custody Evaluator Access to Investigative Records of Department, which was previously known by a different offense title and section number, into all three charts;

(9) correcting the response for the misdemeanor level offense to Code of Criminal Procedure §62.102, Failure to Comply with Sex Offender Registration Requirements, in all three charts;

(10) correcting several of the column titles naming codes of statute; and

(11) making nonsubstantive changes.

TRD-202105229

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Filed: December 27, 2021



## Public Notice - Texas State Plan for Medical Assistance Amendment

The Texas Health and Human Services Commission (HHSC) announces its intent to submit an amendment to the Texas State Plan for Medical Assistance, under Title XIX of the Social Security Act.

The purpose of the amendment is to adjust the payment rate methodology for Primary Home Care attendant base wages. The amendment is proposed in order to implement the requirements of the 2020-21 General Appropriations Act, House Bill 1, 86th Legislature, Regular Session, 2019 (Article II, HHSC, Rider 45). The proposed amendment is effective January 1, 2022.

The proposed amendment is estimated to result in an annual aggregate expenditure of \$840,353 for the remainder of federal fiscal year (FFY) 2021, consisting of \$571,524 in federal funds and \$268,829 in state general revenue. For FFY 2022, the estimated annual aggregate expenditure is \$655,081, consisting of \$418,597 in federal funds and \$236,484 in state general revenue. For FFY 2023, the estimated annual aggregate expenditure is \$873,441, consisting of \$522,929 in federal funds and \$350,512 in state general revenue.

Further detail on specific reimbursement rates and percentage changes is available on the HHSC Provider Finance website under the proposed effective date at: <http://pfd.hhs.texas.gov/rate-packets>.

Rate Hearing. A rate hearing was held on November 12, 2021, at 9:00 a.m. in Austin, Texas. Information about the proposed rate change and the hearing can be found in the October 29, 2021, issue of the *Texas Register* on page 7454 at <http://www.sos.state.tx.us/texreg/index.shtml>.

Copy of Proposed Amendment. To obtain a copy of the proposed amendment, interested parties may contact Holly Freed, State Plan Team Lead, by mail at the Health and Human Services Commission, P.O. Box 13247, Mail Code H-600, Austin, Texas 78711; by telephone at (512) 428-1932; by facsimile at (512) 730-7472; or by email at [Medicaid\\_Chip\\_SPA\\_Inquiries@hhsc.state.tx.us](mailto:Medicaid_Chip_SPA_Inquiries@hhsc.state.tx.us). At this time, HHSC is encouraging communications be sent via email. Copies of the proposed amendment will be available for review at the local county offices of HHSC, (which were formerly the local offices of the Texas Department of Aging and Disability Services).

Written Comments. Written comments and/or requests to review comments may be sent by U.S. mail, overnight mail, special delivery mail, hand delivery, fax, or email:

U.S. Mail

Texas Health and Human Services Commission

Attention: Provider Finance, Mail Code H-400

P.O. Box 149030

Austin, Texas 78714-9030

Overnight mail, special delivery mail, or hand delivery

Texas Health and Human Services Commission

Attention: Provider Finance, Mail Code H-400

North Austin Complex

4601 W Guadalupe Street

Austin, Texas 78751

Phone number for package delivery: (512) 730-7401

Fax

Attention: Provider Finance at (512) 730-7475

Email

PFD-LTSS@hhs.texas.gov

Preferred Communication. During the current state of disaster due to COVID-19, physical forms of communication are checked with less frequency than during normal business operations. For quickest response, and to help curb the possible transmission of infection, please use e-mail or phone if possible for communication with HHSC related to this rate hearing.

TRD-202105248

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Filed: December 29, 2021



**Department of State Health Services**

Licensing Actions for Radioactive Materials



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

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

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

**NEW LICENSES ISSUED:**

Location of Use/Possession of Material	Name of Licensed Entity	License Number	City of Licensed Entity	Amendment Number	Date of Action
IRVING	BUILDING & EARTH SCIENCES INC	L07142	IRVING	00	11/30/21

AMENDMENTS TO EXISTING LICENSES ISSUED:

Location of Use/Possession of Material	Name of Licensed Entity	License Number	City of Licensed Entity	Amendment Number	Date of Action
ADDISON TX	TEXAS CENTER FOR INTERVENTIONAL SURGERY LLC	L07062	ADDISON	01	11/15/21
ALLEN	TEXAS HEALTH PRESBYTERIAN HOSPITAL ALLEN	L05765	ALLEN	39	11/17/21
ANDERSON	NATIONAL OILWELL VARCO LPROLLIGON DIVISION	L06094	ANDERSON	20	11/24/21
AUSTIN	ST DAVIDS HEALTHCARE PARTNERSHIP LP LLP	L06335	AUSTIN	38	11/22/21
AUSTIN TX	ARISE HEALTHCARE SYSTEM LLC DBA ARISE AUSTIN MEDICAL CENTER	L06621	AUSTIN	005	11/24/21
BEAUMONT	EXXON MOBIL CORPORATION	L00603	BEAUMONT	111	11/17/21
BISHOP	TICONA POLYMERS INC	L02441	BISHOP	67	11/12/21
BURNET	ZETEX ENTERPRISELLC	L06295	BURNETT	04	11/23/21
CYPRESS	KPH CONSOLIDATION INC DBA HCA HOUSTON HEALTHCARE NORTH CYPRESS	L06988	CYPRESS	05	11/19/21
DALLAS	UNIVERSITY OF TEXAS SOUTHWESTERN MEDICAL CENTER AT DALLAS	L05947	DALLAS	50	11/30/21

AMENDMENTS TO EXISTING LICENSES ISSUED: (continued)

DECATUR TX	DECATUR HOSPITAL AUTHORITY DBA WISE HEALTH SYSTEM	L02382	DECATUR	046	11/29/21
GRAND PRAIRIE	US ECOLOGY TEXAS INC	L05518	GRAND PRAIRIE	17	11/19/21
HOUSTON	GAMMATRON INC	L02148	FRIENDSWOOD	32	11/12/21
HOUSTON	TEXAS NUCLEAR IMAGING LP DBA EXCEL DIAGNOSTICS AND NUCLEAR ONCOLOGY CENTER	L05009	HOUSTON	057	11/17/21
HOUSTON	HOUSTON REFINING LP	L00187	HOUSTON	82	11/23/21
HOUSTON	AMERICAN DIAGNOSTIC TECH LLC	L05514	HOUSTON	152	11/22/21
JEWETT	NUCOR CORPORATION	L02504	JEWETT	26	11/23/21
LAKE JACKSON	THE DOW CHEMICAL COMPANY	L00451	LAKE JACKSON	111	11/24/21
LONGVIEW	CHRISTUS GOOD SHEPHERD MEDICAL CENTER	L06902	LONGVIEW	10	11/12/21
MCKINNEY	TEXAS ONCOLOGY PA	L06947	MCKINNEY	13	11/22/21
PASADENA	CELANESE LTD	L01130	PASADENA	82	11/22/21
PLANO	HEARTPLACE PA	L05699	PLANO	20	11/19/21
PLANO	ORANO MED LLC	L06781	PLANO	22	11/30/21
POINT COMFORT	FORMOSA PLASTICS CORPORATION TEXAS	L03893	POINT COMFORT	61	11/12/21
SAN ANTONIO TX	METHODIST HEALTHCARE SYSTEM OF SAN ANTONIO LTD LLP	L00594	SAN ANTONIO	384	11/16/21

AMENDMENTS TO EXISTING LICENSES ISSUED: (continued)

SHERMAN	SHERMAN/GRAYS ON HOSPITAL LLC DBA WILSON N JONES MEDICAL CENTER	L06354	SHERMAN	18	11/22/21
SINTON	STEEL DYNAMICS SOUTHWEST LLC	L07106	SINTON	001	11/17/21
TEMPLE	SCOTT & WHITE MEMORIAL HOSPITAL	L00331	TEMPLE	115	11/22/21
THROUGHOUT TX	DESERT NDT LLC DBA SHAWCOR	L06462	ABILENE	52	11/19/21
THROUGHOUT TX	TEAM INDUSTRIAL SERVICES INC	L00087	ALVIN	256	11/18/21
THROUGHOUT TX	WEATHERFORD INTERNATIONAL LLC	L00747	BENBROOK	118	11/18/21
THROUGHOUT TX	ATC GROUP SERVICES INC	L05920	HOUSTON	09	11/23/21
THROUGHOUT TX	ALS MAVERICK TESTING LABORATORIES INC	L06608	HOUSTON	14	11/30/21
THROUGHOUT TX	CARDINAL HEALTH 414 LLC DBA CARDINAL HEALTH NUCLEAR PHARMACY SERVICES	L01911	HOUSTON	169	11/23/21
THROUGHOUT TX	ACUREN INSPECTION INC	L01774	LA PORTE	306	11/19/21
THROUGHOUT TX	MULTI PHASE METER SOLUTIONS LLC	L07141	MIDLAND	01	11/16/21
THROUGHOUT TX	SCHLUMBERGER TECHNOLOGY CORPORATION (STC)	L06880	SUGAR LAND	11	11/19/21
THROUGHOUT TX	CUDD PUMPING SERVICES INC	L06989	THE WOODLANDS	05	11/29/21
WEBSTER	CHCA CLEAR LAKE LP	L01680	WEBSTER	111	11/17/21

AMENDMENTS TO EXISTING LICENSES ISSUED: (continued)

WICHITA FALLS	UNITED REGIONAL HEALTH CARE SYSTEM INC	L00350	WICHITA FALLS	128	11/15/21
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RENEWAL OF LICENSES ISSUED:

Location of Use/Possession of Material	Name of Licensed Entity	License Number	City of Licensed Entity	Amendment Number	Date of Action
CYPRESS	HOUSTON INTERVENTIONAL CARDIOLOGY PA	L05470	CYPRESS	14	11/24/21
DALLAS	COLUMBIA HOSPITAL AT MEDICAL CITY DALLAS SUBSIDIARY LP	L01976	DALLAS	230	11/23/21
HOUSTON	DIGIRAD IMAGING SOLUTIONS INC	L05414	HOUSTON	48	12/24/21
THROUGHOUT TX	MLA LABS INC	L01820	AUSTIN	39	11/18/21
THROUGHOUT TX	QUANTUM TECHNICAL SERVICES LLC	L06406	HOUSTON	21	11/29/21

TERMINATIONS OF LICENSES ISSUED:

Location of Use/Possession of Material	Name of Licensed Entity	License Number	City of Licensed Entity	Amendment Number	Date of Action
BEAUMONT	THE DOW CHEMICAL COMPANY	L06792	BEAUMONT	05	11/30/21
HOUSTON	TULSA INSPECTION RESOURCES LLC	L06912	HOUSTON	03	11/18/21
HOUSTON	TULSA INSPECTION RESOURCES LLC	L06912	HOUSTON	03	11/17/21
MANSFIELD	LANDTEC ENGINEERS LLC	L05341	MANSFIELD	09	11/17/21

TERMINATIONS OF LICENSES ISSUED: (continued)

TEXARKANA	TEXARKANA REGIONAL HEALTHCARE NETWORK	L06537	TEXARKANA	03	11/15/21
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TRD-202105261  
Cynthia Hernandez  
General Counsel  
Department of State Health Services  
Filed: December 29, 2021

◆ ◆ ◆  
**Texas Department of Insurance**

Notice  
Notice of TWIA Policy Form Filings

Texas Windstorm Insurance Association--Declarations Pages Filings  
Reference Nos. P-1221-26, P-1221-27, P-1221-28, P-1221-29,  
P-1221-30, P-1221-31, P-1221-32, P-1221-33, and P-1221-34  
SERFF State Tracking Nos. S697749, S697750, S697751, S697752,  
S697753, S697757, S697758, S697759, and S697760  
In accordance with 28 TAC §5.4911, the Texas Windstorm Insurance  
Association (TWIA) has filed the following revised declarations pages  
with the Texas Department of Insurance for approval:

- Residential - Dwelling
- Residential - Tenant
- Residential - Condominium
- Residential - Manufactured Homes
- Commercial - Building and Business Personal Property
- Commercial - Condominium Building Master
- Commercial - Habitational (Not Condominium)
- Commercial - Business Property Only
- Commercial - Builders Risk

TWIA is revising its residential and commercial declarations pages as part of implementing an upgraded policy administration system, planned for release in April 2022. TWIA notes that the information in the revised declarations pages will be easier to read than, and substantially similar to, its existing declarations pages.

You can see the revised declarations pages, TWIA's explanation of the filings, and other supporting information at [www.tdi.texas.gov/submissions/indextwia.html#form](http://www.tdi.texas.gov/submissions/indextwia.html#form). You can also get a copy of the filings from the Office of the Chief Clerk, MC-GC-CCO, Texas Department of Insurance, P.O. Box 12030, Austin, Texas 78711-2030.

**Public Comment:** Send comments to [ChiefClerk@tdi.texas.gov](mailto:ChiefClerk@tdi.texas.gov) or to the Office of the Chief Clerk, MC-GC-CCO, Texas Department of Insurance, P.O. Box 12030, Austin, Texas 78711-2030 by 5:00 p.m., central time, on February 7, 2022.

**Hearing Requests:** To request a public hearing about the filings, you must submit a request separately by 5:00 p.m., central time, on January 27, 2022. Send the request for a hearing by email to [ChiefClerk@tdi.texas.gov](mailto:ChiefClerk@tdi.texas.gov) or by mail to the Texas Department of Insurance, Office of the Chief Clerk, MC-GC-CCO, P.O. Box 12030, Austin, Texas 78711-2030.

TRD-202105234  
James Person  
General Counsel  
Texas Department of Insurance  
Filed: December 28, 2021

◆ ◆ ◆  
**Texas Lottery Commission**

Scratch Ticket Game Number 2357 "\$50,000 POKER"

- 1.0 Name and Style of Scratch Ticket Game.  
A. The name of Scratch Ticket Game No. 2357 is "\$50,000 POKER". The play style is "cards - poker".
- 1.1 Price of Scratch Ticket Game.  
A. The price for Scratch Ticket Game No. 2357 shall be \$5.00 per Scratch Ticket.
- 1.2 Definitions in Scratch Ticket Game No. 2357.  
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: 2 OF CLUBS SYMBOL, 3 OF CLUBS SYMBOL, 4 OF CLUBS SYMBOL, 5 OF CLUBS SYMBOL, 6 OF CLUBS SYMBOL, 7 OF CLUBS SYMBOL, 8 OF CLUBS SYMBOL, 9 OF CLUBS SYMBOL, 10 OF CLUBS SYMBOL, J OF CLUBS SYMBOL, Q OF CLUBS SYMBOL, K OF CLUBS SYMBOL, A OF CLUBS SYMBOL, 2 OF SPADES SYMBOL, 3 OF SPADES SYMBOL, 4 OF SPADES SYMBOL, 5 OF SPADES SYMBOL, 6 OF SPADES SYMBOL, 7 OF SPADES SYMBOL, 8 OF SPADES SYMBOL, 9 OF SPADES SYMBOL, 10 OF SPADES SYMBOL, J OF SPADES SYMBOL, Q OF SPADES SYMBOL, K OF SPADES SYMBOL, A OF SPADES SYMBOL, \$5.00, \$10.00, \$15.00, \$20.00, \$25.00, \$50.00, \$75.00, \$100, \$200, \$500, \$2,500 and \$50,000. The possible red Play Symbols are: 2 OF DIAMONDS SYMBOL, 3 OF DIAMONDS SYMBOL, 4 OF DIAMONDS SYMBOL, 5 OF DIAMONDS SYMBOL, 6 OF DIAMONDS SYMBOL, 7 OF DIAMONDS SYMBOL, 8 OF DIAMONDS SYMBOL, 9 OF DIAMONDS SYMBOL, 10

OF DIAMONDS SYMBOL, J OF DIAMONDS SYMBOL, Q OF DIAMONDS SYMBOL, K OF DIAMONDS SYMBOL, A OF DIAMONDS SYMBOL, 2 OF HEARTS SYMBOL, 3 OF HEARTS SYMBOL, 4 OF HEARTS SYMBOL, 5 OF HEARTS SYMBOL, 6 OF HEARTS SYMBOL, 7 OF HEARTS SYMBOL, 8 OF HEARTS SYMBOL, 9 OF HEARTS SYMBOL, 10 OF HEARTS SYMBOL, J OF HEARTS SYMBOL, Q OF HEARTS SYMBOL, K OF HEARTS SYMBOL and A OF HEARTS SYMBOL.

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

Figure 1: GAME NO. 2357 - 1.2D

PLAY SYMBOL	CAPTION
2 OF CLUBS SYMBOL (BLACK)	2CLB (BLACK)
3 OF CLUBS SYMBOL (BLACK)	3CLB (BLACK)
4 OF CLUBS SYMBOL (BLACK)	4CLB (BLACK)
5 OF CLUBS SYMBOL (BLACK)	5CLB (BLACK)
6 OF CLUBS SYMBOL (BLACK)	6CLB (BLACK)
7 OF CLUBS SYMBOL (BLACK)	7CLB (BLACK)
8 OF CLUBS SYMBOL (BLACK)	8CLB (BLACK)
9 OF CLUBS SYMBOL (BLACK)	9CLB (BLACK)
10 OF CLUBS SYMBOL (BLACK)	TCLB (BLACK)
J OF CLUBS SYMBOL (BLACK)	JCLB (BLACK)
Q OF CLUBS SYMBOL (BLACK)	QCLB (BLACK)
K OF CLUBS SYMBOL (BLACK)	KCLB (BLACK)
A OF CLUBS SYMBOL (BLACK)	ACLB (BLACK)
2 OF SPADES SYMBOL (BLACK)	2SPD (BLACK)
3 OF SPADES SYMBOL (BLACK)	3SPD (BLACK)
4 OF SPADES SYMBOL (BLACK)	4SPD (BLACK)
5 OF SPADES SYMBOL (BLACK)	5SPD (BLACK)



6 OF SPADES SYMBOL (BLACK)	6SPD (BLACK)
7 OF SPADES SYMBOL (BLACK)	7SPD (BLACK)
8 OF SPADES SYMBOL (BLACK)	8SPD (BLACK)
9 OF SPADES SYMBOL (BLACK)	9SPD (BLACK)
10 OF SPADES SYMBOL (BLACK)	TSPD (BLACK)
J OF SPADES SYMBOL (BLACK)	JSPD (BLACK)
Q OF SPADES SYMBOL (BLACK)	QSPD (BLACK)
K OF SPADES SYMBOL (BLACK)	KSPD (BLACK)
A OF SPADES SYMBOL (BLACK)	ASPD (BLACK)
2 OF DIAMONDS SYMBOL (RED)	2DMD (RED)
3 OF DIAMONDS SYMBOL (RED)	3DMD (RED)
4 OF DIAMONDS SYMBOL (RED)	4DMD (RED)
5 OF DIAMONDS SYMBOL (RED)	5DMD (RED)
6 OF DIAMONDS SYMBOL (RED)	6DMD (RED)
7 OF DIAMONDS SYMBOL (RED)	7DMD (RED)
8 OF DIAMONDS SYMBOL (RED)	8DMD (RED)
9 OF DIAMONDS SYMBOL (RED)	9DMD (RED)
10 OF DIAMONDS SYMBOL (RED)	TDMD (RED)
J OF DIAMONDS SYMBOL (RED)	JDMD (RED)

Q OF DIAMONDS SYMBOL (RED)	QDMD (RED)
K OF DIAMONDS SYMBOL (RED)	KDMD (RED)
A OF DIAMONDS SYMBOL (RED)	ADMD (RED)
2 OF HEARTS SYMBOL (RED)	2HRT (RED)
3 OF HEARTS SYMBOL (RED)	3HRT (RED)
4 OF HEARTS SYMBOL (RED)	4HRT (RED)
5 OF HEARTS SYMBOL (RED)	5HRT (RED)
6 OF HEARTS SYMBOL (RED)	6HRT (RED)
7 OF HEARTS SYMBOL (RED)	7HRT (RED)
8 OF HEARTS SYMBOL (RED)	8HRT (RED)
9 OF HEARTS SYMBOL (RED)	9HRT (RED)
10 OF HEARTS SYMBOL (RED)	THRT (RED)
J OF HEARTS SYMBOL (RED)	JHRT (RED)
Q OF HEARTS SYMBOL (RED)	QHRT (RED)
K OF HEARTS SYMBOL (RED)	KHRT (RED)
A OF HEARTS SYMBOL (RED)	AHRT (RED)
\$5.00 (BLACK)	FIV\$ (BLACK)
\$10.00 (BLACK)	TEN\$ (BLACK)
\$15.00 (BLACK)	FFN\$ (BLACK)

\$20.00 (BLACK)	TWY\$ (BLACK)
\$25.00 (BLACK)	TWV\$ (BLACK)
\$50.00 (BLACK)	FFTY\$ (BLACK)
\$75.00 (BLACK)	SVFV\$ (BLACK)
\$100 (BLACK)	ONHN (BLACK)
\$200 (BLACK)	TOHN (BLACK)
\$500 (BLACK)	FVHN (BLACK)
\$2,500 (BLACK)	25HN (BLACK)
\$50,000 (BLACK)	50TH (BLACK)

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

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

G. Game-Pack-Ticket Number - A fourteen (14) digit number consisting of the four (4) digit game number (2357), 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: 2357-0000001-001.

H. Pack - A Pack of the "\$50,000 POKER" 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 "\$50,000 POKER" Scratch Ticket Game No. 2357.

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 "\$50,000 POKER" Scratch Ticket Game is determined once the latex on the Scratch Ticket is scratched off to expose sixty-five (65) Play Symbols. If any of the player's YOUR HANDS beats (has a higher ranking than) the DEALER'S HAND, the player wins the PRIZE for that HAND. (See back of ticket for RANKING OF POKER HANDS. Only YOUR HANDS combinations listed in the RANKING OF POKER HANDS can be used to beat the DEALER'S HAND.) No portion of the Display Printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Scratch Ticket.

2.1 Scratch Ticket Validation Requirements.

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

1. Exactly sixty-five (65) Play Symbols must appear under the Latex Overprint on the front portion of the Scratch Ticket;
2. Each of the Play Symbols must have a Play Symbol Caption underneath, unless specified, and each Play Symbol must agree with its Play Symbol Caption;
3. Each of the Play Symbols must be present in its entirety and be fully legible;

4. Each of the Play Symbols must be printed in black ink except for dual image games;
5. The Scratch Ticket shall be intact;
6. The Serial Number and Game-Pack-Ticket Number must be present in their entirety and be fully legible;
7. The Serial Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the Scratch Ticket;
8. The Scratch Ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted or tampered with in any manner;
9. The Scratch Ticket must not be counterfeit in whole or in part;
10. The Scratch Ticket must have been issued by the Texas Lottery in an authorized manner;
11. The Scratch Ticket must not have been stolen, nor appear on any list of omitted Scratch Tickets or non-activated Scratch Tickets on file at the Texas Lottery;
12. The Play Symbols, Serial Number and Game-Pack-Ticket Number must be right side up and not reversed in any manner;
13. The Scratch Ticket must be complete and not miscut, and have exactly sixty-five (65) Play Symbols under the Latex Overprint on the front portion of the Scratch Ticket, exactly one Serial Number and exactly one Game-Pack-Ticket Number on the Scratch Ticket;
14. The Serial Number of an apparent winning Scratch Ticket shall correspond with the Texas Lottery's Serial Numbers for winning Scratch Tickets, and a Scratch Ticket with that Serial Number shall not have been paid previously;
15. The Scratch Ticket must not be blank or partially blank, misregistered, defective or printed or produced in error;
16. Each of the sixty-five (65) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;
17. Each of the sixty-five (65) Play Symbols on the Scratch Ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the Scratch Ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Game-Pack-Ticket Number must be printed in the Game-Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;
18. The Display Printing on the Scratch Ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and
19. The Scratch Ticket must have been received by the Texas Lottery by applicable deadlines.

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

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

## 2.2 Programmed Game Parameters.

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

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

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

D. On winning and Non-Winning Tickets, the top cash prizes of \$2,500 and \$50,000 will each appear at least once, excluding Tickets winning ten (10) times.

E. None of the YOUR HANDS in HAND 1 - HAND 10 will have a combination listed in the RANKING OF POKER HANDS shown on the back of the Ticket that matches the DEALER'S HAND (i.e., if any of the YOUR HANDS in HAND 1 - HAND 10 has a Straight, then the DEALER'S HAND will not have a Straight; if any of the YOUR HANDS in HAND 1 - HAND 10 has a Flush, then the DEALER'S HAND will not have a Flush, etc.). This includes not having One Pair in any of the YOUR HANDS in HAND 1 - HAND 10 and One Pair in the DEALER'S HAND regardless of the rank of the One Pairs (i.e., if any of the YOUR HANDS in HAND 1 - HAND 10 has One Pair of 8 Card Play Symbols, then the DEALER'S HAND will not have One Pair of Jack Card Play Symbols). This applies to all the combinations listed in the RANKING OF POKER HANDS and HANDS that do not have a combination listed in the RANKING OF POKER HANDS.

F. If none of the YOUR HANDS in HAND 1 - HAND 10 have a combination listed in the RANKING OF POKER HANDS shown on the back of the Ticket, the DEALER'S HAND will have one (1) of the combinations listed in the RANKING OF POKER HANDS, and therefore the Ticket will be non-winning.

G. If the DEALER'S HAND does not have a combination listed in the RANKING OF POKER HANDS shown on the back of the Ticket, all of the YOUR HANDS in HAND 1 - HAND 10 will have one (1) of the combinations listed in the RANKING OF POKER HANDS, and therefore the Ticket will win ten (10) times and will win as per the prize structure.

H. On all Tickets, Card Play Symbols 2 - Ace, regardless of suit, will be used.

I. Ace Card Play Symbols are considered high when creating a Royal Flush, Straight Flush and a Straight.

J. On winning and Non-Winning Tickets, it is possible for one (1) or more of the YOUR HANDS in HAND 1 - HAND 10 to not have any of the combinations listed in the RANKING OF POKER HANDS shown on the back of the Ticket.

K. An Ace Card Play Symbol will never appear with a 2 Card Play Symbol, a 3 Card Play Symbol, a 4 Card Play Symbol and a 5 Card Play Symbol in the same HAND.

L. A wraparound Straight Flush or Straight (i.e., a Queen Card Play Symbol, a King Card Play Symbol, an Ace Card Play Symbol, a 2 Card Play Symbol and a 3 Card Play Symbol) will never appear in any HAND.

M. Two (2) YOUR HANDS in HAND 1 - HAND 10 will not have matching five (5) Card Play Symbols, in any order.

N. There will not be matching Card Play Symbols in the same HAND.

O. There will not be matching Card Play Symbols in adjacent (horizontal, vertical or diagonal) play spots.

P. A Card Play Symbol will not appear more than two (2) times on a Ticket.

Q. A Card Play Symbol that appears in any of the YOUR HANDS in HAND 1 - HAND 10 will never match a Card Play Symbol that appears in the DEALER'S HAND.

R. The DEALER'S HAND will never have a Royal Flush or a Straight Flush.

S. In HAND 1 - HAND 10, a Royal Flush, a Straight Flush and a Straight will always appear in ascending order from left to right.

T. In the DEALER'S HAND, a Straight will appear in ascending order from left to right and top to bottom. The Card Play Symbol with the lowest rank will appear in the top left play spot and the Card Play Symbol with the highest rank will appear in the bottom right play spot.

U. If any HAND has Four of a Kind, the four (4) Card Play Symbols of the same rank will be in adjacent play spots.

V. If any HAND has a Full House, the three (3) Card Play Symbols of the same rank will be in adjacent play spots and the two (2) Card Play Symbols of the same rank will be in adjacent play spots.

W. If any HAND has a Flush, the five (5) non-consecutive Card Play Symbols of the same suit will be in ascending order from left to right.

X. If any HAND has Three of a Kind, the three (3) Card Play Symbols of the same rank will be in adjacent play spots.

Y. If any HAND has Two Pair, one (1) pair of the two (2) Card Play Symbols of the same rank will be in adjacent play spots and the second pair of the two (2) Card Play Symbols of the same rank will be in adjacent play spots.

Z. If any HAND has One Pair, the two (2) Card Play Symbols of the same rank will be in adjacent play spots.

AA. On winning and Non-Winning Tickets, there will be no more than two (2) matching non-winning Prize Symbols.

BB. Non-winning Prize Symbols will not match a winning Prize Symbol on a Ticket.

CC. Prize Symbols will always appear in black.

DD. On all Tickets, there will never be two (2) or more Card Play Symbols of the same rank in vertically adjacent play spots of the HAND 1 - HAND 10 play area.

### 2.3 Procedure for Claiming Prizes.

A. To claim a "\$50,000 POKER" Scratch Ticket Game prize of \$5.00, \$10.00, \$15.00, \$20.00, \$25.00, \$50.00, \$75.00, \$100, \$200 or \$500, a claimant shall sign the back of the Scratch Ticket in the space designated on the Scratch Ticket and may present the winning Scratch Ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, if appropriate, make payment of the amount due the claimant and physically void the Scratch Ticket; provided that the Texas Lottery Retailer may, but is not required, to pay a \$25.00, \$50.00, \$75.00, \$100, \$200 or \$500 Scratch Ticket Game. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and Section 2.3.C of these Game Procedures.

B. To claim a "\$50,000 POKER" Scratch Ticket Game prize of \$2,500 or \$50,000, the claimant must sign the winning Scratch Ticket and may present it at one of the Texas Lottery's Claim Centers. If the claim is

validated by the Texas Lottery, payment will be made to the bearer of the validated winning Scratch Ticket for that prize upon presentation of proper identification. When paying a prize of \$600 or more, the Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS if required. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

C. As an alternative method of claiming a "\$50,000 POKER" 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 "\$50,000 POKER" 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 "\$50,000 POKER" 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 person-

nel as set forth in Texas Government Code §466.408. Any rights to a prize that is not claimed within that period, and in the manner specified in these Game Procedures and on the back of each Scratch Ticket, shall be forfeited.

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

3.0 Scratch Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of a Scratch Ticket in the space designated, a Scratch Ticket shall be owned by the physical possessor of said Scratch Ticket. When a signature is placed on the back of the Scratch Ticket in the space designated, the

player whose signature appears in that area shall be the owner of the Scratch Ticket and shall be entitled to any prize attributable thereto. Notwithstanding any name or names submitted on a claim form, the Executive Director shall make payment to the player whose signature appears on the back of the Scratch Ticket in the space designated. If more than one name appears on the back of the Scratch Ticket, the Executive Director will require that one of those players whose name appears thereon be designated by such players to receive payment.

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

4.0 Number and Value of Scratch Prizes. There will be approximately 10,080,000 Scratch Tickets in Scratch Ticket Game No. 2357. The approximate number and value of prizes in the game are as follows:

Figure 2: GAME NO. 2357 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in **
\$5.00	963,200	10.47
\$10.00	604,800	16.67
\$15.00	179,200	56.25
\$20.00	67,200	150.00
\$25.00	109,200	92.31
\$50.00	70,056	143.88
\$75.00	112,000	90.00
\$100	21,140	476.82
\$200	5,740	1,756.10
\$500	1,260	8,000.00
\$2,500	140	72,000.00
\$50,000	10	1,008,000.00

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

\*\*The overall odds of winning a prize are 1 in 4.72. 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. 2357 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. 2357, 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-202105228  
Bob Biard  
General Counsel  
Texas Lottery Commission  
Filed: December 27, 2021

# Open Meetings

Statewide agencies and regional agencies that extend into four or more counties post meeting notices with the Secretary of State.

Meeting agendas are available on the *Texas Register's* Internet site:  
<https://www.sos.texas.gov/open/index.shtml>

Members of the public also may view these notices during regular office hours from a computer terminal in the lobby of the James Earl Rudder Building, 1019 Brazos (corner of 11th Street and Brazos) Austin, Texas. To request a copy by telephone, please call 512-463-5561. Or request a copy by email: [register@sos.texas.gov](mailto:register@sos.texas.gov)

For items ***not*** available here, contact the agency directly. Items not found here:

- minutes of meetings
- agendas for local government bodies and regional agencies that extend into fewer than four counties
- legislative meetings not subject to the open meetings law

The Office of the Attorney General offers information about the open meetings law, including Frequently Asked Questions, the *Open Meetings Act Handbook*, and Open Meetings Opinions.

<http://texasattorneygeneral.gov/og/open-government>

The Attorney General's Open Government Hotline is 512-478-OPEN (478-6736) or toll-free at (877) OPEN TEX (673-6839).

Additional information about state government may be found here:  
<http://www.texas.gov>

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**Meeting Accessibility.** Under the Americans with Disabilities Act, an individual with a disability must have equal opportunity for effective communication and participation in public meetings. Upon request, agencies must provide auxiliary aids and services, such as interpreters for the deaf and hearing impaired, readers, large print or Braille documents. In determining type of auxiliary aid or service, agencies must give primary consideration to the individual's request. Those requesting auxiliary aids or services should notify the contact person listed on the meeting notice several days before the meeting by mail, telephone, or RELAY Texas. TTY: 7-1-1.



## How to Use the Texas Register

**Information Available:** The sections of the *Texas Register* represent various facets of state government. Documents contained within them include:

**Governor** - Appointments, executive orders, and proclamations.

**Attorney General** - summaries of requests for opinions, opinions, and open records decisions.

**Texas Ethics Commission** - summaries of requests for opinions and opinions.

**Emergency Rules** - sections adopted by state agencies on an emergency basis.

**Proposed Rules** - sections proposed for adoption.

**Withdrawn Rules** - sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the Texas Register six months after the proposal publication date.

**Adopted Rules** - sections adopted following public comment period.

**Texas Department of Insurance Exempt Filings** - notices of actions taken by the Texas Department of Insurance pursuant to Chapter 5, Subchapter L of the Insurance Code.

**Review of Agency Rules** - notices of state agency rules review.

**Tables and Graphics** - graphic material from the proposed, emergency and adopted sections.

**Transferred Rules** - notice that the Legislature has transferred rules within the *Texas Administrative Code* from one state agency to another, or directed the Secretary of State to remove the rules of an abolished agency.

**In Addition** - miscellaneous information required to be published by statute or provided as a public service.

Specific explanation on the contents of each section can be found on the beginning page of the section. The division also publishes cumulative quarterly and annual indexes to aid in researching material published.

**How to Cite:** Material published in the *Texas Register* is referenced by citing the volume in which the document appears, the words “TexReg” and the beginning page number on which that document was published. For example, a document published on page 2402 of Volume 47 (2022) is cited as follows: 47 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 “47 TexReg 2 issue date,” while on the opposite page, page 3, in the lower right-hand corner, would be written “issue date 47 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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